THIS TEXT INCLUDES AMENDMENTS AUTHORIZED BY:

TEXT AMENDMENT NO. 1 SEPTEMBER, 1982
(MAP) AMENDMENT NO. 2 FEBRUARY, 1986

City of Yakima, Yakima County, Terrace Heights Sewer District and
Town of Union Gap

AGREEMENT FOR WASTEWATER TREATMENT AND DISPOSAL SERVICE

THIS AGREEMENT entered into this 23rd day of February, 1976, by and between the City of Yakima, a municipal corporation, the Town of Union Gap, a municipal corporation, the Terrace Heights Sewer District, a municipal corporation, and Yakima County, a municipal corporation, for the purposes of providing wastewater treatment and disposal service to developed areas within the Yakima Urban Area.

WITNESSETH:

WHEREAS, the existing sewage treatment facilities in the Yakima Urban Area do not meet the current water pollution control requirements and specifically the standards set forth and pursuant to Public Law 92-500; and,

WHEREAS, many unincorporated areas within the Yakima Urban Area are not served by sewers although there is a demonstrated need for public sewer service to eliminate health hazards; and,

WHEREAS, the City of Yakima, Yakima County, the Town of Union Gap, and the Terrace Heights Sewer District entered into an agreement dated April 9, 1974, which authorized the preparation of a Wastewater Facilities Planning Study to determine the least expensive, coordinated Wastewater Management Plan for the entire Yakima Urban Area that will protect the public health and welfare and meet the applicable water pollution control standards; and,

WHEREAS, it has been concluded in the Wastewater Facilities Planning Study, following careful consideration of available alternatives, that upgrading of the existing City of Yakima wastewater treatment facility to provide secondary treatment of wastes from the entire Urban Area is the least expensive solution for meeting the area sewerage needs; and,

WHEREAS, an evaluation of environmental factors associated with the proposed plan shows that the facilities will result in a net environmental benefit to the Urban Area by improving surface and groundwater quality and by eliminating health hazards inherent in septic tank disposal of wastes in built-up portions of the Urban Area many of which have generally unsuitable soil conditions for septic tank disposal; and,

WHEREAS, implementation of the Wastewater Management Plan utilizing the Yakima wastewater treatment facility as the central plant for the entire Urban Area requires suitable long-term agreements between the participating governmental entities for developing, managing and financing the plan; and,

WHEREAS, as relates to Yakima County, RCW Chapter 36.94 provides for establishment of sewerage, water and drainage systems and further provides within RCW 36.94.190 the authority to contract with other entities.

NOW, THEREFORE, the above-named municipalities do hereby mutually consent and agree to the following:

SECTION 1: WASTEWATER TREATMENT & DISPOSAL

By virtue of this agreement, the City of Yakima (City) agrees to accept sewage delivered to it by the Terrace Heights Sewer District (District), the Town of Union Gap (Town) and Yakima County (County), for treatment and disposal. The City will improve and expand its treatment facility to meet pollution control standards and to provide sufficient treatment capacity in accordance with the Wastewater Facilities Plan. Since the County does not presently own or operate sewage collection or wastewater treatment facilities, reference hereinafter to the County and its wastewater facilities shall be construed to mean those facilities that may be developed by the County in the future.

SECTION 2: SEWAGE COLLECTION

I. General Responsibilities

The Terrace Heights Sewer District and the Town of Union Gap shall continue to be responsible for sewage collection within their respective service areas. The District and Town shall construct and operate sewer interceptor and pumping facilities necessary to deliver sewage to the Yakima system. Collections within local improvement districts formed either within the City or within unincorporated areas may be the responsibility of the local governing agency establishing such LIDS.

It is understood and agreed that the City of Yakima, the Town of Union Gap, or the Terrace Heights Sewer District may expand or extend their existing sewage facilities to give service to unincorporated local service areas, including the formation of local improvement districts provided that the development of such areas is approved by the local governing body having jurisdiction over the land to be so improved.

It is further understood and agreed that the County shall have the right to give service to unincorporated local service areas by the formation of local improvement districts or sewer districts and to enter into appropriate agreements with the City of Yakima, Town of Union Gap or Terrace Heights Sewer District for the disposal or transportation of sewage into the regional sewerage system, provided that the development of such area is approved by the local governing body (Board of Yakima County Commissioners) having jurisdiction over the land to be so improved.

II. Service by the Terrace Heights Sewer District to the Keys Road Area

Those properties adjacent to, and on either side of Keys Road in Yakima County, Washington, between the intersection of Keys Road with the Southern boundary of the Yakima Urban Area, and along Keys Road until it intersects with SR 24, should be permitted to connect to the adjacent sewer interceptor belonging to the Terrace Heights Sewer District upon the following terms and conditions:

A. That not more than one (1) service connection shall be made for each one hundred (100) feet of property adjacent to, or on either side of Keys Road, and to the contiguous interceptor. Provided that any current parcel now having frontage on Keys Road may connect one service line to the interceptor even though such frontage is less than one hundred (100) feet.

B. No sewer services will be provided to any building, business or to benefit any land usage or other facility of any nature that is located more than two hundred (200) feet measured with a ninety degree angle on either side of the center line of Keys Road in Yakima County, Washington.

SECTION 3: PAYMENT FOR WASTEWATER TREATMENT AND DISPOSAL

(a) The City shall establish sewage disposal charges for Union Gap, Terrace Heights, and Yakima County, or any hereafter developed sewer districts. The rate shall reflect the cost of service for the City to intercept, treat, and dispose of the sewage from these systems, as set forth in paragraph (c) of this Section.

(b) Flow meters will be installed at the point of connection of the County, the Terrace Heights and Union Gap systems to the City system. The meters will be installed by the City at the expense of the system requesting service and thereafter shall be owned and maintained by the City.

(c) Monthly sewage disposal charges shall be determined from the flow measured at the meters using the following model:

$$Cu = \frac{Ct\ (Vu)}{Vt}$$

Definitions:

Ct = Total treatment and disposal costs per unit of time.
Cu = A user's charge for treatment and disposal per unit of time.
Vu = Volume contribution from a user per unit of time.
Vt = Total volume contribution from all users per unit of time.

The City shall establish a separate wastewater treatment and disposal fund and shall prepare an annual budget of estimated costs for operating the wastewater treatment facilities at the start of each calendar year, which budget shall be used as the basis for the treatment and disposal charges during the year. To the extent that the City's interceptor sewers are utilized to transport wastes from systems operated by the Town, District or County to the treatment facilities, the associated costs are an eligible part of the wastewater treatment and disposal charges. The budget will be based on actual cost experience adjusted to reflect anticipated changed conditions. The wastewater treatment and disposal costs as used herein for determining monthly charges refers to total revenue requirements for the wastewater treatment and disposal operation. Eligible costs include system administration, operation, maintenance, taxes, repair and replacements, debt service for existing and new collection, treatment and disposal facilities utilized by the participants, including the requirements of any resolution providing for the issuance of revenue bonds. Operating surpluses, debt service coverage, reserve funds, the local share of payments from the industrial cost recovery system or any other funds paid initially from the treatment and disposal charges shall be used exclusively for the benefit of the wastewater treatment and disposal facilities.

(d) The City shall submit a bill for the monthly wastewater treatment and disposal charges to the Town, District, or County, on or before the last day of each month for the previous months volume, and such charge shall be due thirty (30) days from the date billed. If any charge or portion thereof due to the City shall remain for 15 days following its due date, the Town, District or County shall be charged with and pay to the City interest on the amount unpaid from its due date until paid at the rate of 6 percent per annum, and the City may, upon failure to pay such amount, enforce payment by any remedy available by law or equity.

(e) The monthly wastewater treatment and disposal charge shall be based on the average sewage flows of each of the systems for the twelve (12) month period ending with the month being billed in order to reduce the effect of monthly variations in sewage flows on the treatment and disposal charges.

(f) In addition to the wastewater treatment and disposal charge outlined above, if the BOD, suspended solids, or other pollutant concentrations from a user exceed the range of concentration of these pollutants in normal domestic sewage, the City may levy a surcharge which shall be computed as follows:

$$Cs = Bc(B) + Sc(S) + PC(P)\,Vu$$

B = Concentration of BOD from a user above a base level

Bc = Treatment and disposal cost for a unit of biochemical oxygen demand (BOD).

Cs = A surcharge for wastewaters of excessive strength.

P = Concentration of any pollutant from a user above a base level.

PC = Treatment and disposal cost for a unit or any pollutant.

S = Concentration of suspended solids (SS) from a user above a base level.

Sc = Treatment and disposal cost for a unit of suspended solids.

Vu = Volume contribution from a user per unit of time.

For the purpose of determining the surcharge, 300 mg/l shall be used as the base level for BOD (5 day) and suspended solids.

(g) In the event of meter malfunctioning the City shall estimate the sewage flow discharged by the Town, District or County in order to determine the applicable wastewater treatment and disposal charges.

SECTION 4: SPECIAL WASTES

Wastes prohibited by the U.S. Environmental Protection Agency or by the State Department of Ecology, waste of unusual quantity or organic strength, waste containing toxic or deleterious matter incompatible with the waste treatment process, or that may be harmful to the treatment process or the quality of the receiving waters, shall not be discharged into the City's sewage system except by Special Agreement. Consent to such Special Agreement shall not be unreasonably witheld. As a part of such special agreement, the City may require that concentration of such substances in waste discharged to its system be eliminated or reduced to acceptable limits by pre-treatment. The Town, the District and the County shall be responsible for ensuring that wastes discharged to their respective systems meet the relevant quality standards set forth by the Special Agreement.

SECTION 5: INDUSTRIAL COST RECOVERY

As required by the rules and regulations of the U.S. Environmental Protection Agency, the City shall establish a Cost Recovery System applicable to industrial customers. The amounts due by virtue of this section shall be collected by the responsible participants.

SECTION 6: PERMITS & REGULATIONS

The Town, the District and the County shall be responsible for their respective sewer systems. This includes obtaining any necessary permits, maintaining records, and reporting to the Washington State Department of Ecology, the U.S. Environmental Protection Agency or other regulatory agencies. The City of Yakima shall be responsible for satisfying the permit, records and regulatory requirements related to wastewater treatment and disposal.

Industrial discharges shall likewise be responsible for obtaining any permits governing their waste discharges and for maintaining any records or reports that may be required by the regulatory agencies.

Under no circumstances shall the City incur any liability for the District, Town of County sewer systems or for industrial waste dischargers.

SECTION 7: INFILTRATION/INFLOW

The regulations of the U.S. Environmental Protection Agency require that sewer systems funded by the Agency for improvements not be subject to "excessive" infiltration/inflow as defined by the Agency. The City therefore reserves the right to require the District, the Town and the County to take corrective action to eliminate any excessive infiltration/inflow in their systems.

SECTION 8: TESTING AND COMPLIANCE

The City shall have the right to sample sewage discharged by the District, the Town and the County, in order to determine if the sewage is of unusual strength and subject to a surcharge or if constituents incompatible with the treatment process are being discharged in harmful quantities.

SECTION 9: ARBITRATION

It is understood and agreed that all claims, demands, disputes, differences, and misunderstandings concerning this agreement and its interpretation that may arise between any of the parties hereto from the date hereof until the termination of this contract shall be submitted to and be determined and settled by arbitration in the manner hereinafter setforth:

Each party to dispute shall appoint an arbitrator and the two arbitrators so chosen shall appoint a third arbitrator. In the event that the two arbitrators so choosen cannot agree upon a third arbitrator such third arbitrator shall be appointed by the presiding Judge of the Yakima County Superior Court.

It is further understood and agreed that in the event there are an odd number of disputes to any differences being arbitrated under this agreement, so that the appointment of an arbitrator by the arbitrators chosen by the disputants, leaves an even number of arbitrators then and in that event, the arbitrators chosen by the parties shall appoint two arbitrators or if they cannot agree upon said two arbitrators those arbitrators shall be chosen by the presiding Judge of the Yakima Courty Superior Court. A decision of the majority of the arbitrators chosen in the manner set forth above shall be binding upon all parties and all arbitration shall be conducted pursuant to Washington State Arbitration Law.

SECTION 10: POLICY AND AGREEMENT RE SEWER SERVICE, REGIONAL PLANNING, AND GOVERNMENT SERVICES

I. Declaration of policy

A. Yakima Urban Area. Attached hereto and incorporated herein, is a map entitled "Yakima Urban Area" (EXHIBIT A). This map designates and legally describes the Urban Boundary of the Yakima Urban Area. References herein to the "Urban Area" or "Area within the Urban Boundary' refer to land within the boundary defined on Exhibit A.

B. Sewer Service. It is declared by the four municipal bodies (parties to this agreement) that all of that area within the urban boundary be served by sewers in accordance with the aforementioned Wastewater Facilities Planning Study (Volume 1); that the health and welfare of the community require that all property within the urban boundary have sewers available as soon as financially feasible and practical to do so.

Further, the City of Yakima will provide wholesale users with sufficient treatment plant and interceptor capacity to handle the design sewage flows in Table II-3 of the Yakima Wastewater Facilities Planning Study (Beck Study). These sewage flows, and related information in the Beck Study, comprise the Wastewater Allocation Plan for the Yakima Urban Area. Any changes in the Beck Study represent a change in this Wastewater Agreement and therefore must be reviewed and approved in writing by all parties as specified in Section II of this Agreement.

C. Regional Planning. The land within the planning boundary shall be controlled by the respective legislative bodies of the parties to this agreement using a single long range comprehensive land use plan and common zoning and subdivision law. The Regional Planning Commission shall serve as the long range planning body for the Urban Area. A hearings examiner shall make current planning decisions within the Urban Area (except in Union Gap which will retain its planning commission to make recommendations on land use matters within the Union Gap City limits). Decisions of the hearings examiner shall be appealable to the affected legislative authority. At present, the City and County planning staffs shall be maintained. Each planning department will continue to provide staff support on land use proposals within its respective jurisdiction. This arrangement shall not preclude future consideration of staff consolidation.

D. Government Services. It is the declared policy that residents and owners of land, except that devoted to agricultural purposes over 20 acres in size, within the urban boundary are best served by a city or town to provide municipal services rather than the county government and that residents and property owners shall henceforth be encouraged to annex to the adjoining city or town for municipal services, including sewer services.

II. Agreement.

In view of the foregoing declaration of policy, the parties to the "Urban Yakima Area Planning and Development Agreement", dated November 12, 1974 and signed by the County of Yakima, the City of Yakima and the Town of Union Gap, agree to reaffirm its purpose and goals, after it is amended in the following respects:

A. Section 1 of that agreement, pertaining to the creation and makeup of the Joint Board for Urban Yakima Area Planning and Development, shall be amended to read as follows:

Section 1. JOINT BOARD CREATED.

A Joint Board for Urban Yakima Area Planning and Development shall be created to consist of two Yakima County Commissioners, two Yakima City Council members to be appointed by the Council, and a Union Gap Council member to be appointed by the Council."

formation of LID's or otherwise, shall be subject to the condition that any property owner seeking sewer service whose land is located within the urban boundary, (as designated on EXHIBIT A) shall, as a condition precedent to the receipt of sewer service by the City, be required to immediately annex to the City, if feasible to do so, or to sign an agreement, as a covenant running with the land, to the effect that a petition to annex to the City of Yakima will be signed if and when the landowner is asked by the City to do so. EXCEPT, that annexation of areas that have been designated as Community Development Block Grant target areas, and that have an active neighborhood improvement program, shall be delayed for a period of at least five years after the provision of sewer and/or water service by the City unless the residents seek to annex earlier.

All existing and new development within the unincorporated Urban Area, including any site or structural improvements shall be subject only to issuance of appropriate development permits from the County and shall occur in accordance with adopted Urban Area standards.

V. Yakima County's Obligation to Enter Into the Service of Sewage Delivery.

The County of Yakima agrees that it will not, in the Yakima Urban Area, enter the service of sewage delivery unless all other entities involved have been unable or have refused to serve the area concerned on a basis acceptable to the residents, and an impasse has been reached. In that event, and if a necessity for such service for the health and welfare of the people in the area involved is determined to exist, the County agrees that it will not provide sewer service to such area without a delaying period of 90 days after the impasse has developed. During this period, the entities involved will by a joint committee attempt to resolve the issues causing the impasse.

SECTION 11: NOTICE TO BE GIVEN

The City agrees to give the District, the Town and the County reasonable notice of sixty (60) days regarding any action constituting a change pertaining to the terms of this Agreement and further agrees to provide that such change shall be reflected in a written document executed by the parties to this Agreement.

SECTION 12: EFFECTIVE DATE & TERM OF CONTRACT

This Agreement shall be in full force and effect and binding upon its execution. The Agreement shall continue in full force and effect for a period of years established by the treatment and disposal facility bonds, and may be renewed thereafter by mutual agreement.

ATTEST:

Deputy Auditor and
Deputy Clerk

Approved as to Form this
7th day of Feb, 1976

Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS

Chairman

Date Feb 17, 1976

ATTEST:

City Clerk

Approved as to Form this
11th day of Dec., 1976

City Attorney

CITY OF YAKIMA

Mayor

Date February 17, 1976

ATTEST:

City Clerk

Approved as to Form this
___ day of ___, 1976

City Attorney

TOWN OF UNION GAP

Mayor

Date 2/23/76

ATTEST:

Clerk

Approved as to Form this
20 day of February 1976

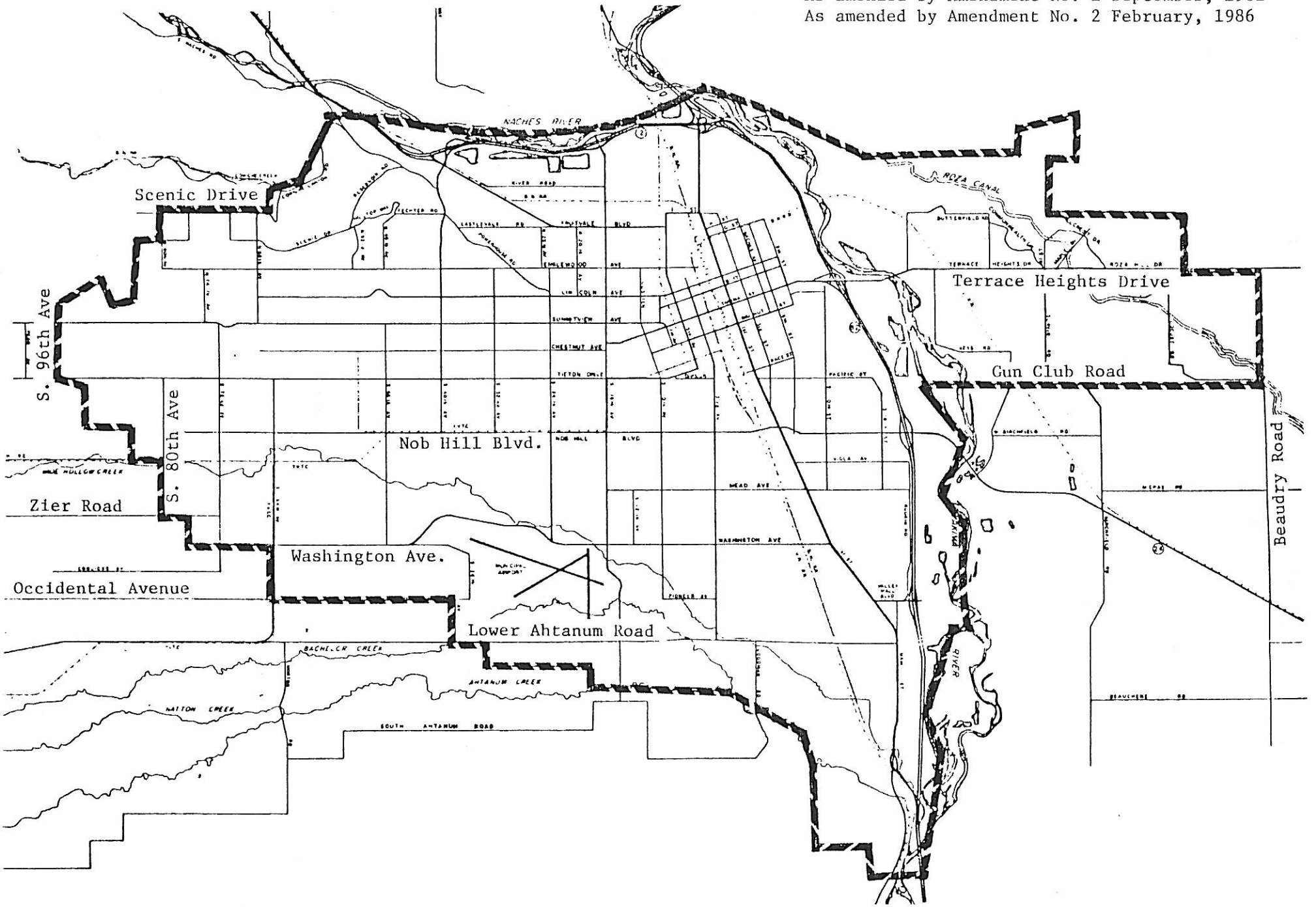
Attorney for District

TERRACE HEIGHTS SEWER DISTRICT

Chairman

Date February 20 1976

EXHIBIT A

YAKIMA URBAN AREA

As amended by Amendment No. 1 September, 1982
As amended by Amendment No. 2 February, 1986