

Resolution #610

**A RESOLUTION OF THE TOWN COUNCIL OF YACOLT, WASHINGTON,
AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE
TOWN OF YACOLT AND CLARK PUBLIC UTILITIES FOR THE MAINTENANCE OF
STREET LIGHTS AND STREET LIGHT EQUIPMENT**

Whereas, the Town of Yacolt, (hereafter “*Yacolt*” or “*Town*”), possesses the power and legal authority under RCW 35.27.370(4) to provide street lights and street light services within its boundaries;

Whereas, Clark Public Utilities, (hereafter “*CPU*”), maintains a system of electrical poles, wires and equipment to provide electric utility services within the boundaries of Yacolt;

Whereas, CPU is willing and able to provide installation and maintenance services for the Town’s system of street lights, including in agreed cases the use of CPU’s utility poles for the installation of street light equipment;

Whereas, RCW 43.09.210 requires local government agencies to pay the true and full value of any service or property received from another local government agency;

Whereas, the Town desires to enter into an agreement with CPU whereby CPU will provide certain street light maintenance related services within the boundaries of the Town;

Whereas, the Town has negotiated an agreement with CPU for street light maintenance services pursuant to the Interlocal Cooperation Act, RCW 39.34;

Whereas, the Town Council has determined that it is in the public interest to authorize the Mayor of Yacolt to execute the Interlocal Agreement between the Town and CPU that is attached to this Resolution as Exhibit A, (hereafter, “*Agreement*”); and,

Whereas, the Yacolt Town Council is in regular session this 13th day of February, 2023, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it Resolved by the Town Council of the Town of Yacolt, Washington, as follows:

Section 1 - Approval of Agreement: The Interlocal Agreement between the Town of Yacolt and Clark Public Utilities, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, is hereby accepted and approved by the Town Council. The Mayor of the Town of Yacolt is hereby authorized to execute the Agreement between the Town and CPU in a form substantially similar to Exhibit A, for and on behalf of the Town.

Section 2 - Filing of Agreement: The Town Clerk is directed to file an executed original of the Agreement with the Clark County Auditor or to publish and file the Agreement in any other manner that satisfies the filing requirements of RCW 39.34.040.

Section 3 - Effective Date: This Resolution shall be effective immediately upon adoption by the Town Council in accordance with law. The Town Clerk is directed to publish notice of the adoption of this Resolution in the Town's official newspaper by publishing the following summary:

Town of Yacolt - Summary of Resolution #610


The Town Council of the Town of Yacolt adopted Resolution #610 at a regular meeting of the Town Council held on February 13, 2023. The content of the Resolution is summarized in its title as follows: "A RESOLUTION OF THE TOWN COUNCIL OF YACOLT, WASHINGTON, AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF YACOLT AND CLARK PUBLIC UTILITIES FOR THE MAINTENANCE OF STREET LIGHTS AND STREET LIGHT EQUIPMENT".

The effective date of the Resolution is February 13, 2023. A copy of the full text of the Resolution will be mailed upon request to the undersigned at the Yacolt Town Hall, P.O. Box 160, Yacolt, WA 98675: (360) 686-3922.

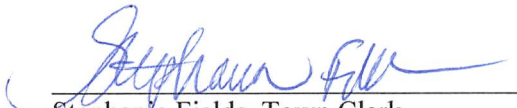
Published this 22nd day of February, 2023.
Yacolt Town Clerk.

Resolved by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 13th day of February, 2023.

TOWN OF YACOLT


Katelyn J. Listek, Mayor

Attest:


Stephanie Fields, Town Clerk

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes: Peto, Beck, Homola, Viray
Nays: 0
Absent: Shealy
Abstain: 0

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of Resolution #610 of the Town of Yacolt, Washington, entitled "A RESOLUTION OF THE TOWN COUNCIL OF YACOLT, WASHINGTON, AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF YACOLT AND CLARK PUBLIC UTILITIES FOR THE MAINTENANCE OF STREET LIGHTS AND STREET LIGHT EQUIPMENT" as approved according to law by the Yacolt Town Council on the date therein mentioned.

Attest:


Stephanie Fields, Town Clerk

Published: February 22, 2023
Effective Date: February 13, 2023
Resolution Number: 610

Exhibit 'A' to Resolution 610

**INTERLOCAL AGREEMENT BY AND BETWEEN
THE TOWN OF YACOLT
AND CLARK PUBLIC UTILITIES
STREET LIGHT MAINTENANCE**

This Interlocal Agreement, hereinafter referred to as the “Agreement”, is made and entered into by and between Clark Public Utilities, a public utility district of the State of Washington, hereinafter referred to as “Clark,” and the Town of Yacolt, a municipal corporation of the State of Washington, hereinafter referred to as the “Town,” for the purpose of providing street light maintenance and other street-light related work as requested by the Town.

WHEREAS, the Town possesses the power and legal authority to provide street light services within its boundaries; and

WHEREAS, Clark has the authority to provide street light services within the unincorporated portions of Clark County and within the geographical area of the Town; and

WHEREAS, the Town desires to enter into an agreement with Clark whereby Clark will provide certain street light maintenance and other street-light related services within the boundaries of the Town; and

WHEREAS, Clark is agreeable to providing such services to the Town on the terms and conditions as set for herein; and

WHEREAS, this Agreement is entered into under the Interlocal Cooperation Act, Chapter 39.34, RCW;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows.

AGREEMENT

I. SCOPE OF SERVICES

Clark will furnish all labor, equipment, materials and supplies (except as provided below) for the performance of the following street light maintenance and other street-light related services:

- a. Clark will perform general maintenance services on Town-owned Utility Standard Street Light Equipment (as defined in Section II) located on public streets, highways, and thoroughfares within the Town of Yacolt. These services include: (1) like-kind fixture replacement (limited to LED street lights) due to mechanical failure; (2) photo cell replacement; (3) refractor maintenance and (4) the repair of Clark-owned overhead and underground wires.
- b. Clark will also provide other street light services at an additional time and material-based charge, which include, but are not limited to, street light replacement (except for like-kind mechanical failure), street light relocations (at the Town's request), installation of additional street lights (on CPU wood poles only), work on Non-Utility Standard Street Light Equipment (as defined in Section II below), repair of damage to Town-owned fixtures, pole bases, and foundations due to vandalism or other causes.
- c. Any new street light installations (new development, road projects, additions/changes to existing street light circuits) that may be subject to service under this Agreement, must be approved and energized by Clark before Clark will assume maintenance responsibilities.
- d. Clark will not perform any work on street lights located on the customer-side of any electrical meter/disconnect, street lights connected to electrical wires not owned by Clark, or street lights connected to electrical sources that serve other Town facilities.
- e. The installation of Non-Utility Standard Street Light Equipment will require advance approval by Clark. Lights that are not approved by Clark will be installed by the Town behind a meter or disconnect. These lights will be maintained by the Town and billed for electric service under a general service rate schedule.
- f. Clark reserves the right to discontinue service of any specific Town street light or refuse to accept any street light. If Clark decides to discontinue service for an existing street light, Clark shall provide written notice to the Town and identify the specific reason(s) for discontinuing service. If Clark agrees and the Town is able to correct the reason(s) for which Clark intends to discontinue service within thirty (30) days of the notice, Clark may continue to provide service for that specific Town street light at its discretion.

II. LIGHT STANDARDS

The following types of street lights and poles shall be considered current utility standards and specifications ("Utility Standard Street Lights"):

Decorative Acorn fixture:

- Acorn-shaped, with acrylic globe, black housing

Decorative Acorn direct bury light pole:

- Fiberglass, black, fluted shaft with clamshell base, 14.5' mounting height

Cobra Head fixture:

- Elliptical or rectangular shaped, downward facing, gray housing.

Cobra Head direct bury light poles:

- Aluminum, 6' upsweep mast arm, 25' mounting height
- Aluminum, 6' upsweep mast arm, 32' mounting height

The standards for Utility Standard Street Lights may be amended by Clark, at its discretion. Any change in Utility Standard Street Lights standards will be documented by Clark in writing.

Any Town street lights maintained under this Agreement that are not designated as Utility Standard Street Lights shall be referred to as "Non-Utility Standard Street Light Equipment." The Town shall be responsible for purchasing, storing, and providing to Clark all materials needed to complete maintenance, repair, or replacement of Non-Utility Standard Street Light Equipment. Any costs associated with picking up materials, installing lights, and/or maintaining lights for Non-Utility Standard Street Light Equipment are the responsibility of the Town.

All non-LED street lights shall be considered Non-Utility Standard Street Light Equipment. Upon receiving a maintenance request for a non-LED Town street light, Clark may (at its discretion) choose to maintain the light if it can be initially repaired by changing out the photo cell and/or repairing Clark-owned wires. If the fixture cannot be repaired using these methods, or subsequent repairs are required on the same street light, Clark will convert the existing light fixture to an LED fixture on a time and materials basis. Clark shall notify the Town whenever this conversion is required. After such a conversion occurs, that street light shall then be considered a Town-owned Utility Standard Street Light that shall then be maintained pursuant to Section I(a) herein and all other terms and conditions of this Agreement that apply to Utility Standard Street Lights.

III. COST OF SERVICES

Clark will perform general maintenance services on the Town's Utility Standard Street Lights and the Town will pay for such services in accordance with Clark's current Rate Schedule 94-LED (which is subject to revision by Clark's Board of Commissioners). *See attached Exhibit 'A'*. These services include: (1) like-kind fixture replacement (limited to LED street lights) due to mechanical failure; (2) photo cell replacement; (3) refractor maintenance; and (4) repair of Clark-owned overhead and underground wires. The Town will be billed monthly pursuant to Clark's Schedule 94-LED for each Town-owned street light.

All other street light services as described in Section I (b) will be performed by Clark on a time and materials basis. Electric service for non-LED lights, if any, shall be charged in accordance with Clark's then current applicable rate schedule for non-LED street lights.

IV. AUDIT AND RECORDKEEPING

Clark shall retain records documenting all direct and indirect costs associated with individually billed services provided under this Agreement. However, no specific records shall be required for any service that is provided and billed pursuant to an approved rate schedule (including, but not limited to Clark's Rate Schedule 94-LED). Records shall be subject to inspection, review, or audit by each Party and the Office of the Washington State Auditor. All records shall be retained in accordance with the State of Washington records retention schedules.

Clark will periodically audit the Town's street lights to verify the number of units serviced under this Agreement. These audits shall not be performed any more frequently than every five years. The Town will be responsible for the costs of these audits in proportion to the number of Town street lights within the area audited (i.e. the Town would only be responsible for its proportionate share of a county-wide audit, but would be responsible for the entire cost of a Town-only audit).

V. FACILITY OWNERSHIP

The Town shall retain ownership of its street lights and any Town infrastructure supporting this system. None of the work performed by Clark shall transfer any ownership interest from the Town to Clark. Once street light equipment is installed and energized within the Town's infrastructure, any property interest held by Clark in the equipment shall transfer to the Town. The Town will be responsible for transferring ownership to the Town of any newly installed street lights installed by other parties. Nothing herein shall be construed in any way to divest the Town of its powers with respect to the supervision and management of the streets and street lights within its boundaries.

VI. EQUIPMENT STORAGE

Clark shall be responsible for storing Utility Standard Street Light equipment as described in Section II. The Town shall store, at its expense, all other custom or Non-Utility Standard Street Light Equipment. The equipment stored by the Town shall be, at a minimum, available to Clark during normal business hours or as mutually agreed upon between the Town and Clark to best meet the needs of customers.

VII. MAINTENANCE REQUEST

The Town shall notify Clark when it becomes aware that any of its street lights require maintenance or repair. Clark requires a streetlight number for all maintenance requests. If no tag is present, the Town shall provide the light location address. The Town shall also

encourage and direct its residents to contact Clark and report a street light in need of maintenance.

Clark will attempt to respond to any maintenance request within five business days (actual repairs may take longer).

Emergency response (e.g. car hit street light) will be addressed as soon as possible after notification from emergency services or the general public. In the event of an emergency, Clark will disconnect equipment at Clark's source and notify the Town. The Town will provide emergency/afterhours contact information.

The Town shall not perform any maintenance or repair work on facilities serviced by Clark under this Agreement. This provision shall not preclude the Town from taking any action as needed to ensure the facilities serviced by Clark under this Agreement are returned to a safe condition in the event of any emergent circumstances.

For the purpose of facilitating the performance of the services under this Agreement, the Town will allow the temporary closing to traffic of any street, or portions thereof, necessary to be closed for Clark to perform its services herein.

Clark shall not be required to obtain a right-of-way permit or any other authorization from the Town for street light maintenance work performed under this Agreement. The Town will be responsible for the cost of any permits required by other entities.

Clark will provide the Town with 24-hours' notice before it works on individual Town street lights located on main streets and arterials that may block a lane of traffic for an extended period of time.

VIII. NEW CONSTRUCTION

Requests for additional street lights (road frontage improvement projects/subdivisions located within Town limits) must be submitted upon plans approved by the Town. The developer/installer will be required by the Town to provide all new street light materials meeting Clark's streetlight utility standards and specifications. If the installed facilities meet Clark's requirements, Clark will be responsible for inspecting these installations, energizing the facilities, and maintaining the new lights under this Agreement.

The Town will be responsible for approving all street light designs and layouts. Clark is responsible for approving the electrical source for street light systems and service wire layout.

The Town will be responsible for any permitting costs associated with the installation of any new streetlights under this Agreement.

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IX. TERM AND TERMINATION

This Agreement shall be effective upon execution by the Parties and shall remain in effect unless otherwise terminated as provided herein. This Agreement may be terminated for any reason by either Party upon not less than six (6) months written notice to the other Party.

X. ADDITIONAL TERMS

1. **Dispute Resolution.** The principal executive or their designee of each Party shall attempt to resolve all disputes regarding the terms of this Agreement in good faith. In the event the dispute is not resolved by the Parties, the matter will be referred to the Superior Court of the State of Washington in and for Clark County.

Parties shall bear their own legal fees, costs, and expenses related to enforcing rights and responsibilities of this Agreement.

2. **Independent Contractor.** Both Parties shall be deemed independent contractors for all purposes, and the employees of each Party and any of its contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be the employees of the other Party. Nothing in this Agreement shall make any employee of a Party an employee of the other Party for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

3. **Indemnification/Hold Harmless.** Each Party agrees to indemnify, defend, and hold harmless the other Party, its employees, agents, and elected and appointed officials from any and all claims, demands or damages of whatever kind or nature related to this Agreement, which may be made against them to the extent arising out of the negligent acts or omissions of the indemnifying Party, its employees, agents or elected or appointed officials.

It is further specifically and expressly understood that the indemnification provided herein constitutes Clark's and the Town's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

4. **Amendments.** This Agreement shall not be modified or amended in any manner except by an instrument in writing executed by the Parties hereto.

5. **Assignment.** No Party hereto shall assign its rights or obligations under this Agreement without the prior written consent of the other Party hereto.

6. Notices. All communications, notices and demands of any kind which are required by this Agreement shall be in writing and shall be deemed given three (3) days after they are deposited in the U.S. mail, first class postage prepaid, to the following addresses. The name and address to which notices shall be directed may be changed by a Party by giving the other Party notice of such change as provided in this Section:

If to Clark:

Clark Public Utilities
Attn: Director of Engineering
P.O. Box 8900
Vancouver, WA 98668

If to the Town:

Town of Yacolt
P.O. Box 160
Yacolt, WA 98675

7. Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

8. Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to the subject matter covered or mentioned herein, and no prior Agreements shall be effective to the contrary.

9. Filing. Executed copies of this Agreement shall be filed as required by RCW 39.34.040 or alternatively listed on a Party's web site or other electronically retrievable public source.

10. Administration, Property, Financing, Budgets. No new or separate legal or administrative entity or joint board is created to administer the provisions of this Agreement. The Parties hereto shall be jointly responsible for administering the performance herein. The Parties will not acquire any jointly-owned real or personal property in connection with performance of this Agreement which will need to be disposed of upon partial or complete termination of this Agreement. Any real or personal property used or acquired by either Party in connection with the performance of this Agreement shall be disposed of by that Party as it shall determine in its discretion. The Parties shall each be responsible for their own individual financial costs of performance of this Agreement. The Agreement will not require financing of any kind, and no joint budget will be prepared to carry out the performance of this Agreement.

11. Severability. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions or affecting the validity or enforcement of such provisions.

12. Ratification. Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

13. Governing Law/Venue. This Agreement shall be deemed to have been executed and delivered within the State of Washington, and the rights and obligations of the Parties

hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington.

14. Waiver. Failure by any Party to this Agreement to exercise rights under this Agreement shall not preclude that Party from subsequent exercise of those rights and shall not constitute a waiver of those rights or any other right under this Agreement. Waiver of any rights under this Agreement requires a written statement signed by an authorized representative of the Party waiving such rights.

15. Indirect or Third-Party Beneficiaries. The Parties do not intend by this Agreement to assume contractual obligations to any party other than the Parties named in this Agreement. There are no indirect or third-party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Agreement on the dates indicated below.

CLARK PUBLIC UTILITIES
"Clark"

By: _____
Lena Wittler, General Manager

DATED: _____

Approved as to Form:

By: _____
John Eldridge
General Counsel

DATED: _____

THE TOWN OF YACOLT
"Town"

By: _____
Katelena Listek, Mayor

DATED: _____

Attest:

By: _____
Stephanie Fields, Town Clerk

DATED: _____

Approved as to Form:

By: _____
David W. Ridenour
Town Attorney

DATED: _____

Exhibit 'A' to Interlocal Agreement

CLARK PUBLIC UTILITIES
Vancouver, Washington

Page 1

SCHEDULE 94-LED MUNICIPAL LIGHTING

Applicability

LED street lighting service for locations along public streets, highways, thoroughfares, and public grounds supplied to municipalities, counties, or agencies of federal or state governments where funds for payment for electric service are provided through taxation or special assessment.

Rate schedules apply to the sale of electrical energy for the sole and exclusive use of the Customer. Any redistribution or resale of electrical energy by the Customer must have the approval of the Utility.

Character of Service

Unmetered electric service, from dusk to dawn, 4,100 hours annually, controlled by a light sensitive relay.

The Utility reserves the right to specify the voltage and phase of service supplied under this schedule.

Specifications

All lights shall have a factory installed fixture wattage label, per utility specifications.

Ownership and Maintenance Responsibility

The Customer owns and maintains light standards and luminaires as well as all facilities beyond Customer owned secondary pedestals. The Utility owns and maintains the overhead and underground lighting service wire to the Customer owned light standard or secondary pedestal.

Street light service wire repairs will be completed as soon as reasonably possible after notification by the customer.

If the Customer and Utility have a lighting maintenance agreement, additional charges and conditions will apply.

The Customer will notify the utility of all additions, removals and changes relating to lights that are served under this schedule.

Energy Charge: LED \$0.0909 per KWh

Resolution No: 294 7294
Date of Issue: September 27, 2016

Effective Date: January 1, 2014*
August 1, 2016
*See Resolution

SCHEDULES 94, 95 AND 96 LED (continued)

Code	Type	Watt Band	Average Watts	KWH	Energy	Maint.	Capital Charge	Total (1st 10 years)	Total (After 1st 10 years)	Capital Prepay
Cobra - LED										
254	LED	18-67	43	15	1.36	1.48	3.83	6.67	2.84	387.00
255	LED	68-117	93	32	2.91	1.48	3.83	8.22	4.39	387.00
256	LED	118-167	143	49	4.45	1.48	-	-	5.93	-
257	LED	168-217	193	66	6.00	1.48	-	-	7.48	-
258	LED	218-268	243	83	7.54	1.48	-	-	9.02	-
Acorn - LED										
259	LED	18-67	43	15	1.36	2.43	9.87	13.66	3.79	998.00
260	LED	68-117	93	32	2.91	2.43	-	-	5.34	-
261	LED	118-167	143	49	4.45	2.43	-	-	6.88	-
Post Top - LED										
262	LED	18-67	43	15	1.36	2.43	6.00	9.79	3.79	607.00
263	LED	68-117	93	32	2.91	2.43	-	-	5.34	-
Flood - LED										
264	LED	18-67	43	15	1.36	2.43	-	-	3.79	-
265	LED	68-117	93	32	2.91	2.43	5.34	10.68	5.34	540.00
266	LED	118-167	143	49	4.45	2.43	5.34	12.22	6.88	540.00
Area - LED										
267	LED	18-67	43	15	1.36	1.48	3.29	6.13	2.84	333.00

Poles					
275	25' Fiberglass	13.41	13.41	-	1,356.00
276	30' Fiberglass	17.29	17.29	-	1,748.00
277	30' Wood	6.52	6.52	-	659.00
278	35' Wood	8.42	8.42	-	852.00
279	14.5' Fluted Shaft Fiberglass	14.56	14.56	-	1,472.00

Energy Charge: LED \$0.0909 kWh