INTERLOCAL COOPERATIVE AGREEMENT BETWEEN PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY AND THE CITY OF WENATCHEE FOR A COOPERATIVE PLANNING PROCESS IN THE WENATCHEE WATERFRONT AREA

This agreement is made by and between Public Utility District No. 1 of Chelan County, Washington, (the District), and the City of Wenatchee, Chelan County, Washington (the City).

WHEREAS, the District is a public utility incorporated under the laws of the State of Washington, particularly those set forth in RCW Title 54.

WHEREAS, the City is a municipal corporation duly organized and existing under the laws of the State of Washington, and particularly those set forth at RCW Title 35A.

WHEREAS, the City has the authority to conduct comprehensive land use planning, shoreline master plan reviews, and studies and investigations to obtain information to support these efforts for the benefit of the public.

WHEREAS, the District through its Federal Energy Regulatory Commission Hydroelectric Project operating licenses has the authority to conduct recreational master planning, identify appropriate shoreline access and uses consistent with adopted plans, develop recreational guidelines and policies for Exhibit R facilities, and undertake studies and investigations to obtain information to support these efforts.

WHEREAS, the City and the District have common or interrelated interest in the Waterfront Sub-Area of the Wenatchee Comprehensive Plan (Waterfront Sub-Area) identified as the area bounded by Wenatchee Avenue, the Wenatchee River, the Columbia River, and the George Sellar Bridge:

WHEREAS, the City and the District have determined that it is in their mutual best interests and to their mutual benefit to cooperatively participate in planning process and through involvement of the public, area jurisdictions, agencies, tribes, development community, and special interest groups to develop a Wenatchee Waterfront Sub-Area Plan.

WHEREAS, the City and the District enter into this interlocal cooperation agreement (this Agreement) under the authority of RCW Chapter 39.34.

WHEREAS, the City's Council authorized the execution of this Agreement by action at a regular meeting held on September 16, 2002.

WHEREAS, the District's Board of Commissioners authorized execution of this Agreement by action taken at a Commission meeting held on August 20, 2002.
NOW, THEREFORE, in consideration of the premises and promises, terms and conditions set forth below, it is hereby agreed as follows:

ARTICLE I
PURPOSE

1.01 Purpose. The purpose of this Agreement is to set forth the terms and conditions under which the City and the District will cooperatively participate in a planning process for the Waterfront Sub-Area of the Wenatchee Comprehensive Plan.

ARTICLE II
SERVICES

2.01 Services. Each party shall provide such services as shall be necessary to cooperatively participate in a planning process for the Waterfront Sub-Area including retaining a qualified consultant to facilitate and guide the process, staff and public participation, as well as gather and compile data.

ARTICLE III
ADMINISTRATION AND SCOPE OF WORK

3.01 Administration. The Community Development Director shall be responsible for the administration of this Agreement for the City. The Parks Director shall be responsible for administration of this Agreement for the District.

3.02 Scope of Work. The work performed shall be suitable as the basis for 1) the City to adopt a Waterfront Sub-Area Amendment to the City of Wenatchee Comprehensive Plan and to complete a shoreline resource inventory as anticipated to be required by the Shoreline Management Act and 2) the District to update park master plans and develop community/park interface policies and guidelines.

ARTICLE IV
DURATION AND TERMINATION OF AGREEMENT

4.01 Duration. This Agreement shall be effective upon execution by the parities and filing with the Chelan County Auditor and City Clerk, pursuant to RCW Chapter 39.34. The term of the agreement shall commence immediately and continue until the planning process as identified in the Scope of Work is complete, unless terminated as set forth in 4.02.

4.02 Termination. This Agreement shall continue until terminated by the joint agreement of the parties. A party may unilaterally terminate this Agreement without cause by providing thirty (30) days prior written notice of termination to the other party.
ARTICLE V
REIMBURSEMENT TO THE CITY FOR CONSULTANT

5.01 Consultants. The City shall retain a mutually agreed upon consulting firm to facilitate and guide the planning process. The District will have the opportunity to review and comment upon the assigned scope of work for the consultant before the same is implemented. The City shall be responsible for $20,000 in direct costs for consulting services. The District shall pay up to $125,000 in direct costs to the City upon billing for consulting services. No additional consulting firm fees or third party services shall be incurred for the planning process unless agreed upon in writing by the parties.

ARTICLE VI
INDEMNITY

6.01 Claims. To the extent of its comparative liability each party shall indemnify, defend and hold the other party, its departments, elected and appointed officials, employees, and agents, harmless from and against any and all claims, damages, losses and expenses, including attorney's fees, for any bodily injury, sickness, disease, or death, or any damage to or destruction of property, including the loss of use resulting therefrom, which are alleged or proven to be caused in whole or in part by a negligent or willful act or omission of its officers, directors, and employees. This indemnification obligation shall not apply in the limited circumstance where the claim, damage, loss and or expense is caused by the sole negligence of either party.

ARTICLE VII
PERFORMANCE OF AGREEMENT

7.01 Compliance with All Laws. Each party shall comply with all federal, state and local laws, rules, regulations and ordinances applicable to the performance of this Agreement, including without limitation all those pertaining to wages and hours, confidentiality, disabilities and discrimination.

7.02 Maintenance and Audit of Records. Each party shall maintain books, records, documents and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review and audit by either party or its designee, and the Washington State Auditor's Office. Each party shall retain all such books, records, documents and other materials for five (5) years following the termination of this Agreement.

7.03 On-Site Inspections. Either party or its designee may evaluate the performance of this agreement through an on-site inspection to determine whether performance is in compliance with the standards set forth in this Agreement, and in compliance with federal, state and local laws, rules, regulations and ordinances.
7.04 Improper Influence. Each party agrees, warrants and represents that it did not and will not employ, retain or contact any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining or extending this Agreement. Each party agrees, warrants and represents that no gratuity whatsoever has been or will be offered or conferred with a view toward obtain, maintaining or extending this agreement.

7.05 Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

ARTICLE VIII
DISPUTES

8.01 Time. Time is of the essence of this Agreement.

8.02 Waiver Limited. A waiver of any term or condition of this Agreement must be in writing and signed by the party. Any express or implied waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence, or omission.

8.03 Disputes and Attorney’s Fees. Disputes between the parties shall be mediated and if mediation is unsuccessful the parties may bring legal action. Should legal action be required to enforce or interpret any provision of this agreement, the substantially prevailing party shall be entitled to recover reasonable attorney fees and other costs incurred.

8.04 Governing Law and Venue. This Agreement shall be governing exclusively by the laws of the State of Washington. Venue for any legal action shall be the Superior Court for Chelan County, Washington.

ARTICLE IX
GENERAL PROVISIONS

9.01 Assignment. Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further subcontract or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.

9.02 Entire Agreement. This Agreement constitutes the entire agreement between the parties. There are no understandings or agreements between parties other than those set forth in this Agreement. No other statement, representation or promise has been made to induce either party to enter into this Agreement.
9.03 Modification. This Agreement may not be amended, supplemented or otherwise modified unless expressly set forth in a written agreement signed by the parties and adopted by resolution of each parties legislative authority.

9.04 Invalid Provision. The invalidity or unenforceability of any particular term or provision of this Agreement shall not affect the validity or enforceability of any other term or provision of this Agreement and shall be construed in all respects as if such invalid or unenforceability term or provision was omitted.

9.05 Filing. Pursuant to RCW 39.34.040, this Agreement shall be filed with the Chelan County Auditor prior to its entry to force. This Agreement shall also be filed with the City Clerk.

Adopted: 8/26/02

Public Utility District No. 1 of Chelan County, Washington

By: Charles J. Hosken
General Manager

Adopted: Sept 26, 02

City of Wenatchee

By: Dennis Johnson
Mayor