

**INTERLOCAL AGREEMENT BETWEEN THE MALAGA WATER DISTRICT
AND PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into this date between the MALAGA WATER DISTRICT, a Washington special purpose district, hereinafter referred to as “Malaga,” and PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, a Washington public utility district, hereinafter referred to as “District,” both of which are sometimes collectively referred to as the “Parties.”

Recitals

- A. Pursuant to Title 57 RCW Malaga owns and operates a domestic water system (“System”) located in Malaga, Washington. (Title 57 Special Purpose District)
- B. Malaga does not have adequate staff to meet its emergency repair needs.
- C. From time to time Malaga has a need for emergency equipment and labor assistance to help out with emergency repairs to failed or damaged System infrastructure.
- D. The District is authorized to operate water systems pursuant to Title 54 RCW and employs certified water system operators for its water systems (“Facilities”) at Olalla Canyon, Dryden, Chelan Ridge, and the main water system surrounding the City of Wenatchee.
- E. The District is willing to temporarily provide certified water system operators (“Crew”) and equipment to meet Malaga’s emergency needs on an as needed basis. A Crew is typically made up of a Foreman, two Journeyman Waterman, and appropriate flagging personnel to safely perform the work, a dump truck, backhoe & trailer, and crew truck.
- F. The District is willing to provide certified water system operators on an as needed basis at the District’s hourly rates, which rates are attached hereto and incorporated herein as Exhibit “A,” and for any overtime hours incurred to reasonably meet the needs of the District and Malaga.
- G. Malaga is willing to pay for all expenses incurred by the District for such services as tracked with a Customer Job Order (CJO) plus taxes and overhead and administration fees.
- H. The Parties desire to enter into this Agreement pursuant to RCW 39.34, the Interlocal Cooperation Act, to assist Malaga with continued operation of its System and to utilize the District’s certified operators and equipment.

NOW, THEREFORE, in light of the foregoing Recitals, which are incorporated herein as part of the agreement of the Parties, and the mutual terms, conditions, and covenants set forth below, the Parties agree as follows:

1. District's Obligations.

- A. Emergency and Call-Out Services. The District will provide Crew resources and equipment to meet Malaga's emergency operational needs of their System as requested by Malaga providing such District resources are available at the time of the request. The operational needs of the District's Facilities will take precedence over any work requested by Malaga. Subject to District priorities taking precedence and the availability of crews and equipment, the District will provide emergency and call-out services, based on a two hour minimum during the regular work week (Monday through Friday), on week-ends, and after regular business hours (8 a.m. to 5 p.m.) to Malaga as needed upon request based upon the overtime rates set forth in Exhibit A.
- B. Customer Job Order. The District will create a CJO to track all expenses incurred by the District for any assistance requested by Malaga.
- C. Overhead and Administration Fees. The District will add 10% as overhead and administration costs to each invoice that is billed to Malaga to cover the District's overhead and handling expenses.
- D. Approval and Authorization of Work. The request by Malaga may be initially approved by oral agreement by the District's Water/Wastewater Director (or his/her designee). All oral agreements will be followed with written confirmation or written notice to proceed with the work. If the work is completed without written confirmation, the lack of a written confirmation will not effect Malaga's obligation to pay the costs of the work.
- E. Invoice. The District shall provide an itemized invoice to Malaga for services rendered based on actual expenditures incurred on the CJO plus taxes and overhead and administration fees.
- F. District Employees. District personnel involved in this Agreement shall remain District employees paid from District funds with reimbursement from Malaga.
- G. Auditor Filing. The District shall in compliance with RCW 39.34, upon execution of this Agreement, file it with the Auditor of Chelan County.

2. **Malaga's Obligations.**

- A. **Overtime.** Malaga acknowledges that the District's water system operators or Crew are also providing service to District Facilities and therefore, depending on the needs of the System and the District's Facilities, overtime may be incurred and Malaga agrees to reimburse the District for all overtime incurred for work performed under this agreement.
- B. **Reimbursement.** Malaga shall reimburse the District within 30 days of receipt of each invoice. Malaga agrees to pay actual costs incurred on the CJO plus taxes and overhead and administration fees. Any estimates provided by the District are not binding and Malaga is responsible for all costs of the work regardless of the accuracy of any estimate that may have been provided by the District prior to the start of work.
- C. **Insurance.** Malaga shall provide liability insurance coverage for the duration of this Agreement for its officers, agents and employees' activities while they are involved in the performance of this Agreement in an amount not less than \$1 million (\$1,000,000). The District's Risk Manager shall be provided proof of such insurance within thirty (30) days of the execution of this Agreement and the District will be named as an additional insured as respects this Agreement. If Malaga is self-insured, evidence of \$1 million (\$1,000,000) per occurrence coverage for general liability shall be provided to the District's Risk Manager by the administrator of the self-insurance program.
- D. **Indemnification.** Malaga shall indemnify and hold harmless the District and any and all of the District's officers, principals, agents and employees from any liability, loss, damage, cost, charge or expense, whether direct or indirect, and whether occasioned by injury or loss to persons or property to which the District or said other indemnitees may be put or subject by reason of any act, action, neglect, omission or default under this Agreement or otherwise on the part of Malaga or any of its officers or employees. Malaga agrees to indemnify and hold harmless the District from any and all claims by Malaga's customers for outages of service.
- E. Malaga shall be responsible for all contact with and notice to its customers with regard to any outages of services.

3. **Malaga May Provide Assistance to District upon Request.** The parties recognize that the primary purpose of this Agreement is to outline the responsibilities of the Parties when Malaga receives assistance from the District. The Parties recognize that there may also be times that Malaga will be able to offer assistance to the District through its certified water manager and use of its equipment. If the District requests assistance from Malaga, the terms of this

Agreement will apply to that work. The rates to be charged by Malaga will be agreed upon in advance of any work being done.

4. Organization/Administration.

- A. The District Water/Wastewater Director or designee shall be the Administrator of this Agreement for the District insofar as it relates to the coordination and implementation of the wastewater services.
- B. The Malaga Manager or designee shall be the Administrator of this Agreement for Malaga insofar as it relates to agreed upon services.

5. No Warranties or Guarantees. The District makes no warranties or guarantees the Crews and/or equipment will be available to complete work as requested by Malaga. Further, the District makes no warranties or guarantees as to the timeliness in response to a request, the level of service in response to a request, or the ability to restore service to Malaga's customers within any particular time frame.

6. Term and Effective Date of Agreement. The effective date of this Agreement shall be June 19, 2006 and may be terminated upon sixty (60) days written notice by either Party.

7. Attorneys' Fees and Costs. In the event it is necessary for either Party to utilize the services of an attorney to enforce any of the terms of this Agreement, such enforcing Party shall be entitled to compensation for its reasonable attorneys' fees and costs. In the event of litigation regarding any of the terms of this Agreement, the substantially prevailing Party shall be entitled, in addition to other relief, to such reasonable attorneys' fees and costs as determined by the court.

8. Independent Contractor. The District is an independent contractor with respect to all activities associated with this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the Parties. The District and its employees shall not be entitled to any benefits afforded Malaga employees. The District shall be solely responsible for withholding federal income tax and associated employment-related taxes from the wages paid to its employees.

9. Notices. Any notices shall be effective if personally served upon the other Party or if mailed by registered or certified mail, return receipt requested, to the following addresses, or such other address as a Party may designate in writing and shall be deemed given on the date of mailing:

Malaga Water District
c/o Herb Gardner, Manager
P.O. Box 249
Malaga, WA 98828

Chelan County Public Utility District No. 1
c/o Water/Wastewater Director
Post Office Box 1231
Wenatchee, WA 98807-1231

10. **Remedies.** In the event of default of any provision of this Agreement, the non-defaulting Party shall have all rights and remedies existing at law including the right to recover monies paid and wrongfully expended, and to seek other damages allowed by law.
11. **Entire Agreement.** This Agreement contains the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all prior Agreements or understandings between the Parties with respect thereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement the 20th
day of July 2006.

MALAGA WATER DISTRICT

PUBLIC UTILITY DISTRICT NO. 1
OF CHELAN COUNTY

By: Heck Gardner
Title Manager

By: Rich Riazzi
Rich Riazzi, General Manager

EXHIBIT A

WATER/WASTEWATER SYSTEM (W/WW)

	<u>8.5.05</u>
Foreman	39.87
Journeyman III – Thereafter	35.39
Journeyman II – 6 months	33.31
Journeyman I – 6 months	31.12
Treatment Plant Operator II	
Thereafter	37.03
2 nd 6 months	34.91
1 st 6 months	32.75
 W/WW Operations & Maintenance Coordinator	 38.14
 Water Quality Program Coordinator	 38.14
 W/WW Laborer*	
Thereafter	22.46
1 st 6 months	20.43

Overtime Rates: Two times regular rate set forth above.

VEHICLE RATES

Vehicles and other equipment used by District staff will be charged to the job in accordance with the equipment expense schedule in effect at the time of the work