

**INTERLOCAL AGREEMENT BETWEEN
PIERCE COUNTY AND THE CITY OF UNIVERSITY PLACE
RELATING TO SANITARY SEWER SERVICES – CONTRACT NO. 99-9980**

THIS INTERLOCAL AGREEMENT is entered into this day by and between **PIERCE COUNTY**, a political subdivision of the State of Washington (herein referred to as "County") and the **CITY OF UNIVERSITY PLACE**, a municipal corporation of the State of Washington (herein referred to as "City").

WHEREAS, the City has incorporated within an area which had previously been unincorporated Pierce County; and

WHEREAS, the City officially incorporated on August 31, 1995 and upon that date commenced operations as a city; and

WHEREAS, the County operates a system of sanitary sewers that serves portions of both incorporated and unincorporated Pierce County; and

WHEREAS, prior to incorporation the County had established sanitary sewer service to a significant number of properties located within the City; and

WHEREAS, it is in the interests of the City and its citizens that the County provide sanitary sewer planning and continue operation and maintenance of sanitary sewer facilities located within the City under an Interlocal Agreement granting the County a franchise pursuant to RCW 35A.47.040; and

WHEREAS, the County has the resources necessary and is willing to continue to provide the services contemplated herein;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, it is mutually agreed by and between the County and the City as follows:

SECTION 1. **PURPOSE.** The purpose of this agreement is to define the terms and conditions under which the County will provide sanitary sewer services to properties located within the City.

SECTION 2. **DEFINITIONS.** The definitions provided in Pierce County Code Title 13, Public Sanitary Sewer Systems, as it currently exists or is hereafter amended shall apply to terms used within this agreement.

SECTION 3. COUNTY RESPONSIBILITIES. The County shall provide sanitary sewer service to properties located within the incorporated boundaries of the City and the City's urban service areas as those boundaries exist today or are hereafter amended.

3.1 **Maintenance and Operation.** The County shall retain responsibility for the maintenance and operation of all public sanitary sewer facilities within the corporate boundaries of the City. Sewer maintenance and operation practices shall be: prescribed by the County; consistent with standard engineering practices; in accordance with the City of University Place Public Works Standards as they relate to maintenance and management of the City right-of ways; and in compliance with all applicable state and federal laws or regulations. The County shall submit to the City for review and comment all industry standards that the County will apply within the City.

3.2 **Sanitary Sewer System Design and Construction Standards.** To ensure that future connections to the sanitary sewer facilities within the City are compatible with the County's current sanitary sewer system, the design and construction of public and private sanitary sewer facilities constructed within the City shall be reviewed by the County and required to conform either to the County's written specifications, codes, and methods required for construction in unincorporated Pierce County or to the City's Public Works Standards, whichever is more restrictive as determined by the City's Public Works Director. The County shall submit to the City for review and comment all written specifications, codes and methods which the County will apply within the City. The County agrees to incorporate into its specifications by reference any City ordinances, policies or other regulations regarding construction practices within and restoration of City streets and rights-of-ways. Provided, however, at no time will the City impose regulations which prevent the County from operating, maintaining or constructing sewer lines and facilities within City rights-of-ways.

3.3 **Customer Service.** The County shall continue to provide service to all properties within the City that are connected to the County's sanitary sewer system whether said connection occurs prior to or after the date of incorporation by the City. Customers within the City shall be treated in an identical fashion as all other County customers. Like all other County customers, customers within the City will be required to comply with the most current statutes, ordinances, rules and regulations governing sewage pretreatment, discharges, rates, charges and other matters governing sewer service as mandated by the Pierce County Code, and other applicable County, State, and Federal laws and regulations, as they currently exist and as they may be amended from time to time. The County shall administer and respond to all questions, requests, and comments from City residents, staff and officials relating to any expansion, modification, and extension to that system occurring within the City limits or the City's Urban Growth Areas.

3.4 Rates and Billings. The County shall continue to bill all customers within the City for sanitary sewer service in the same manner as it bills customers within unincorporated Pierce County for sewer service. Rates for customers within the City shall be based on the same criteria and methodology as for customers in unincorporated Pierce County. Any tax or surcharge levied by the State of Washington or by the Federal Government which is applicable to County sewer customers shall be added to the sewer service charge billings for properties within the City and shown on the sewer billing statement. If the County proposes to enact new fees, taxes or surcharges on the provision of sewer service by the County, the City and County agree to re-open this agreement to address the terms affected by the proposed change. The County will allow the City to add any fliers, announcements, etc, which the City wishes, to sewer bills mailed by the County to addresses located within the City. The City agrees to pay any additional postage or other incremental costs associated with such a mailing.

3.5 Connection Charges. The County will collect sanitary sewer connection charges from City residents in accordance with applicable Pierce County Sanitary Sewer Administrative Code sections, as presently constituted or hereinafter amended, and any other applicable County connection charge related ordinances. City customers will be treated in the same manner as County customers.

To assist the County in calculating and managing sewer connection charges, the City agrees to make its business license applications available to the County. The County may review sewer discharge characteristics of new businesses and make appropriate adjustments in fees consistent with the County's sewer use regulations.

3.6 Service Charge Increases. The County shall notify the City of any proposed sewer service rate changes prior to their approval by the Pierce County Council and the City shall be offered the opportunity to provide the County with recommendations concerning the proposed rate changes. With new sewer connections, billing shall begin from the date the connection is made and approved for use by the County. The County shall have full jurisdiction and authority to impose and enforce liens within the City for the purpose of collecting rates, charges, fees and assessments.

3.7 Comprehensive Sanitary Sewer Planning. The County will perform a comprehensive sanitary sewer plan, with the assistance of the City, for the City and its Urban Service Area within 24 months after the execution of this Agreement. The County shall reimburse the City twenty-two thousand dollars (\$22,000) for providing preliminary sewer engineering data for presently unsewered properties located in the City within sixty (60) days of execution of this agreement.

3.8 Sanitary Sewer Extension Permits and Inspections. The County reserves the right to inspect, at any time, all wastewater facilities located in the City which are connected to the County's sanitary sewer system. The purpose of which shall be to enable the County to comply with any and all conditions of current or future Federal, State and County regulations, for the County's convenience in operating such a system, and to ensure the County's ability to issue permits in accordance with current regulations.

3.9 Sanitary Sewer Projects Within the City. For sanitary sewer projects constructed by the County or by private parties to connect to the sanitary sewer system within the City, the County shall ensure that all streets and private properties damaged by the sanitary sewer project are restored to at least their pre-construction condition. In restoring streets the County shall comply with the County's sewer construction standards or the City's public works standards, whichever is more restrictive as determined by the City's Public Works Director.

In the event the City requests that additional facilities or mitigation measures be constructed as a condition of development, beyond those required by City codes or State or Federal law, the City agrees to pay for the added capital costs in accordance with an interlocal agreement for the project. All conditions imposed on the County by the City shall be consistent with Federal and State constitutional law that requires the City to meet both the nexus/reasonable and rough proportionality tests articulated in case law when the City imposes conditions on the issuance of a permit to the County.

The County agrees to pay any permit fee and to compensate the City on a time and material basis for the review of the capital project plans and specifications.

3.10 Utility Local Improvement Districts and Local Improvement Districts (ULIDs/LIDs). The County agrees to work cooperatively with the City to analyze the feasibility for the formation of utility local improvement districts and local improvement districts (ULIDs/LIDs) to provide sanitary sewer service to areas within the City that are not currently receiving sanitary sewer service which is about one-third of the City. The County recognizes the City's right and authority to propose the formation of ULIDs/LIDs within its boundaries and shall assist the City in the study, design, and creation of such ULIDs/LIDs.

The County and the City recognize that the cost of providing sanitary sewer services to presently unserved areas of the City is significant. In some cases the cost may exceed the benefit a homeowner would accrue by being provided permanent sanitary sewers. The City and County agree to work cooperatively on future financing methods to lower the cost of serving these high cost presently unsewered areas of the City.

SECTION 4. CITY RESPONSIBILITY. In consideration for the services provided by the County as described herein the City shall perform as follows:

4.1 City to Grant Franchise to the County. In conjunction with this Interlocal Agreement, the City shall grant the County a non-exclusive franchise reasonably necessary to operate, maintain, improve or expand the sewer system within the City for the term of this agreement.

4.2 Industrial Pretreatment Regulation and Enforcement Authority
Facilities located in the City do or may contribute wastewater, which includes industrial waste. These facilities are referred to herein as industrial users. The City recognizes that the County as a sanitary sewer provider governed by both state and federal regulations must implement and enforce a pretreatment program to control discharges from all industrial users of its wastewater treatment system pursuant to requirements set out in 40 CFR Part 403. To allow the County plenary authority to enforce all regulations necessary to meet the County's legal requirements, the City agrees to adopt a sewer use ordinance that subjects the industrial users within the City to the necessary pretreatment controls. The City shall also authorize the County to implement and enforce the City's sewer use ordinance.

A. Sewer use ordinance

The City agrees to adopt by reference within ninety (90) calendar days of the effective date of this Agreement Pierce County Code Chapter 13.06, Sewer Utility Prohibited Discharges and Industrial Pretreatment Regulations, as presently constituted or hereinafter amended. The ordinance shall specifically authorize Pierce County to enforce Chapter 13.06 within the City

B. Identifying Industrial Users

(1) The City agrees to work cooperatively with the County to adopt simple procedures to identify new users of the sewer system within the City. All new users shall be required by the City to submit a Pretreatment Review application to the County and receive a sewer use permit from the County prior to being issued a building permit by the City.

(2) The County shall expeditiously process such Pretreatment Review applications. The County agrees to provide the City's Permit Center written notification whenever it is unable to complete its review within twenty-one (21) calendar days of receipt of a complete application. The County agrees at no expense to the City to conduct Pretreatment Review activities for new users in the City and to assist the City in identifying new users.

(3) New users shall include new businesses, change of business, new building construction, remodels of current business sites, expansion or addition of commercial processes, and new tenants leasing commercial property. Any new business tenant in a building designed for multiple occupancy shall complete a

separate Pretreatment Review. Construction of single family housing is specifically excluded from the definition of new users. Construction of multi-family housing shall also be specifically excluded from the definition of new users unless the multi-family housing application includes the construction of non-housing structures such as swimming pools, recreation buildings, group kitchen facilities or laundry buildings.

C. Issuing Wastewater Discharge Permits and Other Control Mechanisms

The City agrees that the County will perform technical and administrative duties necessary to implement and enforce the Industrial Pretreatment Regulations adopted by the County and by the City. The County will (1) conduct Pretreatment Reviews and update the Industrial User Survey, (2) issue wastewater discharge permits to all industrial users required to obtain permits, (3) conduct inspections, sampling, analysis and record review to verify compliance with the Industrial Pretreatment Regulations, (4) take all appropriate enforcement actions outlined in the Pierce County enforcement response plan and provided for in the Industrial Pretreatment Regulations adopted by the County and the City; and (5) perform any other technical or administrative duties deemed necessary to meet the objectives of the Pierce County Industrial Pretreatment Program. In addition, the County may take emergency action to stop or prevent any discharge which presents or threatens and imminent danger to public health, the environment or operation of the County's Publicly Owned Treatment Plant (POTW).

D. Enforcement of Industrial Pretreatment Regulations

The City agrees that the County shall implement and enforce Chapter 13.06 of the Pierce County Code, as presently constituted or hereinafter amended, on industrial users located within the City.

E. Periodic Review

The Parties will review and revise this Agreement to ensure compliance with the Federal Clean Water Act (42 U.S.C. §1251 et seq.) and rules and regulations (see 40 CFR Part 403) issued thereunder, as necessary, but at least once every five (5) years on a date to be determined by the Parties.

4.3 City shall not allow installation of septic systems. In keeping with the City's desire to promote use of sanitary sewers within its municipal boundaries, the City will not permit new building construction to utilize septic systems, except in instances where, after a showing by the property owner and consultation by the City with the County it is determined by the City, that permanent sanitary sewer facilities are not physically available to the property and to install such facilities would be cost prohibitive. Similarly, should sewers become available in areas that are served by septic systems, the City shall encourage property owners to connect to the sanitary sewer system.

4.4 City/County Coordination of Land Use Applications and Building Permits

(A) The City shall not issue a building permit for any building that will connect to the County sanitary sewer system nor grant final approval for any land use application that proposes to connect any facilities to the County sanitary sewer system until the County's Public Works and Utilities Department has reviewed and approved the sanitary sewer plans for such building or facilities. The County agrees to expeditiously review and notify the City Permit Center in writing whenever the County will be unable to complete its review, comment or approval processes within twenty-one (21) calendar days of receiving a complete sewer permit application from any applicant who has a related building permit or land use application pending before the City.

(B) Both the City and the County recognize that there exist in City code land use applications which do not involve sewer issues and which the County does not need to review. As such, the City and the County will work cooperatively to identify those land use applications which the County shall review and implement a procedure to exclude all non-sewer related land use applications from County review.

(C) If work is required in the City right-of-way, the County agrees that it will not issue any sewer hook-up permits for any private party to connect to the sanitary sewer system until the party has obtained a City right of way use permit.

4.5 Changes in City Zoning Regulations.

(A) The City shall advise the County of any proposed rezoning in the City. The City shall also notify the County of proposed changes in zoning codes if they relate to sanitary sewer usage. The City shall provide the County with current zoning maps and provide notice of any proposed rezoning applications within the City. The County shall use the information provided to review the adequacy and capacity of the sewer facilities within the area affected by the proposed changes in zoning. The County shall provide written comments back to the City within twenty-one (21) calendar days of being notified of potential zone classification changes within the City.

(B) The County shall not connect properties within the City in a manner inconsistent with the City's zoning and Comprehensive Plan.

4.6 City Added Taxes, Fees or Surcharges. The City shall provide written notice to the County no less than sixty (60) calendar days prior to the implementation of any additional taxes, fees, or surcharges the City proposes to add to the service charge billings for properties within its city limits. The methodology for calculation said tax or surcharge must be compatible with the

County's service charge structure and computer billing system. Within twenty-one (21) calendar days of receipt of notice of the change, the County shall comment on the City's proposed tax or surcharge and shall either affirm its ability to implement the tax, fee or surcharge or show cause as to why its computer billing system is not capable of implementing the tax, fee or surcharge. Any city tax, fee or surcharge shall be shown as a separate line item on the customers sewer statement.

4.7 City as Future Provider of Water Services - Water Use Data and Water Meter Calibration. If the City now or in the future has control over the water utility within the City, the City shall submit to the County, on or prior to January 31 of each year, all residential, commercial and industrial metered water use data for the preceding calendar year within the City area.

4.8 City Will Coordinate with the County on Annual Street and Utility Improvement Projects within the City. The City agrees to contact the County at the outset of any proposed capital improvement project (CIP) where sewers are not present to discuss the feasibility of installing sewers as part of the project. The City will provide the County a copy of any draft capital improvement project plan document for street or utility related capital expenditures for the next calendar year no later than August 1st of the year prior to implementation of the CIP plan. The City will provide the County a final copy of its final CIP plan after final passage by the City Council. City and County will coordinate movement and relocation of any impacted County facilities prior to finalization of the construction plans related to individual CIP projects.

In accordance with County capital improvement plans and to the extent it has the financial ability to do so, the County will install dry lines during major construction or renovation of City streets to enhance the ability of abutting or nearby properties to connect to sanitary sewer. For minor capital improvement projects where the cost of installing the sanitary sewer as part of the City capital improvement project is less than \$100,000, the County agrees to install the sanitary sewers as part of the project, provided the County Council authorizes the expenditure of funds for such project through its annual budget process. Specific terms governing work on joint capital improvement projects shall be through a separate interlocal agreement between the County and City.

SECTION 5. SANITARY SEWER SERVICE TO PROPERTIES WITHIN THE CITY'S URBAN GROWTH AREA AND FUTURE ANNEXATION AREAS. This agreement shall not preclude future annexations to the City. Any future annexations to the City will automatically come under this agreement the date the annexation is approved of by the City Council. The County will provide sanitary sewer service to the newly annexed areas provided it has facilities in the immediate vicinity and has line and treatment capacity available to provide service. The County will not, however, provide service to newly annexed areas already receiving service from another sewer service provider, unless formally authorized to do so by the current service provider.

SECTION 6. TERM. This agreement shall have a term of two (2) years commencing upon the date of the last signature by the parties and terminating on December 31, 2000. Thereafter, the agreement will be automatically renewed every January 1 for an additional one year period unless prior written notification of termination is given by either party no later than the preceding June 30th. If this agreement is terminated by either party for any reason, the County shall continue to provide all necessary sewer service to customers connected to the sanitary sewer system as of the termination date of the agreement.

SECTION 7. INDEMNIFICATION AND DEFENSE. The County shall defend, indemnify and save harmless the City, its officers, employees and agents from any and all costs, claims, judgments, or awards of damages, resulting from the acts or omissions of the County, its officers, employees, or agents associated with this agreement including but not limited to, County delay in processing an application required by this agreement. In executing this agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules, regulations, resolutions, customs, policies, or practices. Provided, however, that the County shall indemnify and hold the City harmless from any claim of any kind associated with City adoption of those portions of Title 13 of the Pierce County Code and the County's Sewerage and Pretreatment regulations which the City shall adopt by reference as required by Section 4.2 of this Agreement. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, rule, regulation, resolution, custom, policy or practice is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorney's service charges.

The City shall defend, indemnify and save harmless the County, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, resulting from the acts or omissions of the City, its officers, employees or agents associated with this agreement. In executing this agreement, the City does not assume liability or responsibility for or in any way release the County from any liability or responsibility which arises in whole or in part from the existence or effect of County ordinances, rules, regulations, resolutions, customs, policies, or practices. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such County ordinance, rule, regulation, resolution, custom, policy or practice is at issue, and except as provided in the preceding paragraph the County shall defend the same at its sole expense and if judgment is entered or damages are awarded against the County, the City, or both, the County shall satisfy the same, including all chargeable costs and attorney's service charges.

SECTION 8. NO THIRD-PARTY BENEFICIARY. The County does not intend by this agreement to assume any contractual obligations to anyone other than the City, and the City does not intend by this agreement to assume any contractual obligations to anyone other than the County. The County and the City do not intend that there be any third-party beneficiary to this agreement.

SECTION 9. NON-DISCRIMINATION. The County and the City certify that they are Equal Opportunity Employers.

SECTION 10. ACCEPTANCE. The County shall provide the City with a written unconditional acceptance of a Sewer Franchise within one hundred and twenty (120) calendar days after the execution of this Interlocal Agreement. A resolution of the Pierce County Council approving this agreement will constitute such acceptance. The City shall enact a Franchise Ordinance which solely incorporates by reference the terms of this Interlocal Agreement.

SECTION 11. ASSIGNMENT. Neither the County nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

SECTION 12. NOTICE. Any formal notice or communication to be given by the County to the City under this agreement shall be deemed properly given if delivered, or if mailed postage prepaid and addressed to:

City of University Place
3715 Bridgeport Way West
University Place, WA 98466
Attention: City Manager

Any formal notice or communication to be given by the City to the County under this agreement shall be deemed properly given if delivered, or if mailed postage prepaid and addressed to:

Pierce County
Pierce County Executive's Office
930 Tacoma Avenue South, Room 737
Tacoma, Washington 98402-2100
Attention: Executive Director of Operations

The name and address to which notices and communications shall be directed may be changed at any time, and from time to time, by either the City or the County giving notice thereof to the other as herein provided.

SECTION 13. COUNTY AS INDEPENDENT CONTRACTOR. County is, and shall at all times deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between City and County or any of the County's agents or employees. The County shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by County pursuant to this Agreement.

Nothing in this agreement shall make any employee of the City a County employee or any employee of the County a City employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded County or City employees by virtue of their employment.

SECTION 14. WAIVER. No waiver by either party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this agreement.

SECTION 15. AGREEMENT ADMINISTRATION AND DISPUTE RESOLUTION. The County shall designate one or more employee representatives from the Department providing the services within the City as authorized by this Interlocal Agreement. The employee representatives shall act as liaisons with the City to handle daily administration of this Agreement. The City shall designate one or more liaisons for the various services described herein. Each party shall notify the other in writing of its designated representatives. County liaisons shall meet with the City liaisons on a regular or on an as-needed basis, whichever the liaisons deem appropriate, to discuss questions and resolve problems regarding the implementation of this Interlocal Agreement. Any operational conflict that is not resolved by the liaison committee shall be referred to the City Manager and the County Executive.

SECTION 16. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

SECTION 17. AMENDMENT. Provisions within this agreement may be amended with the mutual consent of the parties hereto. No additions to, or alteration of, the terms of this agreement shall be valid unless made in writing, formally approved and executed by duly authorized agents of both parties.

SECTION 18. NO REAL PROPERTY ACQUISITION OR JOINT FINANCING. This Interlocal Agreement does not provide for the acquisition, holding or disposal of real property. Nor does this Agreement contemplate the financing of any joint or cooperative undertaking. There shall be no budget maintained for any joint or cooperative undertaking pursuant to this Interlocal Agreement.

SECTION 19. FILING. Copies of this Interlocal Agreement, together with the resolution of the Pierce County Council and the University Place City Council approving and ratifying this agreement, shall be filed with the University Place City Clerk, the Pierce County Auditor, and the Secretary of State of Washington after execution of the agreement by both parties.

SECTION 20. SEVERABILITY. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

IN WITNESS WHERE OF, the parties have executed this Interlocal Agreement this 9 day of March, 1999.

DOUG SUTHERLAND
PIERCE COUNTY EXECUTIVE

Doug Sutherland
By: Doug Sutherland

3/9/99
Date

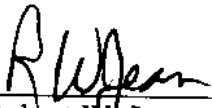
APPROVED AS TO FORM:

JOHN LADENBURG
PIERCE COUNTY PROSECUTOR

M. Peter Philleo
By: Deputy Prosecuting Attorney


3/4/99
Date

CITY OF UNIVERSITY PLACE


By: Robert W. Jean
City Manager

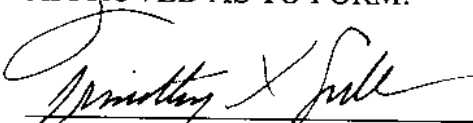
1/26/99
Date

ATTEST:


By: Susan Matthew
City Clerk

1/26/99
Date

APPROVED AS TO FORM:


By: Timothy X. Sullivan
City Attorney

1/29/99
Date