

AFTER RECORDING, PLEASE RETURN TO:

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WATER INTERTIE EASEMENT

Reference:
Grantor: CITY OF MILLWOOD
Grantee: IRVIN WATER DISTRICT NO. 6
Short Legal Description: CITY OF MILLWOOD; GRANDVIEW ACRES SLY 175 FEET
LT 10 BLK 9
Assessor's Tax Parcel ID #: 45056.0413

This Water Intertie Easement (hereinafter referred to as “Easement” or “Easement Agreement”) is entered as of the day of the last signature on this Easement Agreement, by and between CITY OF MILLWOOD, a Code City formed under Title 35A RCW (“Grantor”) and IRVIN WATER DISTRICT NO. 6, a Water District formed under Title 57 RCW (hereinafter “Grantee”) Grantor and Grantee are collectively referred to herein as the “Parties.”

I. RECITALS

- A.** Grantor owns the real property located at 3131 N. Butler Rd., in the City of Millwood, Spokane County WA, which is legally described on the attached *Exhibit A* (hereinafter “Grantor’s Property”).
- B.** Grantor and Grantee have an existing waterline intertie for emergency purposes located at the intersection of Butler Street and Trent Ave. Said existing intertie is governed by the Parties’ Interlocal Agreement for Emergency Water Services, dated February 2, 1998.
- C.** Grantee desires to relocate the existing intertie by installing a new intertie and related utilities and appurtenances upon a portion of Grantor’s Property.
- D.** Grantor is agreeable to granting an easement to Grantee upon the terms and conditions contained herein.

THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

WATER INTERTIE EASEMENT

II. AGREEMENT

1. Grant of Easement. Grantor hereby grants and conveys to Grantee, its successors, assigns, licensees, and agents, a perpetual and nonexclusive easement for the right to construct, reconstruct, repair, replace, operate, and maintain an intertie and related utilities and appurtenances upon, over, under and across that portion of Grantor's Property described in the attached **Exhibit B** (the "Easement Area"). The Easement Area is a thirty-five feet (35') by forty-six feet (46') area, and is depicted / labeled as "Lease/Easement Line" in **Exhibit B**. Furthermore, Grantor grants and conveys to Grantee the perpetual nonexclusive right of ingress and egress over and across the Easement Area and across the fifty feet (50') by fifty-six feet (56') area depicted in **Exhibit B** as the "Temporary Construction Easement" for the purpose of installing and accessing the intertie and related utilities and appurtenances so that Grantee may carry out the intent of this Easement Agreement. Grantee shall not install nor place any permanent fixtures within the area identified as "Temporary Construction Easement" but may access such area and store equipment and materials for staging construction. Despite the nonexclusive nature of the easement rights granted herein, during construction Grantee may install temporary fencing to protect materials or equipment left onsite. Notwithstanding anything else herein, as for any future replacement of the waterline, the Grantee shall first propose to the Grantor written plans and specifications regarding the replacement of the intertie and related utilities and appurtenances, which the Grantor shall review and approve in a commercially reasonable manner. The parties acknowledge the purpose of Grantor's right to review and approve written plans and specifications regarding the replacement of the intertie and related utilities and appurtenances is to confirm any construction activities related thereto are conducted in a manner to minimize interference with the Grantor's above grade use of the land, while allowing Grantee to continue exercise its rights as set forth herein.

2. Maintenance and Repair Obligations of Grantee's Intertie and Related Utilities and Appurtenances. Grantee, at its sole expense, shall be responsible to maintain, repair, and replace the intertie and related utilities and appurtenances. Notwithstanding the foregoing, Grantor and its successors and assigns, shall be liable to repair any damage to the waterline and related utilities and appurtenances which is caused by Grantor or Grantor's agents and invitees. Furthermore, Grantor shall be responsible to maintain, repair, and replace its own utilities located on its side of the intertie.

3. Nonexclusive Nature of Easement; Exclusive as to Pump House. The easement rights granted to Grantee in this Easement Agreement are nonexclusive in nature. Grantor may use the land subject to this easement, so long as such use does not unreasonably interfere with such easement rights. As such, Grantor shall not: (i) build any structures (permanent or temporary) within the Easement Area; nor (ii) plant any trees within the Easement Area. In carrying out its easement rights, Grantee shall restore any disturbed land to its preexisting condition. Notwithstanding the foregoing, Grantee may lock and exclude Grantor and third parties from any pump house or related building or vault installed within the Easement Area.

4. Indemnification. In the exercise of their respective rights and duties under this Easement Agreement, each party (an “indemnifying party”) shall indemnify, defend and hold harmless the other party, its elected and appointed officials, employees, and agents from all claims, losses, demands, or suits in law or equity arising from the indemnifying party’s intentional or negligent acts or breach of any obligations under this Easement Agreement, but only in proportion to and to the extent such claims, losses, demands, or suits are caused by the negligence of intentional acts or omissions of the indemnifying party, its elected and appointed officials, employees, agents. Each party’s duty to indemnify shall survive the termination or expiration of this Easement Agreement. Each party waives, with respect to the other party only, its immunity under Chapter 51 Revised Code of Washington. The Parties have specifically negotiated this provision.

5. Ownership. Grantor represents and warrants that it is the sole owner of Grantor’s Property.

6. Binding Effect. The rights, conditions, and provisions of this Easement inure to the benefit of and are binding upon the heirs, executors, administrators, successors, and assigns of the respective Parties hereto. This Easement and the rights and obligations granted herein shall run with the land and are perpetual in duration.

7. Effect on Existing Interlocal Agreement. The Parties’ Interlocal Agreement for Emergency Water Services dated February 2, 1998 shall remain in full force and effect; unless amended by a writing signed by both Parties in accordance with the Interlocal Cooperation Act (Chapter 39.34 RCW).

8. Recording. Upon execution by all Parties, the Parties shall cause this Easement to be recorded with the Spokane County Auditor’s Recording Office.

9. Dispute Resolution. In the event that a dispute arises concerning this Easement Agreement, the Parties to the dispute shall first attempt to resolve the dispute through good faith negotiation prior to pursuing any remedies in Court. Jurisdiction and venue shall be proper in Spokane County Superior Court and the substantially prevailing party shall recover its attorney fees and litigation expenses incurred in such action, including but not limited to attorney fees and litigation expenses incurred on any appeal.

10. Freely Negotiated. In the drafting of this Easement Agreement, Grantee had legal counsel. Grantor is encouraged to seek review of this Easement Agreement by Grantor’s own independent legal counsel before signing. By signing this Agreement, Grantor acknowledges that Grantor has reviewed this Easement Agreement to Grantor’s satisfaction with legal counsel or that Grantor has knowingly decided to forego legal counsel. This agreement was freely negotiated between the Parties and the rule construing ambiguities against the drafter shall not apply.

11. Execution. This Easement Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

EXHIBIT A

Legal Description of Grantor's Property

That part of Lot Ten (10) in Block Nine (9) of GRANDVIEW ACRES, as per map thereof recorded in Book "K" of Plats, page 12, in the office of the County Auditor of said County, described as follows: Beginning at the most southerly corner of said Lot Ten (10); thence northwesterly one hundred seventy-five (175) feet on the southwesterly line of said lot; thence northeasterly to a point on the northeasterly line of said lot, one hundred seventy-five (175) feet northwesterly of the most easterly corner; thence southeasterly one hundred seventy-five (175) feet to the most easterly corner; thence southwesterly to the point of beginning.

Situate in Spokane County, State of Washington

EXHIBIT B
EXHIBIT B, cont.

