

After Recording Return To:

City of Yakima
Engineering Division
129 North 2nd Street
Yakima, WA 98901

CITY OF YAKIMA REIMBURSEMENT AGREEMENT

GRANTOR:

GRANTEE: THE CITY OF YAKIMA, a municipal corporation
 THE PUBLIC

LEGAL:

PARCEL NOS:

REIMBURSEMENT AGREEMENT FOR UTILITY IMPROVEMENTS

THIS AGREEMENT is made and entered into between the City of Yakima hereinafter "the City", and _____ hereinafter, "Owner".

WHEREAS, the City of Yakima is a Washington First Class City, and as such has the power, pursuant to RCW Chapter 35.91 and Yakima Municipal Code section 7.67, to contract with owners of real estate for the construction of utility improvements and to provide for partial reimbursement of the costs of such construction, and

WHEREAS, the Owner is desirous of developing real estate, and in compliance with the City's standards, will construct water and/or sewer facilities, as defined in RCW 35.91.015, to serve that real estate and the public, and is willing to convey all such facilities to the City as provided herein, and

WHEREAS, said facilities will benefit other properties and relieve the developers of those properties from the burden of construction of similar facilities, and Owner should therefore receive reimbursement from the owners of such other properties of a fair share portion of the cost of construction of said facilities, now, therefore,

IN CONSIDERATION OF THE MUTUAL BENEFITS and conditions hereinafter contained, the parties hereto agree as follows:

1. CONSTRUCTION OF PUBLIC IMPROVEMENTS. Owner warrants that they are the owner of real property for which they are constructing water and/or sewer facilities as described in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full, hereinafter the "Improvements" or "Facilities", and those Facilities will be constructed according to applicable City standards and according to plans approved by the City. All costs for engineering, design, construction and inspection of said Facilities, whether incurred by the City or by the Owner, shall be paid by the Owner.

2. APPROVAL AND ACCEPTANCE OF FACILITIES. Upon the completion of the Facilities, the City shall be authorized to approve their construction and accept the same as facilities of the City, and to charge for their use at rates that the City is authorized by law to establish. Owner agrees that all Facilities shall be transferred to, and owned by, the City upon their completion.

3. BENEFITED AREA AND REIMBURSEMENT FEES. Owner and City agree that the Facilities described herein will directly benefit certain property not owned by Owners which is legally described on Exhibit B, attached hereto and incorporated herein by this reference as if set forth in full, by enabling or facilitating development of those Facilities. Pursuant to Chapter 35.91 RCW, the City agrees to charge a share of the costs of constructing said Facilities against those owners of real estate located in the area described on Exhibit B who did not contribute to the original cost of the facilities constructed by the Owner under this Agreement, and who subsequently tap into, connect, or otherwise use said Facilities.

The City of Yakima reserves the right to determine if the properties described in Exhibit B must receive service by subsequently tapping into or otherwise using the Facilities

constructed according to the terms of this Reimbursement Agreement, or if these properties shall be served by other facilities. Nothing in this Agreement shall be construed as obligating the City of Yakima to require that the properties described in Exhibit B tap into or otherwise use or receive services from the Facilities for which this Agreement is entered into, if the City determines, in its sole discretion that such properties are better served by other facilities. If a property described in Exhibit B receives service from the City of Yakima by facilities other than those for which this Agreement is entered into, then no reimbursement fee shall be owing of that parcel under this Agreement. The schedule for reimbursement fees is attached as Exhibit C.

4. COSTS OF IMPROVEMENTS. An itemized estimate of the costs of the Facilities which have been approved by the City Engineer is attached hereto as Exhibit D. Within one hundred twenty (120) days of the completion of the Facilities, the Owner must submit the total cost of the Facilities to the City. This information must be used by the City as the basis for determining reimbursement by future users who benefit from the Facilities but who did not contribute to the original cost of the water or sewer facility. In the event that the reimbursement fees shall be recalculated by the City Engineer using actual cost figures an amended schedule of fees shall be recorded by the City without the necessity for further agreement by the Owner. Owner agrees that actual costs approved by the City shall not result in recalculation of the fees.

5. REIMBURSEMENT TO OWNERS/ADMINISTRATIVE FEE. During the life of this Agreement, the City shall charge and use reasonable efforts to collect such fees as are provided for herein, and upon receipt of such fees shall deduct 6% for the City's costs of administration and remit the remainder to the Owner within sixty days after receipt of the reimbursement fees. Owner agrees that the City shall not be liable for failing to collect any reimbursement fee called for by the terms of this Agreement and shall not be obligated to make any payment to Owner until the reimbursement fee has actually been received by the City. If any person or entity taps into or connects to the improvements without paying the reimbursement fee, then the City may, at its option, either (a) use the City's best efforts and due diligence to collect the reimbursement fees, or (b) assign to the Owner all of the City's rights to collect. If the City assigns the collection rights, the Owner may thereafter make demand of, receive payment from, and at its sole cost and expense commence legal proceedings against the person, firm or other entity who has tapped into or connected to the improvements in order to collect the reimbursement fees. Upon assignment of the rights to collect, the City shall be relieved of any further obligation to collect the reimbursement fees for the Owner.

6. OWNER SHALL KEEP ADDRESS CURRENT. The Owner shall at all times keep the City apprised of Owner's current name, address and telephone number. Owner shall, at a minimum, be required to notify and provide the City with the Owner's current name, address, and telephone number every two years on the anniversary date of this Agreement. If the Owner fails to comply with this notification requirement within sixty (60) days of the specified date, the City may thereafter collect and keep any reimbursement fees owed to the Owner under this Agreement and The Owner shall have no further rights to such fees. The City shall deposit all fees so collected in the City's capital improvement fund. The City shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through this Agreement.

7. LOCAL IMPROVEMENT DISTRICT. The City agrees that, during the term of this Agreement, if a Local Improvement District is established to construct sewer and water

improvements which will be connected into or will make use of the facilities constructed under the provisions of this Agreement and such District includes property identified as benefited area described on Exhibit B, the City will include, in the cost of construction of the improvements financed by the Local Improvement District or Utility Local Improvement District and in the assessments of said benefiting property, the reimbursement fees established for said benefiting property.

8. SEGREGATION. Owner agrees that the City shall be authorized to make segregation of, or adjustments to, the schedule of reimbursement fees listed in the attached Exhibit C, if a benefited property is divided through subdivision or if the property(s) area changes through boundary line adjustments. The City shall make the segregation or adjustment generally in accordance with the method used to establish the original reimbursement fees. The segregation or adjustment shall not increase or decrease the total reimbursement fees to be paid. The City may make all such segregation and adjustments without the necessity of further agreement by the Owners and shall effectuate the same by recording a revised reimbursement schedule with the Yakima County Department of Records and Elections.

9. TERMS OF AGREEMENT. The fees provided for in this Agreement shall be a charge due and collected by the City. The City will collect reimbursement fees for a period of 20 years from the date of this agreement. Upon the expiration of said period this Agreement shall terminate and no obligation to pay reimbursement payments shall thereafter arise by virtue of this Agreement.

10. RECORDING. This Agreement shall be recorded with the Yakima County Auditor's Office within thirty days of the date hereof as required by RCW Chapter 35.91. The recording of this notice shall be notice to the Owner of the benefited properties that a reimbursement fee is to be paid at the time of connection to the City Utility system.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed
This _____ day of _____, 20_____.

City of Yakima

Owner

Victoria Baker, City Manager

Printed Name

ATTEST/AUTHENTICATED:

Rosalinda Ibarra, City Clerk

Approved as to Form:

Office of the City Attorney

STATE OF WASHINGTON
COUNTY OF YAKIMA

I certify that I know or have satisfactory evidence that _____,
Owner, is the person who appeared before me, and said person acknowledged that he/she
signed this instrument, on oath stated that he/she was authorized to execute the instrument
and acknowledged it to be the free and voluntary act of such party for the uses and
purposes mentioned in the instrument.

DATED: _____

Notary Public in and for the State of
Washington, residing at _____
My appointment expires _____

Attachments:

Exhibit A – Description of Improvements

Exhibit B – Benefited Area

Exhibit C – Reimbursement Fees

Exhibit D – Estimated Costs of Improvements