

DISCOVERY CLEAN WATER ALLIANCE

RESOLUTION NO. 2013 – 07

A RESOLUTION OF DISCOVERY CLEAN WATER ALLIANCE, APPROVING THE INTERLOCAL GOVERNMENTAL AGREEMENT CREATING THE WATER AND SEWER INSURANCE POOL (WATER AND SEWER RISK MANAGEMENT POOL)

WHEREAS, the Board of Directors of Discovery Clean Water Alliance desires to join the Water and Sewer Risk Management Pool for the purchase of insurance and for self-insurance; now, therefore

BE IT RESOLVED by the Board of Directors of the Alliance that the Interlocal Governmental Agreement Creating the Water and Sewer Insurance Pool is hereby approved and that this Resolution shall constitute the signing of the aforementioned Interlocal Governmental Agreement.

ADOPTED by the Board of Directors of Discovery Clean Water Alliance at a regular meeting held on January 18, 2013.

DISCOVERY CLEAN WATER ALLIANCE



Chair, Board of Directors

INTERLOCAL GOVERNMENTAL AGREEMENT
CREATING THE WATER AND SEWER INSURANCE POOL

This agreement is made and entered into in the State of Washington by and among the Municipal Corporations organized and existing under the laws of the State of Washington, hereinafter collectively referred to as Member Districts/Entities, and individually as Member Districts/Entities. Said Districts/Entities are sometimes referred to herein as "Parties."

RECITALS

Whereas, Chapter 39.34 RCW provides that two or more local governmental entities may, by interlocal governmental agreement, join together for any common purpose and Chapter 48.62 RCW authorizes such governmental entities to form a joint pool for insurance or for self-insurance, and;

Whereas, each of these Parties in these agreements desires to join together with the other Parties for the purpose of pooling their self-insured losses and jointly purchasing excess insurance and administrative services in connection with a Joint Protection Program for said Parties, and;

Whereas, it appears economically feasible and practicable for the Parties to this agreement to do so;

Now Therefore, for and in consideration of all of the mutual benefits, covenants and agreements contained herein, the Parties hereto agree as follows:

ARTICLE I

Definitions

The following definitions shall apply to the provisions of this agreement:

- A. "Pool" shall mean the Water and Sewer Insurance Pool, also known as the Water and Sewer Risk Management Pool created by this agreement.
- B. "Board of Directors" or "Board" shall mean the Governing Body of the Pool.
- C. "Claims" shall mean demands made against the Pool arising out of occurrences which are within the Pool's Joint Protection Program as developed by the Board of Directors.
- D. "Excess Insurance" shall mean the insurance purchased on behalf of the Pool to protect the funds and assets of the Pool and its Members against catastrophic losses and unusual frequency of losses during a single year.
- E. "Executive Committee" shall mean the Executive Committee of the Board of Directors of the Pool.
- F. "Fiscal Year" shall mean the period from November 1 through October 31 which is established as the Fiscal Year of the Pool.
- G. "Insurance" shall mean and include self-insurance through a funded program and/or any commercial insurance contract.

- H. "Executive Director" shall mean the employee of the Pool who is appointed by the Board of Directors and responsible for the management and administration of the Pool and Joint-Protection Program of the Pool.

ARTICLE II

Purposes

This Agreement is entered into by municipal or governmental or public entities or agencies which provide public water and/or sewer services, in order to provide more comprehensive and economical liability coverage, to provide for economical or self-insurance pooling of all forms of insurance available or required by law for municipal corporations and other governmental entities or agencies, and for which state law authorizes formation of pooling organizations to provide such insurance, to reduce the amount and frequency of Member's losses, and to decrease the cost incurred by the Members and their handling and litigation of claims. This purpose shall be accomplished through the exercise of the powers of the Members jointly in the creation of a separate entity, Water and Sewer Insurance Pool, also known as the Water and Sewer Risk Management Pool, to administer a Joint-Protection Program wherein Members will pool their losses and claims, jointly purchase excess insurance, and administrative and other services including claims adjusting, data processing, risk management consulting, loss prevention, legal and other related services.

It is also the purpose of this Agreement to provide to the extent permitted by law, for the inclusion at a subsequent date such municipal and governmental entities or agencies which provide public water and/or sewer service which may desire to become parties of this agreement and members of this Pool, subject to the approval of the Board of Directors.

ARTICLE III

Parties to the Agreement

Each Party to this Agreement certifies that it intends to and does contract with all other Parties who are signatories of this Agreement and, in addition, with such Parties as may later be added to as signatories of this Agreement pursuant to Article XIX. Each party of this Agreement also certifies that the deletion of any party from this Agreement pursuant to Article XX and XXI, shall not affect this Agreement.

ARTICLE IV

Term of Agreement

This Agreement shall become effective on December 1, 1987, and shall continue for not less than five years and until and unless terminated as hereinafter provided.

ARTICLE V

Creation of the Pool

Pursuant to Chapter 48.62 RCW, there is hereby created a public entity separate and apart from the parties hereto, to be known as the Water and Sewer Insurance Pool, also known as the Water and Sewer Risk Management Pool, with such powers as are hereinafter set forth.

Pursuant to Chapter 48.62 RCW, the debts, liabilities and obligations of the Pool shall not constitute debts and liabilities or obligations of any party to this Agreement.

ARTICLE VI

Powers of Pool

- A. The Pool shall have the powers common to any of its Members and is hereby authorized to do all acts necessary for the exercise of said common powers, including, but not limited to, any or all of the following:
 - 1. To make and enter into contracts;
 - 2. To incur debts, liabilities or obligations;
 - 3. To acquire, hold or dispose of property; contribution and donation of property, funds, services and other forms of assistance from persons, firms corporations and governmental entities;
 - 4. To sue and be sued in its own name; and
 - 5. To exercise all powers necessary and proper to carry out the terms and provisions of the Agreement, or as otherwise authorized by law.
- B. Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law.

ARTICLE VII

Board of Directors

- A. The Pool shall be governed by a Board of Directors which is hereby established and which shall be composed of one representative from each Member District/Entity, who is an employee, official or designated agent of that member, as appointed by that Member's governing body. Each Member's Governing Body, in addition to appointing a member of the Board of Directors, shall appoint at least one alternate who also shall be an officer, employee or designated agent of that member. The alternate appointed by the Member shall have the authority to attend, participate in, and vote at any meeting of the Board when the regular Member for whom he or she is an alternate is absent from said meeting.
- B. Each representative or alternate to the Pool Board shall be appointed for a term of one year and until a successor is appointed. Each representative or alternate shall serve at the pleasure of the District/Entity by which he or she is an officer, an employee, or designated of that District/Entity. A representative or alternate may not represent more than three (3) Districts/Entities or be an employee or hired consultant of the Pool.
- C. Each member of the Board shall have one vote.

ARTICLE VIII

Powers of the Board of Directors

The Board of Directors of the Pool shall have the following powers and functions:

- A. The Board may elect from its Members, pursuant to Article X of this Agreement, an Executive Committee to which it may give authority to make and implement any decisions, including those involving the administration of the Pool, except those decisions that would require an amendment of this agreement under Article XXVI herein.
- B. The Board shall review, modify, if necessary and approve an annual operating budget of the Pool.
- C. The Board shall receive and review periodic accounting of all funds under Article XIV and XV of this Agreement. The Board is authorized to establish a special fund with a Member District's/Entity's treasurer designated at the "Operating Fund of the Water and Sewer Insurance Pool Joint Board."

- D. The Board shall have the power to conduct on behalf of the Pool all business of the Pool which the Pool may conduct under the provisions hereof and pursuant to the law.
- E. The Board shall determine and select a Joint Protection Program for the Pool.
- F. The Board shall determine and select all necessary insurance, including excess insurance, necessary to carry out the Joint Protection Program of the Pool.
- G. The Board shall have the authority to contract for or develop various services for the Pool, including, but not limited to claims adjusting, loss control and risk management consulting services.
- H. The Board shall appoint an Executive Director for the Pool and shall receive and act upon reports of the Executive Director.
- I. The Executive Director shall have the power to hire such persons as the Board authorizes for the administration of the Pool, including the "borrowing" of management-level employees from one or more of the Members to assist in the development phases of the Joint Protection Program for the Pool subject to the approval of the Member Districts/Entities.
- J. The Executive Director shall have the general supervisory control over the day-to-day decisions and operations and administrative activities of the Pool.
- K. The Board shall have such other powers and functions as are provided in this Agreement, including, but not limited to the power to authorize contracts and as may be allowed by law.

ARTICLE IX

Meetings of the Board of Directors

- A. Meetings. The Board shall provide for its regular and special meetings, provided, however, that it shall hold at least one regular meeting annually, as set forth in the Bylaws of the Pool.
- B. Minutes. The Board of the Pool shall cause minutes of the meetings to be kept and shall, as soon as possible, after each meeting cause a copy of the minutes to be forwarded to each Member of the Board and to its Member Districts/Entities.
- C. Quorum. In order for a meeting to be held, there must be in attendance at that meeting, at least twenty (20%) percent of the designated representatives of the Members. Such membership attendance would constitute a quorum for the transaction of business. A duly held meeting in which a quorum is present may continue to do business until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum. A vote of the majority of those present at the meeting shall be sufficient to constitute an action by the Board.

ARTICLE X

Executive Committee

There shall be an Executive Committee of the Board of Directors which shall consist of an odd number of Members of not less than five nor more than nine Members, as determined by the Board of Directors. Four Members of the Executive Committee shall be the President, the Vice President, the Secretary and the Treasurer of the Board of Directors. The election or selection of the Members of the Executive Committee shall be as specified in the Bylaws. The President of the Pool or the Vice President, in his or her absence, shall serve as the Chairperson of the Executive

Committee. The Board of Directors may delegate any of the powers of the Board as outlined in Article VIII to the Executive Committee and may establish and delegate any other powers and duties the Board deems appropriate.

The Executive Committee shall meet monthly.

ARTICLE XI

Officers of the Pool

- A. Election of Officers. The Board shall elect the President, Vice President, Secretary and Treasurer of the Pool at its annual meeting, each to hold office for a one year term and until its successor is elected. Only members of the Executive Committee shall be eligible for the offices of President, Vice President, Secretary and Treasurer.
- B. President and Vice President. In the event there is a vacancy in the President's position, the Vice President shall fill the position of the President for the unexpired term of the President. In the event of a vacancy in the Vice President's position, the Executive Committee shall fill from its Members the Vice President's position for the unexpired term of that position. In the absence or inability of the President to act, the Vice President shall act as President. The President, or in his or her absence, the Vice President, shall preside at and conduct all meetings of the Board and shall be a Member and Chairperson of the Executive Committee.
- C. Treasurer. The duties of the Treasurer are set forth in this Agreement and the Bylaws of the Pool.
- D. The Executive Director shall have the general administrative responsibility for the activities of the Pool and the Joint Protection Program and shall appoint all necessary employees thereof.
- E. Attorney. The Board of Directors shall select an attorney for the Pool. The attorney may be a legal counsel for a Member District/Entity. In the event the attorney is precluded from acting because of a conflict of interest or legal impediment, or for other good reason, the Board may employ independent counsel as the attorney for the Pool. The attorney shall serve at the pleasure of the Board of Directors.

ARTICLE XII

Insurance Coverage

- A. The insurance coverage provided for the Member Districts/Entities by the Pools shall allow or require protection for Comprehensive General Liability, Personal Injury, Errors and Omissions, Automobile Liability, Contractual Liability, and such other areas of coverage as the State shall require or the Board shall determine to be appropriate coverages.
- B. The Pool shall maintain insurance limits for Member Districts/Entities determined by the Board of Directors to be adequate. The Board may arrange purchase of Group Policies for Member Districts/Entities interested in obtaining additional coverage above this limit, at an additional cost to those participating Districts/Entities.
- C. The Board may arrange for purchase of any other insurance coverages deemed necessary to protect the funds of the Pool against catastrophes.
- D. The Board may arrange for such other insurance as may be deemed appropriate for the benefit of the Members.

ARTICLE XIII

Development of Joint Protection Program

- A. The Board of Directors shall adopt the Pool's Joint Protection Program, including the insurance coverages provided for in Article XII, the amount of initial premiums, the precise cost to Allocation Plan and Formula, the pro-forma financial statement of the Pool and the amount and type of excess insurance to be procured.
- B. The Joint Protection Program provided by the Pool shall extend to all District's/Entity's operations unless otherwise excluded by the Board of Directors.
- C. The premium for each District/Entity shall be determined by the Board in its discretion, based upon a fair formula which shall consider, but not be limited to, total District/Entity payroll, administrative experience of the District/Entity, previous loss experience of the District/Entity, the liability risks of the District/Entity, and the cost to the Pool of adding the District/Entity as a Member.
- D. The Cost Allocation Plan and Formula adopted by the Board shall provide for an adjustment in the Member District's/Entity's premiums annually in order to produce a premium for the following year for the District/Entity that is equal to the sum of the following three items:
 - 1. The amount of loss borne individually by the District/Entity as determined by the Board; and
 - 2. District/Entity share of Pool losses and other expenses as determined by the Board; and
 - 3. The District's/Entity contribution to a catastrophe fund and reserves for incurred, but not reported losses, the amount of such fund reserves to be determined by the Board.
- E. The Board may make such premium adjustments retrospective to the prior year and each Member District/Entity shall pay any additional premium required by such respective adjustment.
- F. The Board shall adopt criteria for determining each District's/Entity's annual share of Pool losses, expenses, and contributions to a catastrophe fund which may include the District's/Entity's payroll as compared to the total payroll of all Member Districts/Entities, the District's/Entity individual loss experience and such other criteria as the Board may determine to be relevant.
- G. The Pool shall provide Member Districts/Entities with an estimate of their upcoming annual premium including any annual readjustments within 14 days after receiving the final quotation for the Pool's annual insurance premium. Each Member' premium amount together with any readjusted amount due under Paragraph C above, shall be payable on or before 45 days after the Pool distribution of the final premiums.
- H. Inasmuch as some Member Districts/Entities may experience an unusual frequency of losses during a single fiscal year, which could increase their financial premium substantially above prepaid premiums for that year and cause budgetary problems, the Board may provide for the payment of a portion of such additional premiums to be made over a period of time, not to exceed three years plus reasonable interest.

ARTICLE XIV

Accounts and Records

- A. Annual Budget. The Pool shall annually adopt an operating budget, pursuant to Article VIII (B) of this Agreement.
- B. Funds and Accounts. The Pool shall establish and maintain such funds and accounts as may be required by good accounting practice. Books and records of the Pool shall be in the hands of the Treasurer and shall be open to inspection at all reasonable times by representatives of Member Districts/Entities.

- C. Executive Director's Report. The Executive Director within 120 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Board and Member Districts/Entities.
- D. The Board may provide for a certified annual audit of the accounts and records of the Pool. Such audit shall conform to generally accepted accounting and auditing standards. When such audit of the accounts and records is made by a Certified Public Accountant, a report thereof shall be filed as a public record with each Member District/Entity. Such report shall be filed within six (6) months of the end of the year under examination.
- E. Cost. Any cost of the Audit, including contracts with/or employment of certified public accountants, in making an audit pursuant to this Article shall be borne by the Pool and shall be considered included within the term "administrative cost."

ARTICLE XV

Responsibility for Monies

- A. The Treasurer of the Pool shall have the custody of and disbursement of the Pool's funds subject to the Board's approval. He or she shall have authority to delegate the signatory function to such persons as are authorized by the Board.
- B. A Bond in the amount set by the Executive Committee, but not less than minimum bond required for district treasurers pursuant to RCW 57.20.135, shall be required by all officers and personnel authorized to disburse funds of the Pool. Such Bond shall be paid for by the Pool.
- C. The Treasurer's duties shall include:
 - 1. Receive and receipt of all money of the Pool and place it in the Treasury to the credit of the Pool;
 - 2. Be responsible upon his or her official bond for the safekeeping and disbursement of the Pool's money so held by him or her;
 - 3. Pay, when due, out of the money of the Pool so held by him or her all sums payable on outstanding debts of the Pool;
 - 4. Pay any other sums due from the Pool's money only upon a request for payment signed by the President of the Board and the Executive Director. The Board may designate an alternate signature for each; and
 - 5. Verify the report in writing on the first day of July, October, January, and April of each year to the Pool and the Member Districts/Entities the amount of money held for the Pool, the amount of receipts since the last report and the amount paid out since the last report.

ARTICLE XVI

Responsibilities of the Pool

The Pool may perform the following function in discharging its responsibilities under this Agreement:

- A. Provide insurance coverage as necessary, including, but not limited to a Self-Insurance Fund and Commercial Insurance, as well as Excess Coverage and Umbrella Insurance by negotiation or bid and purchase, as necessary.
- B. Assist Districts/Entities in obtaining insurance coverages for Risk not included within the basic coverage of the Pool.

- C. Provide loss prevention and safety and consulting services to Member Districts/Entities.
- D. Provide claims adjusting services for claims covered by the Pool during protection program.
- E. Provide loss analysis by the use of statistical analysis, data processing, and record and file-keeping services in order to identify high exposure operations and to evaluate proper levels of self-insurance and deductibles.
- F. Provide Member Districts/Entities a review of their contracts to determine sufficiency of indemnity and insurance provisions.
- G. Conduct risk management audits to review the participation of each District/Entity in the program. The audit shall be performed by the Executive Director or, at the discretion of the Board, an independent auditor may be retained by contract to conduct these audits.
- H. The Pool shall have such other responsibilities as may be deemed necessary by the Board of Directors in order to carry out the purposes of this Agreement.

ARTICLE XVII

The Responsibilities of Member Districts/Entities

Member Districts/Entities shall have the following responsibilities:

- A. The Governing Body of each District/Entity shall appoint a representative and at least one alternate representative to the Board of Directors of the Pool, pursuant to Article VII of this Agreement.
- B. The Governing Body of each Member District/Entity shall appoint an employee of the District/Entity to be responsible for risk management within that District/Entity to serve as the liaison between the District/Entity and the Pool as to the risk management and loss control and safety recommendations. Such person shall consider all recommendations of the Pool concerning the development and implementation of a loss control policy to prevent unsafe policies.
- C. Each District/Entity shall maintain its own set of records as to loss log in the categories of loss to insure accuracy of the Pool's loss reporting system
- D. Each District/Entity shall pay its premium and any readjusted amount promptly to the Pool when due. After withdrawal or termination, each District/Entity shall pay promptly to the Pool its share of any additional premium and accrued interest at a rate determined by the Board when and if required by the Board under Article XXIII of this Agreement.
- E. Each District/Entity shall provide the Pool with such other information or assistance as may be necessary for the Pool to carry out the Joint Protection Program under this Agreement.
- F. Each District/Entity shall in any and all ways cooperate with and assist the Pool and any insured of the Pool in all matters relating to this Agreement and covered losses, and will comply with all the Bylaws, rules and regulations adopted by the Board of Directors of this Pool.

ARTICLE XVIII

Joint Protection Program

- A. Joint Protection Program. After this Agreement becomes effective, the Pool shall develop the details for the Joint Protection Program more fully described in Articles XII and XIII of this Agreement.

ARTICLE XIX

New Members

After the effective date of the Joint Protection Program is established by the Pool, additional Districts/Entities shall be permitted to become signatories to this Agreement or to enter the Joint Protection Program during the first year of operation; provided such new member pay its appropriate share as determined by the Board. Following the first year of operation, the Pool shall allow entering in the program of new Members approved by the Board at such times during the year as the Board deems appropriate. Districts/Entities entering under this Article will be required to pay their share of organizational expenses as determined by the Board, including those necessary to analyze their loss data and determine their premiums. It shall not be necessary for existing Member Districts/Entities to re-sign or ratify the Pool Interlocal Agreement in order to allow the joining to the Interlocal Agreement of new Member Districts/Entities. Once any Member District/Entity has signed the Interlocal Agreement, it shall represent said Member District's/Entity's agreement to be bound, in the future to all terms of the Interlocal Agreement, with any new Member whose membership has been approved by vote of the Board and who has completed the requirements of membership set forth in this section. Thereafter, the new Member shall be considered a Party to the Interlocal Agreement of the same extent as all original Members and for all purposes.

ARTICLE XX

Withdrawal

- A. A Member District/Entity may withdraw as a Party to this Agreement pursuant to the requirements of Article XVIII.
- B. A Member District/Entity which signs its initial Agreement and enters the Joint Protection Program pursuant to Article XVIII may not withdraw as a Party to this Agreement and as a member of this Pool for a one-year period commencing on the effective date of the Joint Protection Program as determined by Article XVIII.
- C. After the initial one-year non-cancelable commitment to the Program, a Member District/Entity may withdraw only at the end of any fiscal year, provided it has given the Pool six (6)-months written notice of its intent to withdraw from this Agreement and the Joint Protection Program.

ARTICLE XXI

Cancellation

The Pool shall have the right to cancel any Member District's/Entity's participation in the Joint Protection Program upon a two-third's vote of the Executive Committee provided that the Executive Committee's decision to cancel is ratified by a two-third's vote at a meeting of the Board of Directors. Any District/Entity so cancelled shall be given written notice of the Executive Committee's decision to cancel. Cancellation shall be effective 180 days from the date the written notice was mailed to the District/Entity.

ARTICLE XXII

Effective Withdrawal

- A. The withdrawal of any District/Entity from this Agreement shall not terminate the same and no District/Entity, by withdrawing, shall be entitled to payment or return of any funds contributed, consideration of any property paid or donated by the District/Entity to the Pool or any distribution of Pool assets.
- B. The withdrawal of any District/Entity after the effective date of the Joint Protection Program shall not terminate its responsibilities to contribute its share of premiums or funds to any fund or insurance program created by the Pool until all claims or other unpaid liabilities, covering the period the District/Entity as a signatory hereto have been finally resolved and determination of the final amount of payments due by the District/Entity or credit to the District/Entity for the period of its membership has been made by the Board of Directors. In connection with this determination, the Board may exercise similar powers to those provided for in Article XIII (C) of the Agreement.

ARTICLE XXIII

Termination of This Agreement

- A. This Agreement may be terminated by written consent by two-thirds of the Member Districts/Entities; provided, however, that this Agreement and the Pool shall continue to exist for the purpose of disposing of all claims, distribution of assets, and all other functions necessary to wind up the affairs of the Pool.
- B. Upon termination of this Agreement, all assets of the Pool shall be distributed only among the Parties that have been Members of the Joint Protection Program, including any of those parties which previously withdrew pursuant to Article XX and XXI of this Agreement, proportionate to their cash, including premiums (payments and the property at market value when received) contributions made during the term of this Agreement. The Board shall determine such distribution within six (6) months after the last pending claim or loss covered by this Agreement has been finally disposed of.
- C. The Board is vested with all the powers of the Pool for the purposes of winding up and dissolving the business affairs of the Pool. These powers shall include the power to require Member Districts/Entities, including those which were Member Districts/Entities at the time the claim arose or at the time the loss was incurred, to pay their share of any additional amount of premiums deemed necessary by the Board for final disposition of all claims and losses covered by this Agreement.

The District's/Entity's share of such additional premium shall be determined on the same basis as provided for annual premiums in Article XIII (D) and (E) of this Agreement, and shall be treated as if it were next year's annual premium for that District/Entity subject to the limits described in Article XIII (H) of this Agreement.

ARTICLE XXIV

Provisions for Bylaws and Manual

The Board shall cause to be developed Bylaws and a policy and procedure manual to govern the day-to-day operation of the Pool. Each Member District/Entity shall receive a copy of any Bylaws, policy statement or manual developed under this Article.

ARTICLE XXV

Notices

Notices to Member Districts/Entities hereunder shall be sufficient if mailed to the office of the manager of the respective Member District/Entity.

ARTICLE XXVI

Amendment

This Agreement may be amended at any time by the written approval of all Member's Governing Body of the Districts/Entities signatory to it, or by an amendment adopted in the manner provided for in the Bylaws.

ARTICLE XXVII

Prohibition Against Assignment

No District/Entity may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee or their party beneficiary of any District/Entity shall have any right, claim or title to any part, share, interest, fund, premiums or asset of the Pool.

ARTICLE XXVII

Limitation of Liability; Legal Action Against Pool

- A. Liability Limitation: In the event that any claim against a member is not covered or exceeds the applicable limits of coverage provided by the Pool, the liability for that obligation lies with the member.
- B. Mediation: The parties to any dispute between the Pool or its members concerning this agreement shall seek to first resolve the dispute between them and if such efforts are not successful, the parties agree to resolve it through mediation with a neutral third party.
- C. Venue for Litigation: Venue for any dispute concerning this agreement may only be laid in the King County Superior Court.
- D. Governing Law: This agreement shall be governed by the laws of Washington except for the Washington laws on conflict of laws. Therefore the substantive laws of Washington shall govern in all respects.

ARTICLE XXIX

Agreement Complete

The following completes the Agreement of the Parties. There are no oral understandings or agreements, not set forth in writing herein.

WATER AND SEWER RISK MANAGEMENT POOL

BYLAWS

For the Regulation of the Water and Sewer Insurance Pool dba the Water and Sewer Risk Management Pool, except as otherwise provided by Statute or the Interlocal Governmental Agreement Creating the Water and Sewer Insurance Pool.

ARTICLE I.

Offices

Section 1.

Principal Executive Office. The principal office for the transaction of the business of the Pool is hereby fixed and located as determined by the Board of Directors. The Board of Directors of the Pool shall have the authority to change the location of the principal executive office from time-to-time.

Section 2.

Other Offices. Other business offices may at any time be established by the Board of Director at any place or places where the Pool is qualified to do business.

ARTICLE II.

Board of Directors

Section 1.

Composition and Selection. The Board of Directors shall be composed of one representative from each Member District/Entity of the Pool, who shall be an officer or employee of that Member District/Entity and shall be appointed by the Member's Governing Body of the District/Entity, as provided for in the Agreement creating the Pool. Each Member's Governing Body shall also appoint at least one alternate, who shall be an officer or employee of that District/Entity. The alternate may attend meetings and vote in the absence of the regular representative. "Absence," as the term is used in this section, includes "vacancy" as defined in Section 2 of this Article II.

Section 2.

Vacancies. A vacancy or vacancies in the Board of Directors shall be deemed to exist in case of death, resignation, expiration of term, removal by the District/Entity that made the appointment, or when the representative ceases to be an employee or official of the appointing District/Entity. Vacancies in the positions of representative or alternate shall be filled in the manner provided for regular appointment of such person in the Agreement creating the Pool and the Bylaws.

Section 3.

Annual Meeting. (a) Time Held and Business to be transacted. The annual meeting of the Board of Directors shall be held at a date, time and place designated by the Board of Directors. At such meeting the President, Vice President, Treasurer, Secretary and Members at Large to the Executive Committee shall be elected, reports of the affairs of the Pool shall be considered, and any other business may be transacted which is within the powers of the Board of Directors.

(b) Notice. Written notice of each annual meeting shall be given to each Member District/Entity of the Pool by mail or other means of written communication, in the manner provided by the Revised Code of the State of Washington, RCW Chapter 42.30, known as the Open Public Meetings Act. Such notice shall specify:

- (1) The place, the date, and the hour of such meeting;
- (2) Those matters which are intended to be presented for action by the Board of Directors;
- (3) Such other matters, if any, as may be expressly required by statute or by the Agreement creating the Pool.

Section 4.

Regular Meetings. (a) Time Held and Business to be Transacted. The Board of Directors, unless delegated to the Executive Director, shall establish the dates for the regular meetings. There shall be at least one (1) regular meeting annually.

(b) Notice. Written notice of each regular meeting shall be given to each Member District/Entity of the Pool by mail or other means of written communications, in the manner provided by the Revised Code of the State of Washington, RCW 42.30, known as the Open Meeting Act. Such notice shall specify:

- (1) The place, the date, and the hour of such meeting;
- (2) Those matter which are intended to be presented for action by the Board of Directors;
- (3) Such other matters expressly required by statute or by the Agreement creating the Pool.

Section 5.

Special Meetings. Special meeting of the Board of Directors, for the purpose of taking any action permitted by statute and the Agreement creating the Pool, may be called at any time by the President or by not less than three (3) Member Districts/Entities. Upon request in writing that a special meeting of the Board of Directors be called for any proper purpose, directed to the President or Vice President by any person or persons entitled to call a special meeting of the Board of Directors, the officer receiving such request forthwith shall cause notice to be given to the Member Districts/Entities that a meeting will be held at a time requested by the person or persons calling the meeting not less than twenty-four (24) hours nor more than sixty (60) days after receipt of the request. Notice of any special meeting shall be given in compliance with the Open Public Meetings Act. Such notice shall specify the place, date and hours of such meeting, and, if applicable, the names of nominees for officers intended at the time of the notice to be presented for election and the nature of the business to be transacted. No business other than that specified in the notice of a special meeting may be transacted at that meeting.

Section 6.

Place of Meeting. All annual or other meetings of the Board of Directors shall be held at a place designated by the Board of Directors or approved by the written consent, given either before or after the meeting and filed with the President of the Pool, and with all Member District/Entities not present thereat.

Section 7.

Quorum. In order for a meeting to be held, there must be in attendance at that meeting at least twenty (20%) percent of the designated representatives of the Members. Such Membership attendance would constitute a quorum for the transaction of business. A duly held meeting in which quorum is present may continue to do business until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum. A vote of the majority of those present at the meeting shall be sufficient to constitute an action by the Board.

Section 8.

Adjourned Meetings. (a) Adjournment. Any Board of Directors meeting, annual or special, whether or not a quorum is present, may be adjourned from time-to-time by the vote of a majority of the Member Districts/Entities present, but in the absence of a quorum, no other business may be transacted at such meeting, except as provided in Section 7 of this Article II.

(b) Notice. When any Board of Directors meeting, either annual or special, is adjourned for forty-five (45) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Except as specifically provided herein, or by the Open Public Meetings Act, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by announcement of the time and place thereof at the meeting at which such adjournment is taken.

Section 9.

Voting. Unless a record date for voting purposes be fixed by the Board of Directors, Member Districts/Entities which are Members on the day of the meeting of the Board of Directors shall be entitled to vote at such meeting. Such vote may be by voice or by ballot provided, however, that all election for officers must be by ballot upon demand made by a Member District/Entity at any election and before voting begins. If a quorum is present, the affirmative vote of the majority of the Member Districts/Entities represented at the meeting shall be the act of the Board, unless the vote of a greater number is required by the Agreement creating the Pool by statute. Every Member District/Entity shall have one vote.

Section 10.

Rules of Procedure for Meetings. All meetings of the Board of Directors shall, when requested by one of its Members, be conducted in accordance with Roberts' Rules of Order, except where such are in conflict with the Open Public Meetings Act, the Agreement creating the Pool, or by the Bylaws, whereupon the latter three shall govern over said Rules of Order.

Section 11.

Minutes. Minutes of the meetings of the Board of Directors shall be kept and, as soon as possible, copies of such minutes shall be forwarded to each member of the Board and to the Member Districts/Entities.

ARTICLE III

Executive Committee

Section 1.

Composition and Selection. The Executive Committee shall be composed of seven (7) members, four (4) of which shall be the President, Vice President, Treasurer and Secretary of the Pool. The officers of the Pool shall be a President, a Vice President, a Treasurer, a Secretary and three (3) Members at Large. The Board of Directors may, in addition, provide for other officers as it deems necessary for the performance of the business of the Pool.

Section 2.

Terms and Elections. Each member of the Executive Committee shall serve a three (3) year term. Two (2) members or more shall be elected at each year's annual meeting for a three (3) year term.

Section 3.

Executive Committee Vacancy. The President shall appoint a member to fill the vacancy created on the Executive Committee for the unexpired term of the vacant position, which appointment shall be approved by the Executive Committee.

Section 4.

Attendance at Executive Committee Meetings. If a member of the Executive Committee is absent from three (3) consecutive regularly scheduled business meetings, unless by permission of the Executive Committee, that member's position may be declared vacant by the Executive Committee. The Executive Committee shall then fill the position with another eligible member from the Water and Sewer Risk Management Pool membership. However, such an action shall not be taken unless such absent member of Executive Committee is notified by mail after two consecutive absences that the position will be declared vacant if such member of the Executive Committee is absent without being excused from the next regularly scheduled meeting. The replacement member of the Executive Committee shall serve the unexpired term of the position he or she is replacing.

Section 5.

Powers of the Executive Committee. The Executive Committee shall be delegated all powers granted to the Board of Directors as specified in Article VIII of the Interlocal Governmental Agreement Creating the Water and Sewer Insurance Pool as amended and all other powers of the Board of Directors which are necessary to carry out the purpose of the Pool except for those powers which would require an amendment to the Interlocal Governmental Agreement Creating the Water and Sewer Insurance Pool or an amendment of the Bylaws of the Pool.

Section 6.

Meetings. The meetings of the Executive Committee shall be conducted pursuant to the statutes of the State of Washington relating to the open meeting for municipal insurance pools.

Section 7.

Minutes. Minutes of the meetings of the Executive Committee shall be kept and copies made available to Members on request.

ARTICLE IV

Officers

Section 1.

Officers. The officers of the Pool shall be a President, a Vice President, a Treasurer, a Secretary and a Member at Large. The Board of Directors may, in addition, provide for other officers as it deems necessary for the performance of the business of the Pool.

Section 2.

Qualification and Term of Office. The President and Vice-President, Treasurer and Secretary of the Pool shall be elected by the Board of Directors at its annual meeting and each shall hold office for a term of one year or until he or she resigns or is removed or otherwise disqualified to serve and until his or her successor is elected. To be eligible for the position of President, Vice-President, Secretary and Treasurer, a Member must be a current Member of the Executive Committee.

Section 3.

Other Officers and Employees. The Board of Directors shall appoint, or may empower the President to appoint, all officers other than the President, Vice President, Treasurer, Secretary and Members at Large. Except as may otherwise be provided in the Agreement creating the Pool or the Bylaws, such officers shall hold office for a term of one year. The Board of Directors shall also appoint an Executive Director and Pool Attorney who shall serve at the pleasure of the Board of Directors for such term as the Board of Directors may provide by agreement. All officers and employees shall have such authority and perform such duties as are provided in the Agreement creating the Pool, or the Bylaws, or as the Board of Directors may from time-to-time determine. The Board of Directors may provide for the payment of compensation to officers or employees for their service to the Pool.

Section 4.

Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, expiration of term, or any other cause shall be filled in the manner prescribed in the Agreement creating the Pool and the Bylaws for regular appointments to such office.

Section 5.

Removal and Resignation. (a) Removal. The President, Vice President, Secretary, Treasurer and/or Members at Large may be removed, without cause, by the Board of Directors at any regular or special meeting thereof. An officer chosen by the Board of Directors may be removed, without cause by the Board of Directors, or by an officer upon who such power of removal may be conferred by the Board of Directors (subject, in each case, to the rights, if any of an officer under any contract of employment).

(b) Resignation. Any officer may resign at any time by giving written notice to the Board of Directors or to the President, without prejudice, however, to the rights, if any, of the Pool under any contract to which such officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.

President. The President shall preside at all meetings of the Board of Directors and Executive Committee and have such other powers and duties as may be prescribed by the Board of Directors in conformance with the Agreement creating the Pool and the Bylaws.

Section 7.

Vice President. In the absence, resignation, termination, or disability of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions of, the President. The Vice President shall have such other powers and perform such other duties as from time-to-time may be prescribed by the Board of Directors or the Bylaws.

Section 8.

Executive Director. The Executive Director shall have the duty of administering the Joint-Protection Program of the Pool as provided for in the Agreement creating the Pool, and shall have such other and related duties as may be prescribed by the Board of Directors, Executive Committee or the Bylaws, including but not limited to the implementation and administration of the Board of Directors' policies and procedures, the hiring of those person for positions authorized by the Board and other administrative activities.

Section 9.

Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct financial records of the Pool, including accounts of its assets, liabilities, receipts and disbursements, and shall have such other duties as are provided for in the Agreement creating the Pool. The Treasurer shall be a member of the Executive Committee.

Section 10.

Secretary. The Secretary shall record or cause to be recorded, and shall keep or cause to be kept, at the principal executive office or such other place as the Board of Directors may order, a book of minutes of actions taken at all meetings of the Board of Directors whether regular or special (and, if special, how authorized), the notice thereof given, the names of those present at the meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal executive office of the Pool a list of all designated representatives and alternate of each Member District/Entity.

The Secretary shall give, or cause to be given, notice of all the meetings of the Board of Directors required by the Bylaws or by law to be given.

The Secretary shall keep, or cause to be kept, at the principal executive office of the Pool, the official Pool documents and records, and shall distribute or cause to be distributed, to the appropriate Member Districts/Entities, copies of the same, and shall have such other and related duties as may be prescribed by the Board of Directors, Agreement creating the Pool, or by the Bylaws.

Section 11.

Members at Large. The Members at Large shall be a member of the Executive Committee.

ARTICLE V

Miscellaneous

Section 1.

Rules and Regulations of Joint-Protection Program. As soon as practicable after development of the details of the Joint-Protection Program of the Pool, the specific rules and regulations for the implementation of the program shall be adopted by the Board of Directors, which shall cause them to be sent forth in written form and copy thereof distributed to each Member District/Entity. Such rules and regulations may be included in any procedure manual prepared by the Pool for the Member Districts/Entities.

Section 2.

Annual Report. The Board of Directors of the Pool shall cause an annual report to be sent to the Member Districts/Entities not later than 120 days after the close of each fiscal year. Such report shall contain a balance sheet as of the end of such fiscal year and an income statement and statement of cash flow for such fiscal year, and shall be accompanied by the annual audit report thereon and such other information as may be required by law.

Section 3.

Other Required Reports. The Board of Directors of the Pool shall also cause all other reports to be submitted to the persons, entities or agencies as required by RCW Chapter 48.62 and other applicable statutes or any amendments thereof.

Section 4.

Defense of Agents of the Pool. (a) For the purpose of this Article, "agent" means any person who is or was an officer, employee or other agent of the Pool.

(b) The Pool shall provide for the defense of any Pool agents and paying of any valid judgments and claims brought against any such agent of the Pool arising from their actions or conduct in his or her official or individual capacity or both, on account of an act or omission within the scope of his or her agency as an agent of the Pool; provided, however, this section shall not apply to those occurrences covered by a Pool policy of liability insurance.

Section 5.

Inspection of Pool Records. The accounting books and records, the list of Member Districts/Entities designated representatives, and minutes of proceedings of the Board of Directors shall be open to the inspection of any Member District/Entity at any reasonable time. Such inspection by a Member District/Entity may be made in person or by agent or attorney, and the right of inspection includes the right to copy and make extracts.

Section 6.

Checks and Drafts. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Pool, shall be signed or endorsed by the President and the Executive Director or by such person or persons and in such manner as, from time-to-time, shall be determined by the Board of Directors.

Section 7.

Investments. The Board of Directors shall be authorized to make investments of the Pool's funds as may be authorized by the applicable statutes and amendments thereof.

Section 8.

Register of Expenditures. A register of expenditures shall be submitted to the Board of Directors at the next Board of Directors meeting for their review and approval and shall have attached thereto the affidavit or declaration of the Treasurer and/or Executive Director certifying as to the accuracy of the demands and the availability of budgeted funds for payment thereof.

Section 9.

Funds. The Board of Directors shall be authorized to establish all appropriate funds for the Pool, including but not limited to an Operating Fund, a Claim Fund and an Investment Fund.

Section 10.

Execution of Contracts. The Executive Committee may authorize any officer or officers, agent or agents to enter into any contract or execute any instrument in the name of and on behalf of the Pool, and such authorization may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent or employee shall have any power of authority to bind the Pool by any contract of engagement or to pledge or to render it liable for any purpose or to any amount.

Section 11.

New Member Districts/Entities. (a) A new Member, after approval by a vote of the Executive Committee, shall become an active Member of the Pool commencing on the date so approved by the Board of Directors, provided that the New Member District/Entity has completed the following:

- (1) Signing of the Agreement creating the Pool by an authorized representative of the new Member District/Entity, signifying the new Member's contractual commitment to abide fully with all provisions of the Agreement creating the Pool in conjunction with all previously admitted active Members.
- (b) It shall not be necessary for existing Member Districts/Entities to re-sign or ratify the Agreement creating the Pool in order to allow the joining of the new Member Districts/Entities. Once any Member District/Entity has signed the Agreement creating the Pool, it shall represent said Member District's/Entity's agreement to be bound, in the future, to all terms of the Agreement creating the Pool, with any new Member whose membership has been approved by vote of the Board and who has completed the requirements of membership as previously set forth in this section. Thereafter, the new Member shall be considered a Party to the Agreement creating the Pool to the same extent as all original Members and for all purposes except as provided for in the aforementioned Agreement creating the Pool.
- (c) New Member Districts/Entities which sign the agreement creating the Pool shall become and remain participants in the Pool for the one (1) full year following, until and unless terminated as provide for in the Agreement creating the Pool.
- (d) New Member Districts/Entities shall pay annually to the Pool for the initial one (1)-year period of their participation a deposit charge determined by the Board of Directors. The Deposit charge at a minimum shall consist of the total premium paid by such District/Entity of the year preceding their membership in the Pool, but that loss experience under any self-insured programs shall be taken into consideration.

ARTICLE VI

Amendments

Section 1.

Bylaws: These Bylaws may be amended by the Board of Directors.

ARTICLE VII

Coverage Determination and appeal

1. Tender.

Following receipt of a claim or complaint seeking monetary damages, a Member or other person who believes the Pool may have an obligation for such claim or complaint, may tender the claim or complaint to the executive director for a determination of coverage. The tender shall include a copy of the claim or complaint together with such other information as the Member or other person believes supports coverage.

2. Decision by Executive Director.

- a. Following receipt of a tender the executive director shall promptly review the materials submitted and do whatever additional investigation is necessary to make a coverage determination.

- b. Following review of the materials and investigation, the executive director shall:
 - (1) Accept the tender, thereby acknowledging a defense and indemnity obligation;
 - (2) Accept the tender but with a reservation of rights, thereby acknowledging a defense obligation but reserving to the future the right to dispute an indemnity obligation; or
 - (3) Deny the tender, thereby denying a defense and indemnity obligation.
 - c. If the executive director accepts a tender but under a reservation of the rights or denies a tender, he or she shall notify the Member or other person thereof in writing. The notice shall specify the reasons for the decision.
3. Appeal to Executive Committee.
- a. A Member or other person feeling aggrieved by the decision of the executive director regarding a tender decision, may appeal that decision to the executive committee by filing notice thereof with the president and executive director. The notice shall specify the identity of the appellant, the decision from which the appeal is taken, and the reasons why the appellant believes the decision of the executive director was wrong. Such notice must be filed within thirty days following such decision.
 - b. The appeal shall be set for consideration at the next regular meeting of the executive committee or, in the discretion of the president, at the regular meeting following the next regular meeting.
 - c. Any Director employed by the Member taking the appeal shall recuse herself or himself from the proceedings.
 - d. At the hearing before the executive committee, the appellant shall first present facts and argument followed by the executive director.
 - e. Following the hearing or any continuation thereof, the executive committee shall issue a written determination on the appeal.

ARTICLE VIII

Conflict of Interest and Appearance of Fairness Procedure

Section 1.

Power of the Board of Directors. The Members recognize that the Pool is a public body subject to State law regarding conflict of interest provisions and the guidelines of the appearance of fairness doctrine. Should situations arise where conflicts of interest or appearance of fairness issues are in question, the affected Member District/Entity agrees to follow the advice of the Pool's Legal Counsel in a manner consistent with said provisions and guidelines. However, if the affected Member District/Entity disagrees with the advice of the Pool's Legal Counsel, the Board of Directors of the Pool may vote by majority to excuse a Member District/Entity Representative from a portion of any executive session where a matter of potential legal conflict between the Pool and the Member District/Entity or person has to be discussed.

ARTICLE IX

Re-Entry of Withdrawn Member

A member of the Pool which has withdrawn may not re-enter into the Pool for a period of not less than twelve (12) months after its withdrawal from the Pool unless good cause is shown.

ARTICLE X

Deposit of Funds in the Event of Consolidation, Merger or Annexations

In the event a Member is consolidated, merged or annexes to another District/Entity or municipal corporation and the remaining entity does not become a Member of this Pool, the Member shall deposit with the Pool an amount equal to its prorated annual contribution for the remainder of the fiscal year. Such deposit shall be held in trust by the Pool for that Member for a period of five (5) years to cover the incurred, but not reported losses. At the end of each five (5) year cycle, the unused funds, plus interest, would be refunded to the Member or its successor.

ARTICLE XI

Amending Interlocal Agreement Creating the Water and Sewer Insurance Pool

Pursuant to Article XXXVI of the Interlocal Governmental Agreement Creating the Water and Sewer Insurance Pool, the Interlocal Agreement may be amended at any time upon the majority vote of the quorum of those Directors present at the regular or special meeting at which such amendment is presented; provided however, such amendment would not become effective until such amendment is approved by a two-third (2/3) majority of the Member's Governing Body of those Districts/Entities which are certified as Members.