

1 **SAMPLE**
2 **Filed for and Return to**
3 Dana Barnard, Clerk
4 City of East Wenatchee
5 271 Ninth Street
6 East Wenatchee, WA 98802
7

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of any warranty contained in the document itself.	
Document Title:	Interlocal Agreement Between East Wenatchee and Douglas County regarding Annexations
Grantor(s):	City of East Wenatchee and Douglas County
Grantee(s):	City of East Wenatchee and Douglas County
Reference Number(s) of Document Related, Assigned or Released:	Not applicable
Abbreviated Legal Description	Not applicable
Complete or Additional Legal Description on page ____ of Document (Attached as Exhibit A)	
Assessor's Parcel Number:	Not applicable
Filed with the Auditor pursuant to RCW 39.34.040	

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**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF EAST WENATCHEE AND DOUGLAS COUNTY
REGARDING ANNEXATION DELIVERY OF SERVICES
AND REVENUE SHARING**

SECTION 1. PARTIES. This Interlocal Agreement (hereinafter "AGREEMENT"), is made by and between the City of East Wenatchee, a Washington Municipal Corporation and a non-charter code city, (hereinafter referred to as the "CITY") and Douglas County, Washington, a political subdivision of the State of Washington (hereinafter referred to as the "COUNTY") pursuant to the authority of the Chapter 36.70A RCW (the Growth Management Act), and Chapter 39.34 RCW Interlocal Cooperation Act.

SECTION 2. PURPOSE AND RECITALS.

2.1 The purpose of this AGREEMENT is to ensure the continuation of high quality and uninterrupted services to the residents during annexation transition periods.

2.2 The CITY and COUNTY have determined that annexation is likely to have a financial impact, thus necessitating a funding arrangement to mitigate such impacts.

2.3 The CITY and COUNTY adopted the Douglas County Regional Policy Plan, which contains policies stipulating that consistent regulations and development standards are to be developed for the Urban Growth Area (UGA) and provides for joint review of development proposals within the UGA.

1 2.4 The City of East Wenatchee Comprehensive Plan (CITY Plan) and the Greater
2 East Wenatchee Comprehensive Plan (COUNTY Plan) have been duly adopted by
3 each respective jurisdiction.
4

5 2.5 The CITY and COUNTY recognize the need to facilitate and coordinate the proper
6 transition of services and capital projects at the time of annexation.
7

8 2.6 The CITY Plan recommends the development of interlocal agreements to address
9 the distribution of debt and revenue sharing for annexation proposals.
10

11 2.7 The CITY anticipates annexations occurring by the methods identified in RCW
12 Chapter 35A.14, as now exists or is hereafter amended, and wishes to establish a
13 framework for ongoing and consistent response to future annexations. This
14 AGREEMENT applies to all annexations.
15

16 2.8 The CITY and COUNTY find it mutually beneficial and in the public interest to enter
17 into one or more agreements for services to the residents of annexation areas during a
18 period of transition between COUNTY service provision and CITY service provision to
19 such area.
20

21 2.9 The CITY and COUNTY recognize that this AGREEMENT includes general
22 statements of principle and policy, and that addenda to existing interlocal agreements or
23 additional agreements on specific subjects relating to annexation and service transition
24 may be developed subsequently. Potential subjects may include: roads and traffic
25 impact mitigation; surface and storm water management; parks, trails, recreation and
26 open space; police services; transfer of staff; transfer of records; and transfer of
27 equipment.
28

29 **SECTION 3. TERM OF AGREEMENT AND EXTENSIONS.** This AGREEMENT shall
30 be effective for a period of ten (10) years following recording with the Douglas County
31 Auditor. This AGREEMENT shall be automatically renewed and extended for
32 successive five (5) year terms, unless written notice of termination is served on the
33 other party not less than one (1) year prior to the end of the then current term. Following
34 termination, the COUNTY and CITY are mutually responsible for fulfilling any
35 outstanding obligations under this AGREEMENT incurred prior to the effective date of
36 the termination.
37

38 **SECTION 4. GEOGRAPHIC SERVICE AREA AND APPLICABILITY.** The COUNTY
39 and CITY agree that the contents of this AGREEMENT shall apply to annexations
40 initiated within the area depicted on Attachment 1 entitled Greater East Wenatchee
41 Urban Growth Area, as now exists or is hereafter amended.
42

43 **SECTION 5. LAND USE PLANS AND DEVELOPMENT REGULATIONS.**
44

45 5.1 Comprehensive Land Use Plan. Within one hundred eighty (180) days of the
46 effective date of this AGREEMENT, the CITY shall adopt the Greater East Wenatchee

1 Area Comprehensive Plan that includes within its planning area the East Wenatchee
2 Urban Growth Area. The adoption of the plan will permit the CITY to use the goals,
3 policies and land use designations for future annexations and provide the basis for pre-
4 annexation zoning for the area identified in Attachment 1.

5
6 5.2 Pre-Annexation Zoning. Subsequent to the adoption of amendments to the Greater
7 East Wenatchee Comprehensive Plan, the CITY agrees to update and adopt a new
8 Proposed Zoning Regulation Map pursuant to the provisions of Chapter 35A.14.330 as
9 the Official Pre-Annexation Zoning Map and Proposed Zoning Regulation for the area
10 identified in Attachment 1.

11
12 5.3 Comprehensive Plan Updates. The CITY and COUNTY agree to jointly review,
13 draft and adopt future updates to their comprehensive plans that demonstrate
14 consistency and coordination.

15
16 5.4 Development Regulations. The CITY and COUNTY shall work jointly to adopt
17 consistent development regulations within one (1) year following the effective date of
18 this Agreement.

19
20 **SECTION 6. ANNEXATION PROCEDURE.** The CITY agrees that prior to any official
21 Council action regarding a possible annexation, it will notify the COUNTY of said
22 proposal with a notice of intent to annex (NOI) and request comment from the
23 COUNTY. The NOI to the COUNTY shall be accompanied by the following information:
24 annual revenue reduction, which shall include property tax, sales tax, state shared
25 revenue, local option transportation tax and COUNTY Road tax; population; list of
26 businesses and approximate number of jobs transferred; road miles transferred; and
27 potential impact to existing levels of service for both the CITY and the COUNTY. The
28 COUNTY agrees that it will not charge a fee for requested documents containing the
29 above information. The COUNTY also agrees to provide written comment on the
30 proposal within thirty (30) days of receiving the complete NOI. The COUNTY further
31 agrees to provide the following information: (a) the amount of COUNTY funds spent for
32 road construction or reconstruction, excluding overlay projects, during the fifteen (15)
33 years, or seven (7) years in the case of seal coat projects, prior to the estimated
34 effective date of the annexation; (b) a brief explanation of the work completed, date and
35 location; and (c) the estimated reimbursement due, using the formula contained in
36 Section 9.

37
38 **SECTION 7. BUILDING AND LAND USE PERMITS**

39
40 7.1 List of Permits. Thirty (30) days prior to the effective date of a proposed annexation,
41 the COUNTY will prepare and send to the CITY a list detailing the status of all
42 applications and permits on properties located within a proposed annexation area.

43
44 7.2 Transfer of Permits. The CITY and COUNTY will review the list of applications and
45 permits and agree to transfer to the CITY all applications that have not been determined
46 to be complete prior to the effective date of annexation.

1
2 7.3 COUNTY to Solicit Comments. The COUNTY shall solicit comments from the CITY
3 on land use and building permit applications that are within any proposed annexation
4 area and provide copies of staff reports and recommendations.

5
6 7.4 Contracting for Permit Processing. Nothing in this AGREEMENT shall prevent the
7 CITY from contracting with the COUNTY to process applications submitted after the
8 date of annexation, or other applications the CITY is processing.

9
10 7.5 City shall Adopt County code. The CITY agrees to adopt the COUNTY'S
11 development regulations by reference for the purpose of allowing the COUNTY or CITY
12 to continue processing those permits in the annexed area. Adoption of the COUNTY's
13 development regulations shall in no way have an effect on projects applied for under the
14 CITY's jurisdiction. The relevant Douglas County Code sections are listed in
15 Attachment 2 to this AGREEMENT.

16
17 7.6 Enforcement of Standards and Conditions. Following the effective date of an
18 annexation, the CITY agrees to enforce, to the extent deemed legally enforceable by
19 the CITY, applicable standards and any conditions imposed relating to the issuance of a
20 building or land use permit prior to annexation. The COUNTY agrees to make its
21 employees available to provide assistance in the interpretation of conditions and
22 applicable standards.

23
24 7.7 Permit Renewal or Extension. Any request to renew a building permit or to renew
25 or extend a land use permit after the effective date of the annexation shall be made to
26 and administered by the CITY.

27
28 7.8 Transfer of Financial Guarantees. All financial guarantees (e.g. performance
29 bonds, mitigation funds, maintenance bonds or other bonds or sureties) required for a
30 building permit, land use permit or enforcement action shall be transferred or assigned
31 to the CITY after the effective date of the annexation. If the financial guarantee cannot
32 be assigned to the CITY, the COUNTY will enforce the provisions of such guarantee on
33 behalf of the CITY in accordance with this AGREEMENT. The CITY shall have sole
34 discretion over the acceptance of required performance and the release of said
35 guarantees.

36
37 7.9 Building and Building-related Permits.

38
39 7.9.1 Building and building-related permits defined. The types of building and
40 building-related permits that are covered within this AGREEMENT include but
41 are not limited to: building permits, sign permits, excavation and grading permits,
42 mechanical permits, plumbing permits, change of occupancy permits, tenant
43 improvement occupancy permits, fire systems and fire sprinkler permits, and
44 demolition permits.

1 7.9.2 Continued administration of building permits. The COUNTY shall continue
2 to administer building permits deemed complete prior to the effective date of the
3 annexation.
4

5 7.10 Land Use Permits
6

7 7.10.1 Land use permits defined. For the purposes of this AGREEMENT, “land
8 use permits” are defined as: site plan review, conditional use permits,
9 development code variances, boundary line adjustments, planned unit
10 developments including master planned developments, subdivisions, short plats,
11 binding site plans, shoreline permits, home occupation permits, and critical areas
12 permits.
13

14 7.10.2 Continued administration of land use permits. The COUNTY shall
15 continue to administer land use permits deemed complete prior to the effective
16 date of the annexation.
17

18 7.10.3 Dedications, deeds or conveyances. If a dedication for public use (or
19 easements) is to be made after the effective date of the annexation, such
20 dedication shall be transmitted to the CITY for review and a determination of
21 acceptance.
22

23 7.10.4 Final approval of subdivision, short plat and binding site plan. All final
24 plats, short plats and binding site plans to be submitted after the effective date of
25 annexation shall be submitted to the responsible officials designated in the CITY
26 Municipal Code for a determination of acceptance.
27

28 7.11 Code Enforcement.
29

30 7.11.1 Code enforcement defined. For purposes of this AGREEMENT, “Code
31 Enforcement” means ensuring compliance with the Uniform Codes (including
32 Building, Mechanical, Plumbing, Fire), Zoning Ordinance, Development
33 Standards, Shoreline Master Program, Subdivision Code, and Critical Areas
34 Ordinance.
35

36 7.11.2 Continuation of code violation cases. Active code violation cases will be
37 transferred to the CITY on the effective date of the annexation. Any further
38 action in those cases will be the responsibility of the CITY. The COUNTY agrees
39 to make its employees available as witnesses, if necessary and at no cost to the
40 CITY, in order to prosecute transferred cases.
41

42 7.11.3 Compliance Agreements. When a compliance agreement is being
43 negotiated on property within an area included within a NOI, the County shall
44 inform the City Code Enforcement Officer. The City may, at its option, be a party
45 to the development of the compliance agreement.

1 **SECTION 8. RECORDS TRANSFER.** All original files for building and land use
2 permits within an annexation area shall remain in the custody of the COUNTY. The
3 CITY may copy files on their own equipment or agree to pay for the cost of copying any
4 requested records.

5
6 **SECTION 9. ROADS AND TRANSPORTATION SYSTEMS.** It is the intention of the
7 CITY to annex all roads adjacent to an area proposed for annexation, to adequately
8 compensate the COUNTY for completed capital improvements on such roads, and to
9 work with the COUNTY to complete capital road projects that have been funded but not
10 completed as of the effective date of a proposed annexation.

11
12 9.1 Annexation of Right of Way and Maintenance. The CITY and COUNTY agree that
13 the entire right of way for all streets and roads adjacent to land proposed to be annexed
14 shall be made part of the annexation. As of the effective date of the annexation, the
15 CITY shall assume responsibility for the maintenance of all streets and roads included
16 within the annexed area.

17
18 9.2 Capital Expenditure Reimbursement.

19
20 9.2.1 Formula and procedure for reimbursement. The CITY shall reimburse the
21 COUNTY for capital expenditures on roads and transportation systems
22 (excluding routine maintenance) completed prior to the effective date of the
23 annexations. Payment of reimbursements under this subsection shall be made
24 no later than sixty (60) days after the City receives road taxes from the newly
25 annexed area. The reimbursement shall include only actual expenditures
26 (excluding all grant funds). The reimbursement shall be calculated using the
27 following formula:

28
29 **[(length of project actually annexed) divided by (length of project)]**
30 **multiplied by [COUNTY's total expenditures] multiplied by [remaining**
31 **project life expectancy, i.e. 15 years for construction/reconstruction and**
32 **overlays and 7 years for seal coat projects, as per WSDOT and ASHTO**
33 **design standards, as a percentage, at time of annexation] = Reimbursement**
34 **from CITY**

35
36 **Example:** Where the CITY annexes 1,000 feet of a completed 6,000 foot
37 improvement, with a COUNTY cost totaling \$130,000, 2 years after the
38 completion of the project, where the road has a total life expectancy of 15 years,
39 the calculation would be as follows:

40
41 $(1,000 \text{ ft.}/6,000 \text{ ft.}) \times \$130,000 \times (13 \text{ years}/15 \text{ years}=86\%)=\$18,633$

42
43 9.3 Road Maintenance Services. The CITY may contract with the COUNTY, as
44 needed, to provide maintenance of newly annexed roads. A separate interlocal
45 agreement shall be negotiated for such services.

1 9.4 Design and Construction Engineering Services. It is the intent of the CITY to
2 contract with the COUNTY, on an individual project basis, to provide services for the
3 design and construction engineering of specialty road projects. Services may also
4 include contract administration. A separate interlocal agreement shall be negotiated for
5 such services.
6

7 9.5 Joint Construction Projects. In determining jurisdictional responsibility for costs on
8 joint road construction projects, the COUNTY will prepare a cost estimate for the
9 various phases of the project (design, right of way and construction). Each party is
10 responsible for the unfunded portion of the construction costs within its respective
11 jurisdiction, as agreed by the parties for each such road project. The CITY agrees to
12 pay for additional design and/or project costs resulting from CITY revisions to the scope
13 of work after the cost estimate has been agreed upon. Prior to proceeding on each
14 such project, the CITY and COUNTY shall enter into a written agreement.
15

16 9.6 Mitigation Funds. Funds, bonds or other sureties, received for mitigation payments
17 and road related SEPA mitigation payments received by the COUNTY for property
18 within the annexation area that remain unbudgeted or unexpended as of the effective
19 date of the annexation shall be transferred to the CITY within 90 days following the
20 effective date of the annexation. The COUNTY shall provide copies of documents
21 relating to the funds and explaining the purpose for which the funds were collected.
22

23 **SECTION 10. CAPITAL FACILITY PROJECTS.**

24
25 10.1 Consultation on capital expenditures. The COUNTY and CITY will cooperatively
26 plan for new local and regional, capital construction projects within the area identified in
27 Attachment 1, as now exists or is hereafter amended. The parties will discuss the need
28 for shared responsibilities in implementing capital projects and may pursue cooperative
29 financing where appropriate. Interlocal agreements addressing shared responsibilities
30 for capital projects may be negotiated, where appropriate.
31

32 10.2 Continued planning, design, funding, construction and services. The provision of
33 COUNTY services relating to the planning, design, funding, property acquisition and
34 construction of capital projects will be addressed by separate interlocal agreement.
35

36 **SECTION 11. STORM WATER MANAGEMENT SYSTEMS.** If an annexed area
37 includes drainage improvements or facilities the COUNTY currently owns, the CITY
38 shall assume all ownership rights and responsibilities upon the effective date of
39 annexation. Storm water management systems are the subject of a separate Interlocal
40 Agreement adopted by the COUNTY as Resolution 98-12 and by the CITY as
41 Resolution 98-3. Nothing in this AGREEMENT is intended to supercede the provision of
42 the existing Storm and Surface Water Management Agreement.

1 **SECTION 12. POLICE SERVICES.**

2
3 121 Transfer of Responsibility. As provided by law, as of the effective date of an
4 annexation, police service responsibility within the annexed area will transfer to the
5 CITY.

6
7 12.2 Future Agreement for Contracting Services and Transfer of Employees. The CITY
8 and COUNTY agree to begin preparation of an interlocal agreement to address
9 contracting for police services within annexed areas and a procedure for the transfer of
10 sheriff's department employees to CITY service pursuant to RCW 35.13. The COUNTY
11 Sheriff's Department, upon request by the CITY, will provide detailed service and cost
12 information for the area to be annexed, at no cost to the CITY.

13
14 **SECTION 13. TRANSFER OF OTHER COUNTY STAFF.** The CITY recognizes that
15 an individual annexation or the cumulative impact of a series of annexations may
16 reduce staffing needs in certain COUNTY departments and at the same may increase
17 the demand on CITY departments. The CITY and COUNTY agree to begin preparation
18 of an interlocal agreement to address contracting for services within annexation areas
19 and a procedure for the transfer of employees to the CITY. To assist in the discussion,
20 the COUNTY, upon request by the CITY, will provide detailed information relative to the
21 cost for service to annexation areas and an estimate of staffing requirements, at no cost
22 to the CITY.

23
24 **SECTION 14. REVENUE SHARING.** The CITY recognizes that the annual COUNTY
25 budget, particularly for Current Expense, relies upon revenues from taxes generated
26 within the unincorporated area. The CITY also recognizes that the role of the COUNTY
27 as the regional governmental service provider continues even after annexation. This
28 section provides a revenue sharing formula intended to reduce the adverse financial
29 impact on the COUNTY as a result of annexation.

30
31 Sales & Use Tax: The CITY and COUNTY agree to share in the revenues from
32 commercial and/or industrial land within annexed areas for a 5-year period (20
33 tax quarter periods) using the formula established below. "CST" shall mean the
34 city sales and use taxes received by the CITY.

35

<u>Time Period</u>	<u>Percent of CST Paid to County</u>
first 4 tax quarters	50% (CST)
second 4 tax quarters	40% (CST)
third 4 tax quarters	30% (CST)
fourth 4 tax quarters	20% (CST)
fifth 4 tax quarters	10% (CST)

36
37 The payment from the CITY to the COUNTY shall be due and payable within thirty (30)
38 days after the CITY receives the revenue.

1 **SECTION 15. BOUNDARY REVIEW BOARD.** Nothing herein shall diminish the role of
2 the COUNTY Boundary Review Board. Each proposed annexation will be subject to the
3 Board's possible consideration under state law. The COUNTY shall not oppose any
4 proposed annexations that are subject to and in compliance with the terms and
5 conditions of this Agreement.
6

7 **SECTION 16. ADMINISTRATION.** This AGREEMENT shall be administered by the
8 CITY Mayor and the COUNTY Chair of the Board of County Commissioners or their
9 respective designees.

10
11 **SECTION 17. NOTICE.** Any notices to be given under this AGREEMENT shall be
12 personally served to or shall be mailed, postage prepaid, to:
13

14 FOR THE COUNTY:

15
16 Chair, Board of County Commissioners
17 Douglas County
18 P. O. Box 747
19 Waterville, WA 98858-0747
20

21 FOR THE CITY:

22
23 Mayor, City of East Wenatchee
24 271 Ninth Street NE
25 East Wenatchee, Washington 98802
26

27 Additional departmental notifications may be required by subsequent amendments or
28 attachments to this AGREEMENT. The name and address to which notices shall be
29 directed may be changed by either the CITY or COUNTY giving the other notice of such
30 change as provided in this section.
31

32 **SECTION 18. DISPUTE RESOLUTION.**
33

34 18.1 Panel Mediation. Disputes arising from the interpretation or administration of this
35 AGREEMENT shall be mediated by a panel of three people. The mediation process
36 shall be commenced by written notice to the other party. A CITY representative, non-
37 elected official, shall be appointed by the East Wenatchee Council, and a COUNTY
38 representative, non-elected official, shall be appointed by the Douglas County Board of
39 Commissioners. The Parties shall appoint such mediators with fourteen (14) days after
40 service of the written mediation notice. A third mediator shall be agreed upon and
41 appointed by the two appointed representatives. The panel of three (3) mediators shall
42 attempt to resolve the dispute between the Parties through discussion and negotiation
43 among the panel members. There shall be presentation of evidence or argument to the
44 panel. Decisions of the panel shall not be binding on the Parties and all discussions
45 and negotiations among the panel members shall remain confidential and privileged.
46 Mediation shall be completed within sixty (60) days after service of the written mediation

1 notice. Each party shall bear the costs of its appointed mediator and one-half the costs
2 of the third mediator appointed by the two (2) mediators.
3

4 **18.2 Arbitration:** In the event that panel mediation does not resolve a dispute between
5 the Parties, the dispute shall be submitted to arbitration pursuant to Chapter 7.04, RCW
6 except as hereafter modified. It is the intent of the parties that arbitration shall be the
7 sole forum and venue for all disputes concerning the interpretation or administration of
8 this AGREEMENT. Such arbitration shall be before one disinterested party mutually
9 agreed to appointed by both Parties. If a mutually acceptable arbitrator cannot be
10 appointed within thirty (30) days after a written request for arbitration served by one
11 party on the other party, either party may apply to the Douglas County Superior Court,
12 upon not less than five (5) days written notice to the other Party, for appointment of an
13 arbitrator. The judicial appointment shall be final, conclusive and binding. The
14 controversy shall be resolved and determined by the arbitrator in accordance with the
15 laws of Washington as applied to the facts found. Remedies, both equitable and legal,
16 including injunctive relief, may be granted by the arbitrator. Each party shall pay one-
17 half of the costs of the arbitrator, including but not limited to the arbitrator's fee. Each
18 party shall bear its own attorney's fees and costs. The decision of the arbitrator shall be
19 final, conclusive and binding on the Parties and a judgment confirming the decision may
20 be entered in the Douglas County Superior Court.
21

22 **18.3 Governing Law.** This AGREEMENT shall be governed exclusively by the laws of
23 the State of Washington.
24

25 **SECTION 19. ASSIGNMENT/SUBCONTRACTING.** Neither the CITY nor the
26 COUNTY shall transfer or assign, in whole or in part, any or all of their respective rights
27 or obligations under this AGREEMENT.
28

29 **SECTION 20. NO THIRD PARTY BENEFICIARY.** The CITY does not intend by this
30 AGREEMENT or by any amendments or attachments to this AGREEMENT to assume
31 any contractual obligations to anyone other than the COUNTY. The COUNTY does not
32 intend by this AGREEMENT or by any amendments or attachments to this
33 AGREEMENT to assume any contractual obligations to anyone other than the CITY.
34 There are no third party beneficiaries to this AGREEMENT, and this AGREEMENT shall
35 not be interpreted to create such rights.
36

37 **SECTION 21. FINANCIAL RESPONSIBILITY.** Except as otherwise noted in this
38 AGREEMENT, each party shall bear financial responsibility for its own respective share
39 of work performed pursuant to this AGREEMENT.
40

41 **SECTION 22. WAIVER.** No waiver by either party of any term or condition of this
42 AGREEMENT shall be deemed or construed to constitute a waiver of any other term or
43 condition or of any subsequent breach, whether of the same or different provision.
44

45 **SECTION 23. INTERLOCAL COOPERATION ACT COMPLIANCE.** This is an
46 agreement entered into pursuant to Chapter 39.34 RCW (Interlocal Cooperation Act).

1 Its duration is as specified in Section 3. Its purpose is as set forth in Section 2. Its
2 manner of financing and of establishing and maintaining a budget therefore is described
3 in Sections 9 and 14. Its method of termination is set forth in Section 3. The method for
4 disposing of property upon partial or complete termination is set forth in Sections 3
5 through 14.
6

7 **SECTION 24. RELATIONSHIP TO EXISTING LAWS AND STATUTES.** This
8 AGREEMENT in no way modifies or supersedes existing state laws and statutes. In
9 meeting the commitments encompassed in this AGREEMENT, all parties will comply
10 with the requirements of the Open Meetings Act, Growth Management Act, State
11 Environmental Policy Act, Annexation Statutes and other applicable state or local law.
12 The COUNTY and CITY retain the ultimate authority for land use and development
13 decisions within their respective jurisdictions as provided herein. By executing this
14 AGREEMENT, the COUNTY and CITY do not purport to abrogate the decision making
15 responsibility vested in them by law.
16

17 **SECTION 25. ADDENDA AND AMENDMENTS**

18
19 25.1 Process for Future Amendments. The CITY and COUNTY recognize that
20 amendments to this AGREEMENT may be necessary to clarify or change the
21 requirements of particular sections or update the AGREEMENT. Any modification of
22 or amendment to this AGREEMENT shall be executed in the same manner as provided
23 by law for the execution of this AGREEMENT.
24

25 25.2 Mutual Consent. The provisions of this AGREEMENT may be amended with the
26 mutual consent of the parties. No additions to, or alterations of, the terms of this
27 AGREEMENT, shall be valid unless made in writing and formally approved and
28 executed, as provided for in Section 27, by the duly authorized agents for both parties.
29

30 **SECTION 26. APPLICABILITY.** The CITY and COUNTY agree that this
31 AGREEMENT shall apply to the unincorporated area generally described in the
32 attached Attachment 1, which is incorporated herein by reference and referred to herein
33 as “potential annexation areas.”
34

35 **SECTION 27. DOCUMENT EXECUTION AND FILING.** The CITY and COUNTY agree
36 that there shall be duplicate originals of this AGREEMENT procured and distributed for
37 signature by the necessary officials of the CITY and COUNTY. Upon execution, the
38 executed duplicate of this AGREEMENT shall be returned to the East Wenatchee City
39 Clerk who shall file copies of this AGREEMENT with the Douglas County Auditor and
40 the Washington State Secretary of State. Upon receipt by the CITY Clerk of the
41 duplicate originals, each such duplicate original shall constitute an AGREEMENT
42 binding upon both the CITY and COUNTY. The CITY Clerk shall transmit one executed
43 original to the Douglas County Clerk of the Board.

1 **SECTION 28. INDEMNIFICATION AND LIABILITY.**

2
3 28.1 The CITY shall protect, save and hold harmless and indemnify at its own expense,
4 the COUNTY, its elected and appointed officials, officers, employees and agents, from
5 any loss or claim for damages of any nature whatsoever arising out of the CITY's
6 performance of this AGREEMENT, including claims by the CITY's employees or third
7 parties, except for those damages caused solely by the negligence or willful misconduct
8 of the COUNTY, its elected and appointed officials, officers, employees, or agents.

9
10 28.2 The COUNTY shall protect, save and hold harmless and indemnify at its own
11 expense, the CITY, its elected and appointed officials, officers, employees and agents
12 from any loss or claim for damages of any nature whatsoever arising out of the
13 COUNTY's performance of this AGREEMENT, including claims by the COUNTY's
14 employees or third parties, except for those damages caused solely by the negligence
15 or willful misconduct of the CITY, its elected and appointed officials, officers,
16 employees, or agents.

17
18 28.3 In the event of liability for damages of any nature whatsoever arising out of the
19 performance of this AGREEMENT by the CITY and the COUNTY, including claims by
20 the CITY's or the COUNTY's own officers, officials, employees, agents, volunteers, or
21 third parties, caused by or resulting from the concurrent negligence of the COUNTY and
22 the CITY, their officers, officials, employees and volunteers, each party's liability
23 hereunder shall only be to the extent of that party's negligence.

24
25 28.4 No liability shall be attached to the CITY or the COUNTY by reason of entering
26 into this AGREEMENT except as expressly provided herein. The CITY shall hold the
27 COUNTY harmless and defend at its expense any legal challenges to the CITY's failure
28 to comply with RCW 82.02.020 or RCW 82.02.070.

29
30 **SECTION 29. ENTIRE AGREEMENT.** This AGREEMENT, constitutes the entire
31 AGREEMENT between the parties with respect to the framework issues for annexations
32 covered or mentioned therein. It is anticipated that the parties will enter into subsequent
33 interlocal agreements on specific subjects, as indicated in the text of this AGREEMENT.

34
35 **SECTION 30. SEVERABILITY.** If any provision of this AGREEMENT is held by a court
36 to be invalid, either party may, at its option, terminate this AGREEMENT on thirty (30)
37 days prior written notice to the other party.

38
39 Adopted: _____

CITY OF EAST WENATCHEE

40
41
42 _____
43 Steven C. Lacy, Mayor

1 Attest:

2

3

4

5 _____
Dana Barnard, City Clerk

6

7 Approved as to Form:

8

9

10

11 _____
Charles D. Zimmerman
12 City Attorney

13

14

15 Adopted: _____

DOUGLAS COUNTY, WASHINGTON
BOARD OF COUNTY COMMISSIONERS

16

17

18

19

20

Mary Hunt, Chair

21

22

23

24

Dane Keane, Vice Chair

25

26

27

28

Ken Stanton, Member :

29

30 Attest:

31

32

33

34 _____
Marilyn Northrup
35 Clerk to the Board

36

37 Approved as to Form:

38

39

40

41 _____
Steven M. Clem
42 Prosecuting Attorney

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Filed for and Return to:

Dana Barnard, Clerk
City of East Wenatchee
271 Ninth Street
East Wenatchee, WA 98802

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of any warranty contained in the document itself.

Document Title:	First Amendment to Interlocal Agreement Between East Wenatchee and Douglas County regarding Annexations
Grantor(s):	City of East Wenatchee and Douglas County
Grantee(s):	City of East Wenatchee and Douglas County
Reference Number(s) of Document Related, Assigned or Released:	AFN 3040321
Abbreviated Legal Description	Not applicable
Complete or Additional Legal Description on page ____ of Document	– Not applicable
Assessor’s Parcel Number:	Not applicable
Filed with the Auditor pursuant to RCW 39.34.040	

**FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT
BETWEEN THE CITY OF EAST WENATCHEE AND DOUGLAS COUNTY
REGARDING ANNEXATION DELIVERY OF SERVICES
AND REVENUE SHARING**

This Agreement is made by and between Douglas County, Washington (hereinafter referred to as “County”) and the City of East Wenatchee (hereinafter referred to as “City”).

WHEREAS, the County and City previously entered into an Interlocal Agreement regarding Annexation Delivery of Services and Revenue Sharing which was adopted June 11, 2001 by the County and June 26, 2001 by the City and filed of record with the Douglas County Auditor on July 17, 2001 as document no. 3040321 (for the purpose of ensuring the continuation of high quality and uninterrupted services to the residents during annexation transition periods and to provide a funding arrangement to mitigate financial impacts relating to transfers of tax revenue (hereinafter the “Interlocal Agreement”)); and

WHEREAS, the County and City having completed annexations according to the process outlined in said Interlocal Agreement and having identified procedural issues relative to the collection and dissemination of information relative to potential annexations; and

WHEREAS, the procedure for reimbursement of capital expenditures on road projects needs to be further clarified and debt service payments addressed; and

WHEREAS, the County and the City wish to adopt the first amendment to the previously executed Interlocal Agreement to address the issues relating to information collection and dissemination and the procedure for capital expenditure reimbursement;

NOW, THEREFORE, in consideration of the premises and promises, terms and conditions set forth below, the County and City hereby agree as follows:

1. Section 6 of the Interlocal Agreement titled, "Annexation Procedure," is hereby amended to read as follows:

SECTION 6. ANNEXATION PROCEDURE. To insure that the CITY and COUNTY have sufficient information to determine the potential financial impact and effect to levels of service that may result from a proposed annexation, information must be gathered, analyzed, and shared. Since many financial records are available only to the COUNTY, it will be necessary for the COUNTY to provide information to the CITY in order for the CITY to prepare the analysis. The following procedure will assist the CITY in providing a comprehensive analysis of the annexation impacts for review by the CITY and COUNTY.

The COUNTY agrees that it will not charge a fee for providing information to the CITY which may be necessary for the procedure outlined in this Section 6 of this Agreement.

6.1 The potential Capital Expenditure Reimbursement for a potential annexation area and the expense of providing services may have a significant impact on the current expense budget of the CITY. As a first step in planning for annexation, the CITY needs an estimate of the cost of the Capital Expenditure Reimbursement. Providing this preliminary information will insure that the CITY and COUNTY do not expend resources preparing the Notice of Intention for an area which the CITY may not desire to annex due to the cost of the reimbursement amount. To assist the CITY in determining the potential financial costs that the CITY will incur for Capital Expenditure Reimbursement for a proposed annexation, the COUNTY agrees to provide an estimate of the potential reimbursement amount to the CITY, itemized by road, within forty-five (45) days of receiving a detailed map of the potential annexation area if the annexation is being processed using the petition method or within sixty (60) days if the annexation is being processed using the election method.

6.2 The CITY agrees that prior to any official Council action regarding a possible annexation, it will notify the COUNTY of said proposal with a notice of intent to annex (NOI) and request comment from the COUNTY. The NOI to the COUNTY shall be accompanied by the following estimated information:

- a. annual revenue impacts, which shall include property tax, sales tax, state shared revenue, local option transportation tax and COUNTY Road tax;
- b. population;

- c. list of businesses and approximate number of jobs transferred;
 - d. road miles transferred; and
 - e. brief narrative report addressing the anticipated potential impacts to existing levels of service for both the CITY and the COUNTY.
- 6.3 The COUNTY agrees to provide the CITY with written comment on the proposal within thirty (30) days of receiving the complete NOI.

2. Section 9 of the Interlocal Agreement titled, "Roads and Transportation Systems," is hereby amended and shall read as follows:

SECTION 9. ROADS AND TRANSPORTATION SYSTEMS. It is the intention of the CITY to annex all roads adjacent to an area proposed for annexation, to adequately compensate the COUNTY for completed capital improvements on such roads, and to work with the COUNTY to complete capital road projects that have been funded but not completed as of the effective date of a proposed annexation.

9.1 Annexation of Right of Way and Maintenance. The CITY and COUNTY agree that the entire right of way for all streets and roads adjacent to land proposed to be annexed shall be made part of the annexation. As of the effective date of the annexation, the CITY shall assume responsibility for the maintenance of all streets and roads included within the annexed area.

9.2 Capital Expenditure Reimbursement.

9.2.1 Formula and procedure for reimbursement. The CITY shall reimburse the COUNTY for capital expenditures on roads and transportation systems (excluding routine maintenance) completed prior to the effective date of the annexations. The reimbursement shall include only actual expenditures (excluding all grant funds). The reimbursement shall be calculated using the following formula:

[(length of project actually annexed) divided by (length of project)] multiplied by [COUNTY's total expenditures] multiplied by [remaining project life expectancy, i.e. 15 years for construction/reconstruction and overlays and 7 years for seal coat projects, as per WSDOT and ASHTO design standards, as a percentage, at time of annexation] = Reimbursement from CITY

Example: Where the CITY annexes 1,000 feet of a completed 6,000 foot improvement, with a COUNTY cost totaling \$130,000, 2 years after the completion of the project, where the road has a total life expectancy of 15 years, the calculation would be as follows:

$$(1,000 \text{ ft.}/6,000 \text{ ft.}) \times \$130,000 \times (13 \text{ years}/15 \text{ years}=86\%)=\$18,633$$

The COUNTY agrees to provide the following detailed information to the CITY to document the Capital Expenditure Reimbursement Amount:

- (a) the amount of COUNTY funds spent for road construction, reconstruction or overlay projects, during the fifteen (15) years, or seven (7) years in the case of seal coat projects, prior to the estimated effective date of the annexation;
- (b) a brief explanation of the work completed, date and location; and
- (c) the reimbursement amount due, using the formula and procedures outlined in this Section 9 of this Agreement.

9.2.2 Assumption of Indebtedness. Any capital road projects that have been funded in whole or in part by a loan or other obligation that provides for the assumption of said indebtedness by another jurisdiction shall not be included in the reimbursement amount calculated above, EXCEPT that the principal and interest that has already been repaid shall be subject to the reimbursement formula above. The CITY has the option to (1) assume or pay off the remaining unpaid balance of said indebtedness as per subsection 9.2.1, or (2) pay the COUNTY the amount owed pursuant to subsection 9.2.1. In the event the capital road project funded by a loan or other obligation is not assumable or is not annexed in its entirety, the CITY shall pay its fair share of the COUNTY's payment upon said debt based upon the formula in Subsection 9.2.1 above.

9.2.3 Payment of the reimbursements due on capital expenditures (excluding assumptions of indebtedness) shall be made no later than sixty (60) days after the CITY receives revenue from uncollected road taxes or property taxes in the total amount of said collections until the amount to be reimbursed is paid in full. The COUNTY shall be entitled to collect interest upon the outstanding amount due based upon the current Washington State investment pool rate from the date the annexation is effective until the balance due has been paid by the CITY. Notwithstanding the forgoing, the CITY may pay the full amount of the principal reimbursement due and any interest due at any time, without prepayment penalty.

Deleted:

9.3 Road Maintenance Services. The CITY may contract with the COUNTY, as needed, to provide maintenance of newly annexed roads. A separate interlocal agreement shall be negotiated for such services.

9.4 Design and Construction Engineering Services. It is the intent of the CITY to contract with the COUNTY, on an individual project basis, to provide services for the design and construction engineering of specialty road projects. Services may also include contract administration. A separate interlocal agreement shall be negotiated for such services.

9.5 Joint Construction Projects. In determining jurisdictional responsibility for costs on joint road construction projects, the COUNTY will prepare a cost

estimate for the various phases of the project (design, right of way and construction). Each party is responsible for the unfunded portion of the construction costs within its respective jurisdiction, as agreed by the parties for each such road project. The CITY agrees to pay for additional design and/or project costs resulting from CITY revisions to the scope of work after the cost estimate has been agreed upon. Prior to proceeding on each such project, the CITY and COUNTY shall enter into a written agreement.

9.6 Mitigation Funds. Funds, bonds or other sureties, received for mitigation payments and road related SEPA mitigation payments received by the COUNTY for property within the annexation area that remain unbudgeted or unexpended as of the effective date of the annexation shall be transferred to the CITY within 90 days following the effective date of the annexation. The COUNTY shall provide copies of documents relating to the funds and explaining the purpose for which the funds were collected.

3. All other terms and conditions of the Interlocal Agreement not modified herein shall remain in full force and effect and are hereby confirmed.

CITY OF EAST WENATCHEE

Approved and adopted by the City
Council of the City of East Wenatchee,
WA, this ____ day of _____, 20____

Steven C. Lacy, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**DOUGLAS COUNTY
BOARD OF COUNTY COMMISSIONERS**

Approved and adopted by the Board
of County Commissioners for Douglas
County this ____ day of _____, 20____

Ken Stanton, Chair

Mary Hunt, Vice Chair

Dane Keane, Member
ATTEST:

Dayna Prewitt, Clerk of the Board

APPROVED AS TO FORM:

Prosecuting Attorney