

INTERLOCAL AGREEMENT BETWEEN THE CITY OF FIFE AND THE CITY OF PUYALLUP REGARDING RECIPROCAL USE OF RECREATIONAL FACILITIES

This Agreement is entered into by and between the City of Fife ("Fife") and the City of Puyallup ("Puyallup").

I. Preamble

1.1 Whereas, the City of Fife owns and operates a swim center; and

1.2 Whereas, the City of Puyallup owns and operates a recreational center; and

1.3 Whereas, the cities of Fife and Puyallup support the expanded and shared use of their respective recreational facilities; and

1.4 Whereas, this Agreement will provide a mechanism for allowing the reciprocal use of recreational facilities to the benefit of the citizens of the City of Fife and the City of Puyallup. Now, therefore, it is agreed as follows:

II. Use of Recreational Facilities & Reciprocity of Residential Fees

2.1 Each city shall make the recreational facilities identified in Exhibit A available to the citizens of the other city. Each city shall charge residents from the other city the same facility user fees that it would charge to its own residents.

III. Liability Coverage

3.1 Nature of Coverage

A. Each city shall maintain commercial general liability coverage or shall obtain a coverage agreement through a Risk Pool authorized by Chapter 39.34 RCW which shall provide liability coverage for the liabilities contractually assumed by each city in this Agreement and arising out of the activities pertaining to this Agreement.

B. By requiring such liability coverage, each city shall not be deemed to, or construed to, have assessed the risks that may be applicable to each city in this Agreement. Each city shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage than is herein specified.

3.2 Scope and Limits Of Liability Coverage.

Coverage shall be at least as broad as:

A. General Liability: Commercial General Liability, with a limit of not less than: \$5,000,000 combined single limit per occurrence, \$5,000,000 aggregate.

The policy of coverage agreement shall include but not be limited to:

1. Coverage for premises and operations;
 2. Contractual liability (including specific liability assumed herein);
 3. Employers Liability of "Stop Gap" coverage.
- B. Workers Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, statutory limits.
- C. Deductibles and Self-Insured Retentions: Any deductible and/or self-insured retention shall be the sole responsibility of each city.
- D. Other Provisions: The coverages required by this Agreement are to contain or be endorsed to contain the following provisions where applicable:
1. Liability Coverages. To the extent of a city's negligence as herein assumed, each city's liability coverage shall be primary coverage as respects the city, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the city, its officers, officials, employees, and agents, shall not contribute with the city's coverage or benefit the city in any way.
 2. All Policies and Coverage Agreements. Coverage shall not be suspended, voided, cancelled, materially reduced in coverage, or in limits except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice, sent by registered mail, has been given to the city.
 3. Acceptability of Insurers. Unless otherwise accepted by the city, insurance coverage is to be placed with a Risk Pool authorized by Chapter 39.34 RCW or insurers with a Best's rating of no less than A: VIII, or, if not rated by Best's, with a minimum surplus the equivalent of Best's surplus size VIII.
 4. Verification of Coverage. Each city shall furnish each other with certificates of coverage. The certificates for each policy or coverage agreement are to be signed by a person authorized to bind coverage. The certificates are to be received and accepted by the city prior to the commencement of activities associated with this Agreement. Acceptance hereunder shall be presumed unless otherwise notified by the city. Each city reserves the right to require complete certified copies of the pertinent parts of applicable policies at any time.

IV. Hold Harmless

4.1 Each city shall protect, defend, indemnify, and hold harmless the other city, its officers, officials, employees, and agents, from any and all claims, demands, suits, penalties, losses, damages, judgements, attorney's fees, and/or costs of any kind whatsoever, arising out of, or in any way resulting, from acts or omissions of the city, its officers, employees, agents, and/or subcontractors, in the use of the city-owned facilities that are the subject of this Agreement.

4.2 Except for damages caused by the sole negligence of a city, each city's obligations under this section shall include, but not be limited to:

- A. The duty to promptly accept tender of defense and provide defense to the other city at the city's own expense;

- B. Indemnification for such claims, whether or not they arise from the sole negligence of each city, or the concurrent negligence of the cities;
- C. In the event that either city incurs attorney fees and/or costs in the defense of claims for damages within the scope of this section, such fees and costs shall not be recoverable from the other city. In addition, each city shall be entitled to recover from the other city fees and costs incurred to enforce the provisions of this Section IV.
- D. Notwithstanding Section III, and except for allegations of negligence involving warnings and/or failure to post signs for city programs, the cities will defend and indemnify each other for allegations of improper maintenance of city-owned facilities and/or allegations of latent defect(s) in design, construction, or otherwise, in such facility, unless the city, its employees, or facility users causes such defect(s).

V. Assignment

5.1 Neither party shall assign or sublet its rights or responsibilities under this Agreement without the written authorization of the other party. Written authorization shall not be withheld unreasonably.

VI. Severability

6.1 If any term of this Agreement is held invalid or unenforceable, the remainder of the Agreement will not be affected, but continue in full force.

VII. Non-Waiver

7.1 Failure of either party to insist upon the strict performance of any term of this Agreement will not constitute a waiver or relinquishment of any party's right to thereafter enforce such term.

VIII. Effective Date and Termination

8.1 This Agreement shall commence on January 1, 2003 and may be renewed automatically for one-year periods thereafter, unless terminated by either party. A party wishing to terminate the Agreement must give the other party notice in writing of intention to terminate at least ninety (90) days prior to the expiration of the then-current term of this Agreement.

IX. Notices

9.1 Each notice or other communication which may be, or is required to be given under this Agreement, shall be in writing and shall be deemed to have been properly given when delivered personally during the normal business hours to the party to whom such communication is directed, or three (3) working days after being sent by regular mail, to the appropriate one of the following addresses as may be designated by the appropriate party:

If to the City of Fife:

City Manager
City of Fife
5411 23rd Street E
Fife, WA 98424

If to the City of Puyallup:

Parks and Recreation Director
City of Puyallup
218 West Pioneer
Puyallup, WA 98371

X. Integration

10.1 This writing contains all terms of this Agreement. It replaces all prior negotiations and agreements regarding this Agreement. Modifications must be in writing and be signed by each party's authorized representative.

XI. Authority to Execute Agreement

11.1 The Fife City Manager was authorized by the Fife City Council to execute this Agreement pursuant to the authority given to him by the City of Fife City Council on ~~June 12, 2004~~ _____ .

11.2 The Puyallup City Manager was authorized by the Puyallup City Council to execute this Agreement pursuant to the authority given to him by the City of Puyallup City Council on March 3, 2003.

CITY OF FIFE

CITY OF PUYALLUP

By: _____ Date: _____
Mike Caldwell, City Manager

_____ Date: _____
Jim Bacon, City Manager

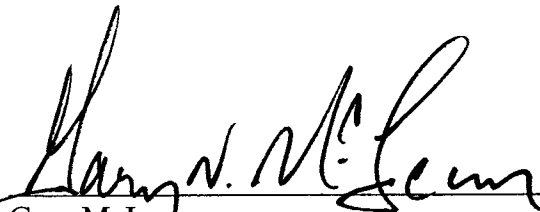
ATTEST:

APPROVED BY CITY COUNCIL 03/03/2003

Marlyn Campbell, Fife Clerk/Treasurer

APPROVED AS TO FORM:

Loren D. Combs
City Attorney for City of Fife
McGAVICK GRAVES, P.S.



Gary McLean
City Attorney for City of Puyallup

CITY OF FIFE FACILITIES:

Fife Swim Center

- Daily Drop-in Rates
 - Lap Swim
 - Recreational Swim
 - Family Swim
 - Whirlpool, Shower
- Punch Passes
- Quarterly, Monthly and Annual Passes
- Public Swimming Lessons

CITY OF PUYALLUP FACILITIES:

Puyallup Recreation Center

- Daily Drop-in Rates
 - Open Gyms
 - Weight Room
 - Whirlpool, Shower, Sauna
- Punch Passes
- Quarterly, Monthly, Semiannual and Annual Passes

For both cities, not included are:

Other program fees, such as:

- Locker rentals
- Recreation classes
- Exercise classes
- Room rentals
- Field fees