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CITY OF MUKILTEO
CLERKS OFFICE

INTERLOCAL AGREEMENT FOR "VACTOR" SERVICES

THIS AGREEMENT is entered into between the City of Mukilteo (hereinafter "City") and the Mukilteo Water District (hereinafter "District") for the purposes hereinafter mentioned.

WHEREAS, The City owns and operates a surface water management utility (Surface Water Utility) and associated infrastructure improvements, and

WHEREAS, the normal operation of these facilities requires periodic cleaning activities to be performed, including removal of accumulated sediments, trash and other extraneous materials which enter into the drainage facilities, and

WHEREAS, the cleaning of these facilities is most efficiently and effectively performed utilizing specialized equipment, specifically equipment which incorporates sewer vacuum and sewer jetting capabilities and attachments, commonly known as a "Vactor", and

WHEREAS, the City does not own this type of equipment and desires to enter into an Interlocal Contract Agreement for the procurement of such services, and

WHEREAS, the District owns this type of equipment, and

WHEREAS, the District desires to increase the usage of their equipment for better utilization of the equipment and its operator(s), and

WHEREAS, it is therefore in the best interests of both parties to enter into an Interlocal Contract Agreement for the services described herein, and

WHEREAS, Chapter 39.34 RCW authorizes public agencies to contract with each other to provide services,

NOW, Therefore, the City and District agree to the following terms related to the provision of "Vactor" services to the City by the District:

1. Definitions: As used in this Agreement, the following terms have the meanings set forth below:

"Vactor" means a piece of equipment designed for, and including all ancillary appurtenances necessary to perform jet washing of, and vacuum removal of sediments and debris from, sewerage and drainage systems

"Vactor Services" means the provision of surface water utility cleaning service, including the supply of the vactor equipment and one District personnel experienced and knowledgeable in the use of the vactor, to operate the vactor in the intended manner to perform the services requested by the City.

"Vactor Service Rate" means the cost per hour of work period to be paid by the City to the District for vactor services, and shall include but are not limited to the following:

- Vactor, including depreciation charges
- All ancillary equipment
- Operator wages and benefits
- Gas, Fuel, oil, hydraulic fluids
- Mobilization to the specified location
- All equipment repairs necessitated as a result of providing the service, whether such need arises from normal operation or damages of any kind
- All expenses related to indemnification of the City by the District as provided herein
- Insurance
- Administration of the agreement

Vactor Service Rates shall comprise two classes as follow:

Regular Time - All time worked within the District's normal work hours.

Overtime - All time worked beyond the District's normal work hours for which the District is obligated to pay overtime to the operator supplied with the equipment.

"Work Period" means the time of actual productive work, with the time being measured beginning when the District's operator leaves the District's vehicle storage location, and running until arrival back at the District's storage location after being dispatched by the City upon completion of the specified work. Lunch periods shall be not be included in the measured work period.

2. Rates for Service The following rates shall apply for periods of use as applicable for the district providing Vactor services. All rates shall be reviewed and adjusted or reconfirmed on an annual basis commencing December, 1998 with any rate adjustment becoming effective as of January 1 and running through December 31.

Vactor Service Rates

Vactor Service - Regular Time

The initial rate shall be \$81.00 per hour through December 31, 1998.

Vactor Services - Overtime

The initial rate shall be \$94.00 per hour through December 31, 1998.

3. Use of the Equipment. Equipment shall be used by the City only for cleaning and maintaining City owned facilities. All use of the equipment by the City shall be for uses typical and normal for the equipment being used, such as cleaning of storm sewers, removal of sediments and debris from manholes and catch basins, or extracting/picking up minor amounts of aggregate or debris from ground surfaces or catchments.

4. Disposal of Vactor Wastes and Debris from Normal Operations. Vactor wastes and debris collected during operations related to provision of services to the City shall be at the City's decant and waste facility.

5. Emergency Callout. In the event of an emergency situation in which the City requires the use of the District's vactor truck, the District will make every reasonable attempt to provide the equipment at the designated location within a two hour period. All emergency callouts (call backs) shall be for a minimum of two (2) hours at the overtime service rate.

The district will annually provide the City with an emergency response callout list for use in making contacts under emergency conditions and after-hours when use of the vactor truck is required. Should more frequent updating of the list occur, the District will provide the updates to the City in a timely fashion. The City will provide a similar list to the District for use in contacting City personnel for matters relating to emergencies affecting the District.

6. Priority for Personnel Assignment - Emergency. Both parties agree that the District shall at all times retain priority for assignment of its personnel and use of its equipment. The District's rights to assign District personnel shall be subject to the District's needs. In the event that the District experiences emergency conditions which, at its discretion, require the immediate reassignment of District personnel, the City's right to use the District's personnel, and the equipment they are operating in providing services to the City, shall immediately terminate without any liability on the part of the District, and the City shall immediately release the District's personnel and equipment upon request.

The City shall provide reasonable notice of its intent for use of the District personnel for Vactor Services, and City use of District personnel for Vactor Services shall be scheduled in advance with the approval of the District Manager; provided that the District Manager and City Public Works Director may establish a regular schedule for work under this agreement.

7. Operator. The District shall be responsible for providing a trained and qualified operator for the equipment while providing Vactor Services to the City.

8 Operator's Assistant. The City will provide an assistant to the equipment operator during all periods of use. In the event that the use of equipment is under emergency conditions and occurs during hours of darkness, or traffic conditions warrant flagging operations, the City will provide additional personnel to assist with traffic control and equipment guidance.

9. Maintenance, Mechanical Repairs, Damage Repairs and Replenishment of Consumables Related to Use of Equipment. The District shall be responsible for all maintenance and repair of the equipment, whether related to normal operations or damages sustained during operations. The District shall also be responsible for all fuel, oil, lubricants, hydraulic fluid, during periods of providing Vactor Services to the City.

10. Indemnification - Vactor Services. Each party agrees to indemnify, hold harmless and defend the other, its officers, agents and employees, from and against any and all claims, actions, suits, liability, loss costs, expenses, and damages of any nature whatsoever, and including costs and attorneys fees in defense thereof, for injuries, sickness, or death to persons, or damage to property, which is caused by or arises out of a party's negligence in the performance of this Agreement. Each party to this agreement also acknowledges their responsibility for industrial insurance coverage for their respective *employees*. The indemnification obligations contained herein shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by ^{or} for either party hereto under Workmen's Compensation Acts, Disability Benefits Acts, or other employee benefit acts. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

11. Title to Equipment. The District represents that it has authority to grant the use rights contemplated by this Agreement. The City shall not acquire any ownership right or title to the property of the District by virtue of this Agreement and title shall remain at all times with the District.

12. Duration of Agreement. This Agreement shall become effective upon signature by the last party signing the same and shall continue in full force and effect thereafter until terminated as provided below.

13. Termination.

A. Upon Destruction or Sale of Equipment. In the event that the equipment is destroyed, rendered permanently inoperative, sold or transferred by the District, this Agreement shall automatically terminate and all rights to use the equipment shall be canceled, unless the equipment is replaced with similar equipment suitable to the City's needs.

B. For Cause. In the event that either party to this Agreement shall materially violate its terms, the other party may, in addition to any other remedies it may have, terminate this Agreement immediately.

C. For Convenience. Either party may terminate this Agreement without having to give a reason therefore, upon forty-five (45) days advance written notice to the other party.

14. Administration. This Agreement shall be jointly administered by the Manager of the Mukilteo Water District and the Public Works Director of Mukilteo, or their designees.

15. Notices. Any notice which is required under this Agreement shall be sent postage pre-paid by mail or delivered personally. Any notice so posted shall be deemed received three (3) days after the date of mailing. Notices shall be mailed or delivered to the following persons at the following addresses:

Manager
Mukilteo Water District
P.O. Box 260
Mukilteo, WA 98275

Public Works Director
City of Mukilteo
4480 Chennault Beach Road
Mukilteo, WA 98275

16. Assignment. Neither party shall assign any part of this Agreement without the express written consent of the other party.

17. Severability. In the event that any section, paragraph, sentence, term or clause of this Agreement conflicts with applicable law or is found by any court having jurisdiction to be contrary to law, such conflict shall not affect other sections, paragraphs, sentences, terms or clauses of this Agreement which can be given effect without the conflicting provision and to this end the terms of this Agreement shall be deemed to be severable.

18. Attorney's Fees. In the event that either party brings litigation to enforce the provisions of this Agreement or to redress any breach thereof, the prevailing party in such litigation shall be entitled to recover its costs, including reasonable attorney's fees.

19. Entire Agreement. This Agreement constitutes the entire Agreement between the parties relating to this subject matter, superseding all prior negotiations and representations. No modification or amendment of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have subscribed their names as of the dates hereinafter indicated.

MUKILTEO WATER DISTRICT

By: Ronald A. Kane
Ronald A. Kane, President
Board of Commissioners

CITY OF MUKILTEO

By: Brian Sullivan
Brian Sullivan, Mayor

ATTEST/AUTHENTICATED:

Michael P. Ruark
Michael P. Ruark

ATTEST/AUTHENTICATED:

Thomas Carlson
Thomas Carlson