

EXHIBIT A TO RESOLUTION 5505

INTERLOCAL COOPERATION AGREEMENT CONCERNING WATER AND SEWER
UTILITY SERVICE, BILLING AND COLLECTION

INTERLOCAL COOPERATION AGREEMENT

Water and Sewer Utility Service, Billing and Collection

THIS INTERLOCAL COOPERATION AGREEMENT (“Agreement”) is entered into as of _____, 2020 (“Effective Date”) by and between the City of Algona, Washington (“Algona”) and the City of Auburn, Washington (“Auburn”), both municipal corporations organized under the laws of the State of Washington, pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.

Recitals

- A. Both Algona and Auburn (each a “Party” and collectively “the Parties”) are “public agencies” as defined by Chapter 39.34 RCW, and are authorized by that statute to cooperate on a basis of mutual advantage in order to provide for services and facilities.
- B. Algona owns and operates a water utility (“Algona Water System”) and a sanitary sewer utility (“Algona Sewer System”), which collectively provide water and sewer service to customers located within Algona’s utility service area(s).
- C. Auburn owns and operates a water utility (“Auburn Water System”) and a sanitary sewer utility (“Auburn Sewer System”), which collectively provide water and sewer service to customers located within Auburn’s utility service area(s).
- D. There are three parcels located within the City limits of Auburn at 1611 West Valley Highway S (APN 2321049039), 1743 West Valley Highway S (APN 3751600709) and 1929 West Valley Highway S (APN 3751600711) (collectively, “West Valley Parcels”) that are connected to and served by the Auburn Water System, but are also connected to and served by the Algona Sewer System.
- E. There are four parcels located within the City limits of Algona at 502 Boundary Boulevard (APN 0301510060), 512 Boundary Boulevard (APN 0301510120), 1196 Industry Drive N (APN 0301510190) and a vacant parcel located between 502 and 512 Boundary Boulevard (APN 0301510100) (collectively, “Boundary Boulevard Parcels”) that are connected to and served by the Algona Water Utility, but are also connected to and served by the Auburn Sewer System.
- F. The dissociation between the water and sewer service connections for the West Valley Parcels and Boundary Boulevard Parcels is longstanding and of uncertain origin. To the best of the Parties’ mutual belief and understanding, said dissociation may have resulted from various factors, including without limitation the timing of annexation, development and/or utility connection of the underlying properties.
- G. The water and sewer utility usage of the West Valley Parcels has historically been roughly equivalent to the water and sewer utility usage of the Boundary Boulevard Parcels.
- H. Each Party’s billing and collection for sanitary sewer service usage is based primarily upon water usage, such that each Party may approximately measure, bill and collect for a customer’s sewer utility service by measuring the volume of water service provided to that customer.

Interlocal Cooperation Agreement
Concerning Water and Sewer Utility
Service, Billing, and Collection.

- I. The significant expense of connecting the West Valley Parcels to the Auburn Sewer System, and of connecting the Boundary Boulevard Parcels to the Algona Sewer System, would be greatly disproportionate to the practical benefits resulting from such connection, which would be nominal.
- J. The Parties are currently evaluating permanent options to address the issue of water and sewer utility service for the West Valley Parcels and Boundary Boulevard Parcels and will continue to engage in discussions regarding the same as the lines require repair or replacement or as development in the respective area(s) occurs.
- K. As an interim approach, the Parties mutually desire to simplify the billing relationships and to contractually define their respective rights, obligations costs and liabilities regarding the provision of water and sewer utility service to the West Valley Parcels and the Boundary Boulevard Parcels while a permanent solution is identified and implemented.

NOW, THEREFORE, in consideration of the mutual benefits set forth herein, and other good and sufficient consideration the receipt and sufficiency of which are mutually acknowledged, including without limitation the public interest, the Parties hereby agree as follows:

Terms

Section 1. Authority and Purpose. This Agreement is executed pursuant to Chapter 39.34 RCW as a cooperative endeavor of the Parties. The purpose of this Agreement is to establish a contractual relationship governing the provision of water and sewer utility service for the West Valley Parcels and the Boundary Boulevard Parcels, and to set forth the Parties' respective rights, obligations, costs and liabilities regarding this undertaking. This Agreement shall be reasonably construed in furtherance of said purpose.

Section 2. West Valley Parcels—Connection, Service, Billing and Collection.

2.1 Connection and Service. The West Valley Parcels shall remain connected to and served by the Auburn Water System and the Algona Sewer System.

2.2 Billing and Collection. Auburn shall be exclusively responsible for billing and collecting utility payments from the West Valley Parcels for both water and sewer utility service pursuant to Auburn's adopted utility rate schedule(s). Auburn shall maintain accurate records of water and sewer usage, billing and payments with respect to the West Valley Parcels, but shall not be required to remit any such payments to Algona except as expressly set forth in this Agreement.

Section 3. Boundary Boulevard Parcels—Connection, Service, Billing and Collection.

3.1 Connection and Service. The Boundary Boulevard Parcels shall remain connected to and served by the Algona Water System and the Auburn Sewer System.

3.2 Billing and Collection. Algona shall be exclusively responsible for billing and collecting utility payments from the Boundary Boulevard Parcels for both water and sewer utility service pursuant to Algona's adopted utility rate schedule(s). Algona shall maintain accurate records of water and sewer usage, billing and payments with respect to the Boundary Boulevard Parcels, but shall not be required to remit any such payments to Auburn except as expressly set forth in this Agreement.

Section 4. Inspection Rights; Annual Review.

Interlocal Cooperation Agreement
Concerning Water and Sewer Utility
Service, Billing, and Collection.

4.1 Inspection Rights. Each Party shall, upon written request, promptly provide the other Party with access to and copies of its utility billing records for the West Valley Parcels and the Boundary Boulevard Parcels.

4.2 Annual Review. Upon the request of Algona, Auburn shall provide to Algona a written summary of the water and sewer utility billing and collection records of the West Valley Parcels for the preceding year. Upon the request of Auburn, Algona shall provide a written summary of the water and sewer utility billing and collection records of the Boundary Boulevard Parcels for the preceding year. Upon receipt of the above-referenced written summaries, the Parties shall confer as deemed mutually appropriate to determine whether to continue, terminate or amend this Agreement.

Section 5. Ownership, Regulation Operation, Maintenance and Repairs. Except as otherwise expressly provided herein, nothing in this Agreement shall be construed as altering or otherwise modifying the Parties' respective rights, duties, obligations and liabilities concerning their respective water and sewer utility systems. Without limitation of the foregoing: Auburn shall own and remain exclusively responsible for all regulation, operation, maintenance and repairs of the Auburn Water System and the Auburn Sewer System, and (ii) Algona shall own and remain exclusively responsible for all regulation, operation, maintenance and repairs of the Algona Water System and the Algona Sewer System.

Section 6. Meter Removal. Algona may in its sole discretion remove or otherwise decommission Algona's utility service meters for any or all of the West Valley Parcels. Algona agrees to provide at least five business days' notice to Auburn of any meter removal or decommissioning.

Section 7. Term. This Agreement shall be in force as of the Effective Date written above following mutual execution by the Parties, and shall remain in effect for ten (10) years thereafter ("Term"), unless terminated earlier in accordance with Section 8. The Parties may at their option extend the Term for one or more mutually agreed upon periods through a writing signed by both Parties.

Section 8. Termination. Either Party may terminate this Agreement with or without cause by providing the other Party with one hundred and eighty (180) days written notice of its intent to terminate.

Section 9. Administration; No Separate Entity Created. The Algona Public Works Director and the Auburn Public Works Director shall serve as joint administrators of this Agreement. No separate legal entity is formed hereby.

Section 10. Property Acquisition, Retention and Disposition. No joint acquisition of real or personal property is contemplated by this Agreement. Except as provided in this section, any other real or personal property acquired by a Party shall remain within the sole and exclusive ownership and control of that Party following the termination or expiration of this Agreement.

Section 11. Indemnification. Each Party shall defend, indemnify and hold the other Party, its officers, officials, employees and volunteers harmless from and against any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the first Party in its performance of this Agreement. Without prejudice to the foregoing, it is expressly understood that each Party's obligations under this section shall include exclusive responsibility for any claims, injuries, damages, losses or suits arising out of or otherwise relating to the content and validity of that Party's codes, ordinances and regulations, and that the other Party, its officers, officials, employees and volunteers shall have no liability or responsibility whatsoever therefore.

Interlocal Cooperation Agreement
Concerning Water and Sewer Utility
Service, Billing, and Collection.

It is further specially and expressly understood that the indemnification provided herein constitutes each Party'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.

Section 12. Governing Law and Venue; Attorneys' Fees. This Agreement shall be governed by the laws of the State of Washington. The venue for any action arising out of this Agreement shall be the Superior Court for King County, Washington. The substantially prevailing Party in any such action shall be entitled to an award of its reasonable attorneys' fees.

Section 13. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed as creating an employment relationship between Algona and any employee, agent, representative or contractor of Auburn, or between Auburn and any employee, agent, representative or contractor of Algona.

Section 14. Notices. Notices to Algona shall be sent to the following address:

**City of Algona
Attn: Public Works Director
200 Washington Blvd.
Algona, WA 98001**

Notices to Auburn shall be sent to the following address:

**City of Auburn
Attn: Public Works Director
25 W. Main Street
Auburn, WA 98001**

Section 15. Duty to File or Post Agreement. Prior to this Agreement's entry into force, Auburn shall, pursuant to RCW 39.34.040, (1) file this Agreement with the King County Auditor's Office, or (2) list this Agreement by subject on Auburn's internet web site.

Section 16. Integration. This document, together with any exhibits thereto, constitutes the entire embodiment of the contract between the Parties, and, unless modified in writing by an amendment signed by the Parties hereto, shall be implemented exclusively as described above. All oral agreements and understandings between the Parties related to the subject matter hereof shall be deemed superseded by this Agreement and shall hereinafter be null and void.

Section 17. No Third-Party Beneficiary Created. This Agreement is executed for the sole and exclusive benefit of the signatory Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any right, remedy or other entitlement upon any person other than the Parties hereto, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any party hereto.

Interlocal Cooperation Agreement
Concerning Water and Sewer Utility
Service, Billing, and Collection.

Section 18. Signatory Warranty. Each signatory hereto warrants and represents that he/she has been authorized to execute this Agreement by appropriate action of the legislative body of his/her respective city.

Section 19. Execution in Counterparts. This Agreement may be executed in separate counterparts.

Section 20. Regulatory Authority Reserved. Nothing herein shall be construed as waiving, limiting or otherwise abridging in any manner regulatory authority of either party, which Algona and Auburn each hereby expressly reserve in full.

EXECUTED this ____ day of _____, 2020.

CITY OF ALGONA

CITY OF AUBURN

Dave Hill, Mayor

Nancy Backus, Mayor

ATTEST/AUTHENTICATED

ATTEST/AUTHENTICATED

Jennifer Garnica, City Clerk

Shawn Campbell, City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM

Algona City Attorney

Auburn City Attorney

Interlocal Cooperation Agreement
Concerning Water and Sewer Utility
Service, Billing, and Collection.