

Exhibit A

Drainage District No. 21 Facilities and Properties

Exhibit A



INTERLOCAL AGREEMENT BETWEEN
CITY OF EDGEWOOD, WASHINGTON AND PIERCE COUNTY DRAINAGE
DISTRICT #21

This Interlocal Agreement (“Agreement”) is made by and between Pierce County Drainage District #21 (“District”) and the City of Edgewood, a municipal corporation of the State of Washington (“City”).

WHEREAS, the Interlocal Cooperation Act, chapter 39.34 RCW, authorizes the parties to enter into an agreement for cooperative action; and

WHEREAS, Pierce County Drainage District #21 was created in the year 1935, prior to the City of Edgewood’s incorporation and also prior to the establishment of the City of Edgewood’s drainage utility in the year 1996; and

WHEREAS, the District’s drainage utility currently serves portions of the cities of Edgewood and Puyallup, as well as a portion of unincorporated Pierce County; and

WHEREAS, given the development and growth within Edgewood and Puyallup and the transition of the area generally from rural to urban, Pierce County Drainage District #21 wishes to suspend operations in January of 2021 and to turn over its current responsibilities to Edgewood, Puyallup and Pierce County; and

WHEREAS, the District has approached the cities of Edgewood and Puyallup, and Pierce County about its plans for suspending operations in 2021; and

WHEREAS, the City of Edgewood supports the District’s proposed withdrawal from the City, and the City’s proposed assumption of the portion of the District’s drainage utility within the City, because the City currently operates a drainage utility and adding this area to the City’s existing service area will result in economies of scale; and

WHEREAS, the City of Edgewood anticipates and supports also assuming a portion of the District’s drainage utility currently operated within the City of Puyallup, as Puyallup has indicated it is not interested in assuming that portion of the District’s drainage utility, and such portion of the District’s drainage utility directly impacts and benefits one or more Edgewood residents; and

WHEREAS, the City further supports the District’s proposed withdrawal from the City and the City’s proposed assumption of the portion of the District’s drainage utility within the City because it will eliminate double assessments paid by those currently within the District’s drainage utility area within the City who currently pay both an assessment for the City’s drainage utility as well as for Drainage District #21; and

WHEREAS, the City estimates that in 2021, the City can serve the additional drainage facilities without an increase in drainage utility rates for City utility customers; and

WHEREAS, because the District is a small, elected Commissioner run organization without any employees, the City believes that serving the portion of the City currently served by

the District with the City's drainage utility will ensure reliable service and environmental protection.

AGREEMENT

NOW, THEREFORE, the District and the City (collectively, "Parties") agree to the following:

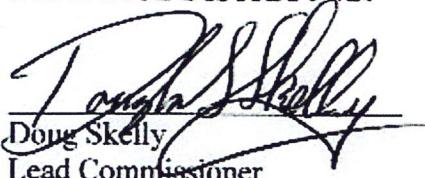
1. Recitals Incorporated. The recitals set forth above are adopted and incorporated into this Agreement.
2. Purpose of Agreement. Pursuant to RCW 85.38.213, this Agreement will effectuate the withdrawal of the District from the City, and the City's assumption of the drainage utility facilities currently owned and/or operated by the District within the City and a portion of the drainage utility facilities currently owned and/or operated by the District within the City of Puyallup.
3. No Reimbursement for Lost Assessment Revenue. The City will not provide reimbursement to the District for lost assessment revenue from the withdrawn area, because the District anticipates suspending operations in 2021.
4. District General Fund Balances. The District will not distribute a portion of general fund balances to the City for the City's use for operation of the drainage system within the City limits, but instead anticipates refunding its general fund balances to its customers.
5. Transfer of Facilities or Improvements (Real Property Rights). To the greatest extent possible, the District shall transfer to the City all facilities, dedications, real property rights, and/or improvements listed on the attached Exhibit A, which is incorporated herein by reference, on or before December 31, 2020 by Statutory Warranty Deed or other appropriate conveyance method. In the event the District has prescriptive easement rights rather than formal recorded easement rights for the above referenced facilities and/or improvements, the District shall instead provide documentation to the City establishing the location of, history of, and extent of the District's prescriptive easement rights. After December 31, 2020, the City will operate the drainage facilities listed on the attached Exhibit A.
6. Transfer of Contracts, Maintenance Obligations, and Personal Property Rights. The District shall further transfer to the City any contracts, maintenance obligations, and/or personal property rights owned by or benefitting the District relating to the facilities and improvements listed on Exhibit A to the City on or before December 31, 2020.
7. Transfer of Documents. The District shall further provide to the City all warranties, maps, titles, "as built," maintenance logs and records, maintenance and performance standards, and all other records relating to the facilities, improvements, and properties/property rights currently owned and operated by the District and relating to the facilities and improvements listed on Exhibit A within thirty (30) days of the effective date of this Agreement.

8. Surface Water Quality.
 - a. The District shall transfer to the City within thirty (30) days of the effective date of this Agreement any records relating to pre-withdrawal surface water runoff and water quality, if any.
 - b. The City agrees to operate and maintain the drainage facilities and properties listed on Exhibit A to at least the same maintenance standards as those set forth in the Edgewood Municipal Code to ensure that the local and regional effects of said facilities shall not be diminished from previously provided by the District.
9. Adoption of Resolutions. No later than October 31, 2020, the District shall adopt a resolution requesting withdrawal of the City from the District, and the City shall adopt a resolution approving the permanent withdrawal of the District from the City limits effective December 31, 2020. The Parties may adopt this Agreement and request/approve withdrawal of the City from the District in a single resolution. The Parties agree to fully cooperate with each other to effectuate such withdrawal and agree to perform or cause to be performed any and all further acts as may be reasonably necessary to complete the withdrawal in accordance with this agreement and applicable law by December 31, 2020.
10. Term. This Agreement shall take effect upon approval by the respective governing bodies of the District and mutual execution and shall be in effect for twenty years from the date of mutual execution. Provided the Parties duly adopt the resolutions enumerated above, requesting and granting approval of the District's withdrawal from the City, the withdrawal of the District from the City shall be permanent and expiration of this Agreement shall not cause any reversion of responsibility for maintenance and operation of the drainage utility facilities within the City back to the District.
11. No New Entity Created. This Agreement does not create any separate legal or administrative entity.
12. Termination. Either party may terminate its obligations under this Agreement upon one (1) year's written notice to the other party.
13. Administrators. The Administrators of this Agreement shall be the Mayor of the City of Edgewood and the Lead Commissioner of the District.
14. No Joint Property Held. No property shall be held jointly between the Parties as part of this Agreement.
15. Amendment. This Agreement may be amended, altered, or clarified only by written agreement of the parties, and may be supplemented by addenda or amendments which have been agreed upon by both parties in writing. Copies of such addenda or amendments shall be attached and by this reference made part of this Agreement as though fully set herein.
16. Hold Harmless and Indemnification. The District shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the performance of this Agreement or in any way relating to this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

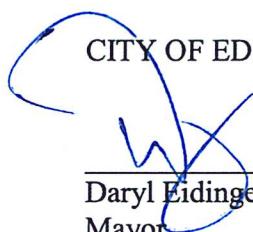
17. Entire Agreement. This Agreement is a complete expression of the understanding between the parties and any oral or written representations or understandings not incorporated expressly into this Agreement are expressly excluded. The parties recognize that time is of the essence in the performance of the provisions of this Agreement. Further, waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the parties which shall be attached to the original agreement.
18. No Assignment. This Agreement shall not be assigned by either Party unless it has the written consent of the other Party.
19. Governing Law. This parties agree that this Agreement shall be interpreted and governed by the laws of the State of Washington. Venue for any suit brought to enforce this agreement shall lie exclusively in Pierce County Superior Court. Should any litigation be commenced between the parties hereto concerning this Agreement, the substantially prevailing party in such litigation shall be entitled to reasonable attorneys' fees or costs, in addition to such other relief as may be granted.
20. Filing of Agreement. Pursuant to RCW 39.34.040, this Agreement shall be filed with the County Auditor or alternatively, listed by subject on the Parties' respective websites.

PIERCE COUNTY
DRAINAGE DISTRICT #21


Doug Skelly
Lead Commissioner

8/13/2020
Date

CITY OF EDGEWOOD


Daryl Eidinger
Mayor

8/13/2020
Date

ATTEST:


Margaret Skelly
Secretary


Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:



Ann Marie J. Soto
City Attorney

RESOLUTION NO. 20-0513

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PIERCE COUNTY DRAINAGE DISTRICT NO. 21, APPROVING WITHDRAWAL OF PIERCE COUNTY DRAINAGE DISTRICT NO. 21 FROM THE BOUNDARIES OF THE CITY, AND ACCEPTING PROPERTY AND FACILITIES FROM PIERCE COUNTY DRAINAGE DISTRICT NO. 21

WHEREAS, Pierce County Drainage District #21 (“District”) currently serves portions of the cities of Edgewood (“City”) and Puyallup, as well as a portion of unincorporated Pierce County, with drainage utility services; and

WHEREAS, Pierce County Drainage District #21 was created in the year 1935, prior to the establishment of the City’s drainage utility in the year 1996;

WHEREAS, given the development and growth within Edgewood and Puyallup and the transition of the area from more rural to more urban in character, the District wishes to suspend operations in 2021 and to turn over its current responsibilities to Edgewood, Puyallup, and Pierce County, as appropriate; and

WHEREAS, pursuant to RCW 85.38.213, drainage districts may withdraw area from their boundaries located within the boundaries of a city pursuant to adoption of resolutions by both the District and the City, the City’s assumption of responsibility for the drainage utility area being withdrawn, transfer by the District to the City of all rights-of-way or easements within the City, and adoption of an interlocal agreement between the District and the City; and

WHEREAS, the District has approached the cities of Edgewood and Puyallup, and Pierce County about its plans for suspending operations in 2021; and

WHEREAS, the City of Edgewood supports the District’s proposed withdrawal from the City and the City’s proposed assumption of the portion of the District’s drainage utility within the City because the City currently operates a drainage utility and adding this area to the City’s existing service area will result in economies of scale; and

WHEREAS, the City further supports the District’s proposed withdrawal from the City and the City’s proposed assumption of the portion of the District’s drainage utility within the City because it will eliminate double assessments paid by those currently within the District’s drainage utility area within the City who currently pay both an assessment for the City’s drainage utility as well as for Drainage District #21; and

WHEREAS, the City estimates that in 2021, the City can serve the additional area without an increase in drainage utility rates for City utility customers; and

WHEREAS, because the District is a small, elected Commissioner run organization without any employees, the City believes that serving the portion of the City currently served by the District with the City's drainage utility will ensure reliable service and environmental protection; and

WHEREAS, the City and the District entered into a non-binding Memorandum of Understanding ("MOU") to set forth the parties' understanding and intent with respect to the District's proposed withdrawal from the City and to specify the anticipated steps and benchmarks prerequisite to the proposed withdrawal on May 14, 2020; and

WHEREAS, pursuant to Resolution 2020-02 passed by District on May 26, 2020, the District has requested to withdraw the portion of its drainage utility that is located within the City; and

WHEREAS, the City and the District have negotiated an Interlocal Agreement (ILA) with respect to the District's withdrawal pursuant to the requirements of RCW 85.38.213; and

WHEREAS, the City supports the District's withdrawal from the City pursuant to the terms and conditions contained within the ILA;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

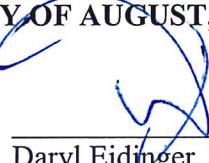
Section 1. Mayor Authorized to Execute Interlocal Agreement. The Mayor of the City of Edgewood is authorized and directed to execute on behalf of the City an Interlocal Agreement with Pierce County Drainage District #21 in the form attached hereto as Exhibit A, and by reference adopted and incorporated herein.

Section 2. Approval of District Withdrawal. The City Council hereby authorizes and approves the withdrawal of Pierce County Drainage District #21 from all area within the boundaries of the City of Edgewood effective December 31, 2020, in accordance with the terms of the ILA attached hereto as Exhibit A and contingent upon the execution of said ILA. The City hereby assumes full responsibility for the maintenance, improvements, and collection of payment for the operation of the drainage system previously operated by Pierce County Drainage District #21 within the City of Edgewood as of January 1, 2021, contingent upon the execution of the ILA attached hereto as Exhibit A.

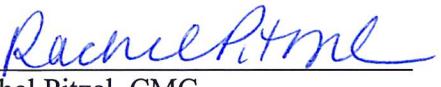
Section 3. Acceptance of Property and Facilities of District. The City Council hereby accepts the property and facilities of the District within the City of Edgewood, if any, and authorizes the Mayor to execute any documents needed to effectuate such transfer, in a final form and content acceptable to the City Attorney.

Section 4. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 11TH DAY OF AUGUST, 2020


Daryl Eidinger, Mayor

ATTEST:


Rachel Pitzel, CMC
City Clerk