

# Appendix D. Interlocal Agreements

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AMENDMENT NO. 1 TO  
AGREEMENT AND TO INTERLOCAL AGREEMENT

THIS AMENDMENT NO. 1 TO AGREEMENT AND TO INTERLOCAL AGREEMENT ("Amendment" or "Amendment No. 1") is made by and between the Sammamish Plateau Water and Sewer District, a municipal corporation ("District"), and the City of Issaquah, a municipal corporation ("Issaquah" or "City"), (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

SECTION 1: RECITALS

1.1 The Parties entered into a Memorandum of Agreement dated January 13, 2014, addressing the disposition of stormwater from approximately 81 acres within the Issaquah Highlands development ("Project Area"), including the decommissioning of the Lower Reid Infiltration Gallery ("LRIG") and funding for the management of stormwater within the Project Area (the "MOA").

1.2 The MOA in Section 1 required the Parties to negotiate and agree to an interlocal agreement providing for the decommissioning of the LRIG and funding for the management of stormwater within the Project Area. Thereafter, the Parties negotiated and entered into an interlocal agreement dated March 18, 2014 (the "ILA") addressing the LRIG decommissioning and stormwater management funding.

1.3 The MOA in Section 2 also required the Parties to negotiate and agree to a separate contract addressing non-assumption, city annexation, public records and other issues. Thereafter the Parties negotiated and entered into an agreement dated January 21, 2014 (the "Agreement") addressing non-assumption and other issues.

1.4 Section 2.03 of the ILA obligated the District to pay the cost for the City to decommission the LRIG and to design, construct, and install other stormwater management projects, facilities or systems (collectively "Projects") to manage stormwater generated in the Project Area, including but not limited to retention/detention, water quality treatment, land acquisition for flood control, and other mitigation for increased flows resulting from the surface water discharge(s) of stormwater generated in the Project Area at a cost of up to One Million Dollars ("District Funding"). Section 2.04 of the ILA required the City to provide the District with a list of the Projects, their estimated cost, and a schedule for their completion, required the City to complete the Projects within five years of the date of the ILA, and required the District to pay for the cost for the City to complete the Projects, not to exceed the District Funding, including the cost to decommission the LRIG. The Parties acknowledge the City has decommissioned the LRIG and the District has paid the City the sum of \$355,021.39 pursuant to Section 2.03 of the ILA.



1.5 Section 2.04 of the ILA obligated the City to provide the District with a list of the Projects referenced in Section 2.03 of the ILA to be constructed by the City to manage stormwater generated in the Project Area. However, a dispute arose between the Parties regarding the eligibility of some of the Projects identified by the City to be paid for by the District. Pursuant to Section 4.09 of the ILA, the City's Mayor and the District's General Manager met to informally resolve and clarify Project funding eligibility, and reached agreement on such eligibility and funding. Therefore, the Parties now desire to amend and supersede the provisions of Section 2.04 of the ILA to provide for the District's acceptance of the list of Projects provided by the City as eligible for District Funding, to provide for the District's payment of \$644,978.61 ("Remaining Funding") to the City to undertake such Projects and to revise the schedule for the City to complete such Projects. The District shall make the \$644,978.61 payment to the City in full within thirty (30) days of the Parties' approval of this Amendment.

1.6 In Section I of the Agreement, the City agreed to forebear its right to attempt to assume all or a part of the District located within the City pursuant to Chapter 35.13A RCW within ten years of March 17, 2014, unless the District consented to any such assumption. In consideration of the District's agreement to pay the City the Remaining Funding as provided in Section 1.2 above, the Parties now desire to modify, amend and supersede the provisions of Section I of the Agreement to provide for the extension of the City's forbearance agreement for an additional two (2) year period, for a total of twelve (12) years from the date of March 17, 2014.

1.7 The Parties are authorized by Chapter 39.34 RCW to enter into interlocal agreements for joint action.

Now, therefore, in consideration of the terms and conditions contained herein, the Parties agree as follows:

#### SECTION 2: AMENDMENT OF SECTION 2.04 OF ILA

2.1 Section 2.04 of the ILA is hereby rescinded and deleted in its entirety, and superseded and replaced in its entirety with the following provision:

2.04 The Parties acknowledge the City has provided the District with a list of Projects referenced in Section 2.03 above to be completed by the City and their estimated cost as set forth on Page 25 of a report prepared by Mead & Hunt entitled "Issaquah Highlands Decommissioning of Lower Reid Infiltration Gallery (LRIG) - Mitigation Report" dated December 2014 (the "Report"), which is incorporated herein in full by this reference. The District agrees the Projects listed in the Report ("Listed Projects") meet the definition of Projects in Section 2.03 above and are eligible for District Funding. Therefore, District shall pay the Remaining Funding to the City within thirty (30) days of the Effective date of this Amendment. The City shall undertake and complete the Listed Projects within twelve (12) years of March 17, 2014, provided the City shall have the right in its sole discretion to determine which Listed Projects to undertake and complete, and to revise and amend the Listed Projects on the condition any newly designated



Projects comply with the definition of Projects set forth in Section 2.03 above. The Remaining Funding shall be used by the City to pay the cost for the City to plan, design, and complete the Listed Projects, and as such Listed Projects may be revised and amended. Within one (1) year of the City's completion of the Projects for which the Remaining Funds were used to complete, the City shall provide the District with a list of the Projects completed with the Remaining Funds, and a reporting of the amount of the Remaining Funds applied to each Project.

### SECTION 3: AMENDMENT OF SECTION 1 OF THE AGREEMENT

3.1 Section 1 of the Agreement is hereby rescinded and deleted in its entirety, and superseded and replaced in its entirety with the following provision:

1. If, within twelve (12) years of March 17, 2014, the City determines to proceed with an assumption of all or part of the District and its property and utility facilities located within the City under Chapter 35.13A RCW, or to allow or to consent to another city proceeding with the assumption of all or part of the District and its property and utility facilities located within the City, , pursuant to RCW 35.13A.070, the City agrees to only do so with the consent of the District and based on a process and schedule agreed to by the Parties. Provided, the City shall have the right to proceed with a unilateral attempt to assume the District immediately after the expiration of such twelve-year period. Beginning no later than year three (3) of the twelve-year period, the Parties will undertake three-party discussions, including the City of Sammamish, regarding governance and utility service delivery options relative to the District, Issaquah, and Sammamish. As part of such discussions, the Parties agree to promptly and in good faith provide and disclose non-exempt public records to facilitate the discussion and study process.

### SECTION 4: GENERAL PROVISIONS

4.1 The recitals set forth in Section 1 above are incorporated in full into this Amendment by this reference.

4.2 Except as expressly amended by this Amendment, the Agreement and the ILA remain in full force and effect according to their terms and conditions and are not otherwise modified or amended.

4.3 This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and with the same effect as if all Parties had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

4.4 The Parties represent and warrant this Amendment has been duly approved and authorized by their respective legislative authorities, that each Party has the full power and

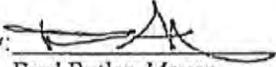


authority to enter into this Amendment and to carry out all actions required of them by the Agreement, the ILA and this Amendment. All persons executing this Amendment in a representative capacity represent and warrant they have the full power and authority to bind their respective municipal entities.

4.5 This Amendment shall take effect on the date by which both Parties have executed this Amendment ("Effective Date").

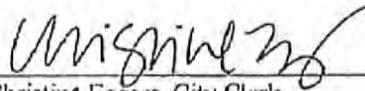
IN WITNESS WHEREOF, the Parties have executed this Amendment as set forth below.

CITY OF ISSAQUAH

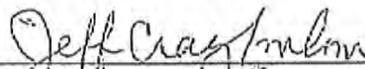
By:   
Fred Butler, Mayor

Dated: 8/10/15

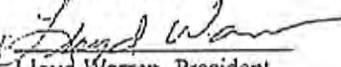
ATTEST:

By:   
Christina Eggers, City Clerk

APPROVED AS TO FORM:  
OFFICE OF CITY ATTORNEY:

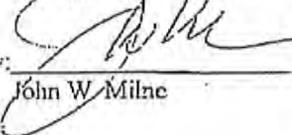
By:   
~~Wayne D. Panaka~~ by Jeff Cray, OLW

SAMMAMISH PLATEAU WATER  
& SEWER DISTRICT

By:   
Lloyd Warren, President

Dated: 8-26-15

APPROVED AS TO FORM:

By:   
John W. Milne



## INTERLOCAL AGREEMENT

This Agreement ("Agreement") is made by and between the Sammamish Plateau Water and Sewer, a municipal corporation ("District"), and the City of Issaquah, a municipal corporation ("Issaquah" or "City"), (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

### **Section 1: Recitals**

1.01 Issaquah has applied to the Washington State Department of Ecology ("Ecology") for a permit to discharge stormwater ("Waste Discharge Permit") from the area generally described as approximately 81 acres within the Issaquah Highlands development, including the Town Center, West 45 area, the Lower Reid Infiltration Gallery ("LRIG"), and Upper Reid Pond ("Project Area") into the LRIG, and from the LRIG into the ground in the Lower Issaquah Valley ("LIV"). The Project Area and the LIV are more specifically identified and depicted, respectively, on **Exhibits A and B** attached hereto and incorporated herein by this reference. The District maintains public water supply wells in the Lower Issaquah Valley Aquifer ("LIVA") located down gradient of the LRIG which provide approximately fifty (50) per cent of the District's water supply.

1.02 The Parties have undertaken a process in good faith to address the disposition of stormwater from the Project Area. The Parties have agreed to the decommissioning of the LRIG, the discharge of stormwater from the Project Area to surface water, and to provide additional funding for management of stormwater generated within the Project Area. The Parties enter into this Agreement to address their mutual objectives and concerns regarding the disposition of the Project Area stormwater in a manner that protects the LIVA.

1.03 The purpose of this Agreement is to describe and memorialize the commitments agreed upon by the Parties related to the foregoing.

Now, therefore, in consideration of the terms and conditions contained in this Agreement, the Parties agree as follows:

### **Section 2: LRIG Decommissioning and Project Funding**

2.01 The City agrees not to inject or infiltrate stormwater from the Project Area to the LRIG, the LRIG site or to any other site or area within the LIV. The City further agrees to

withdraw its application to Ecology for a Waste Discharge Permit to discharge stormwater at the LRIG within ten (10) days of the Effective Date of this Agreement.

2.02 The City shall decommission the LRIG in a manner acceptable to the District, which acceptance shall not be unreasonably withheld, and the decommissioning design agreed to by the Parties shall be stamped by a Washington State licensed engineer who shall certify the decommissioning will render the LRIG inoperable for injection or infiltration of stormwater into the ground. The City shall decommission the LRIG in the manner acceptable to the District by December 31, 2014. The City agrees it will not re-commission the LRIG to inject or infiltrate stormwater at the LRIG without the prior written approval of the District.

2.03 The District shall pay the cost for the City to decommission the LRIG and to design, construct and install other stormwater management projects, facilities or systems (collectively "Projects") to manage stormwater generated in the Project Area, including but not limited to retention/detention, water quality treatment, land acquisition for flood control, and other mitigation for increased flows resulting from surface water discharge(s) of stormwater generated in the Project Area at a cost up to One Million Dollars (\$1,000,000.00) ("District Funding"). The portion of the District Funding for decommissioning the LRIG shall be paid by the District to the City to reimburse the City for its costs incurred to decommission the LRIG after the LRIG has been decommissioned by the City. The City shall provide the District with detailed invoices of the work undertaken and the costs incurred by the City to decommission the LRIG and for the other Projects pursuant to this Agreement for reimbursement. The District shall have the right to enter upon the real property where the LRIG is located following at least forty eight (48) hours prior written notice to the City and accompanied at all times by a City representative to confirm the LRIG has been and remains decommissioned.

2.04 By December 31, 2014, the City shall provide the District with a list of the Projects referenced in Section 2.03 above to be constructed by the City, the estimated cost of each Project, and a schedule for their completion. The City shall undertake and complete the Projects identified by the City within five (5) years of the Effective Date of this Agreement. The City may revise the list of Projects, the estimated cost of each Project and the schedule for completion within such five (5) year period consistent with this Agreement, provided the City shall give the District ninety (90) days prior written notice of any such changes. Any such revision(s) shall constitute the Projects as defined herein. The District shall pay the cost for the

City to plan, design, and pursue completion of the Projects not to exceed the District Funding, including the cost to decommission the LRIG. The District Funding for the Projects shall be paid by the District to the City to reimburse the City for its costs incurred for the Projects once the Projects have been completed by the City or the City has incurred costs eligible for District Funding. The City shall provide the District with detailed invoices of the work undertaken and the costs incurred by the City for reimbursement. The District shall have no obligation to pay for and reimburse to the City the costs of any Projects incurred by the City after five (5) years of the Effective Date of this Agreement.

2.05 The City shall own and assume sole operational and maintenance responsibility for any Projects constructed by the City pursuant to this Agreement.

2.06 This Agreement is not contingent on any monitoring or reporting requirements; any such requirements are not subject to this Agreement, but rather shall be subject to the City's coverage under the Western Washington Phase II Municipal Stormwater Permit dated August 1, 2012 ("Phase II Permit"). The District agrees not to appeal the City's permit to discharge stormwater under the Phase II Permit or otherwise challenge the City's discharge of stormwater from the Project Area to surface water.

2.07 The District agrees to dismiss its pending appeal regarding the Phase II Permit presently before the PCHB. The Parties further agree to waive any and all claims either Party may have against the other Party related to the LRIG as long as the LRIG site is not used to inject or infiltrate stormwater. The release and waiver of claims regarding the City's proposed wastewater discharge permit for the LRIG will be mutual and each Party agrees to bear its own fees and costs.

2.08 Following the mutual execution of this Agreement, the Parties agree to issue a joint press release regarding the resolution of the issues addressed in this Agreement, the contents of which the Parties shall mutually agree to. Neither Party will issue a press release or public communication regarding the issues addressed in this Agreement in a manner that deviates from the agreed-upon terms of the joint press release.

2.09 The Parties agree that all terms and conditions of this Agreement shall be subject to enforcement in an action for specific performance.

2.10 The Parties acknowledge the requirements of Paragraph 2 of a Memorandum of Agreement dated January 13, 2014, between the Parties relative to the subject of this Agreement (“MOA”) have been satisfied.

**Section 3: Interlocal Provisions**

3.01 This Agreement shall terminate by its terms, or sooner by written agreement of the Parties.

3.02 No separate legal or administrative entity is created by this Agreement.

3.03 Any joint or cooperative undertaking resulting from this Agreement does not require the joint financing, budgeting, acquisition, holding or disposal of any real or personal property.

3.04 To the extent necessary, this Agreement shall be administered jointly by the City’s Mayor and the District’s General Manager.

3.05 Consistent with RCW 39.34.040, this Agreement shall be filed for recording with the King County Department of Records upon full execution or posted on the City’s and the District’s respective websites listed by subject matter.

**Section 4: General**

4.01 This Agreement is made under, and shall be governed by and construed in accordance with the laws of the State of Washington. Venue and jurisdiction of any lawsuit involving this Agreement shall exist exclusively in state and federal courts in King County, Washington. If either Party breaches or threatens to breach this Agreement, the other Party shall be entitled to seek all legal, injunctive or other equitable relief.

4.02 All notices and/or correspondence hereunder, shall be mailed, faxed or hand-delivered and addressed as follows:

To District:

General Manager  
Sammamish Plateau Water & Sewer District  
1510 228th Avenue SE  
Sammamish, Washington 98075  
Phone: 425-392-6256, Fax: 425-391-5389.

To City:

Mayor  
City of Issaquah  
1775 - 12th Ave. NW  
Issaquah, WA 98027

Phone: 425-837-3020

4.03 If any part or provision of this Agreement is held invalid or unenforceable as written, it shall not affect any other part. If any part of this Agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed under applicable law.

4.04 The waiver of any breach of this Agreement or failure to enforce any provision of this Agreement shall not waive any later breach.

4.05 The term "Party" as used in this Agreement shall include, but not be limited to, the Party's employees, staff, agents, contractors, sub-contractors and any other persons, parties or entities acting on behalf of or providing services to the Party for the purposes set forth herein.

4.06 This Agreement shall be effective on the date by which both Parties have executed this Agreement ("Effective Date").

4.07 This Agreement may be executed in counterparts, each of which shall be deemed an original and with the same effect as if the Parties had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

4.08 The Parties represent and warrant this Agreement has been duly approved and authorized by their respective legislative authorities, that each Party has the full power and authority to enter into this Agreement and to carry out the actions required of them by this Agreement, and all persons signing this Agreement in a representative capacity represent and warrant they have the full power and authority to bind their respective municipal entities.

4.09 It is the Parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions by the Mayor of the City and the General Manager of the District. If unsuccessful, then the Parties agree to submit the dispute to mediation administered by a professional mediator before resorting to a lawsuit. All fees and expenses for mediation shall be borne by the Parties equally. However, each Party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation at the mediation.

4.10 The Parties agree to perform all duties and obligations in this Agreement with due diligence and in good faith. Time is of the essence to perform all duties and obligations in this Agreement.

4.11 The Recitals set forth above in Section 1 are incorporated by reference herein and made part of this Agreement.

4.12 This Agreement is made for the sole benefit of the Parties and is not intended to benefit any other person or entity.

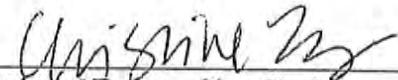
IN WITNESS WHEREOF, the Parties have executed this Agreement as set forth below.

CITY OF ISSAQUAH

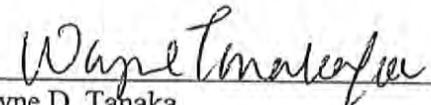
By:   
Fred Butler, Mayor

Dated: 3/18/14

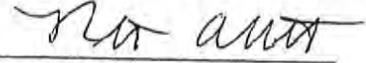
ATTEST:

By:   
Christine Eggers, City Clerk

APPROVED AS TO FORM:  
OFFICE OF CITY ATTORNEY:

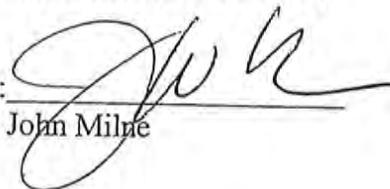
By:   
Wayne D. Tanaka

SAMMAMISH PLATEAU WATER  
& SEWER DISTRICT

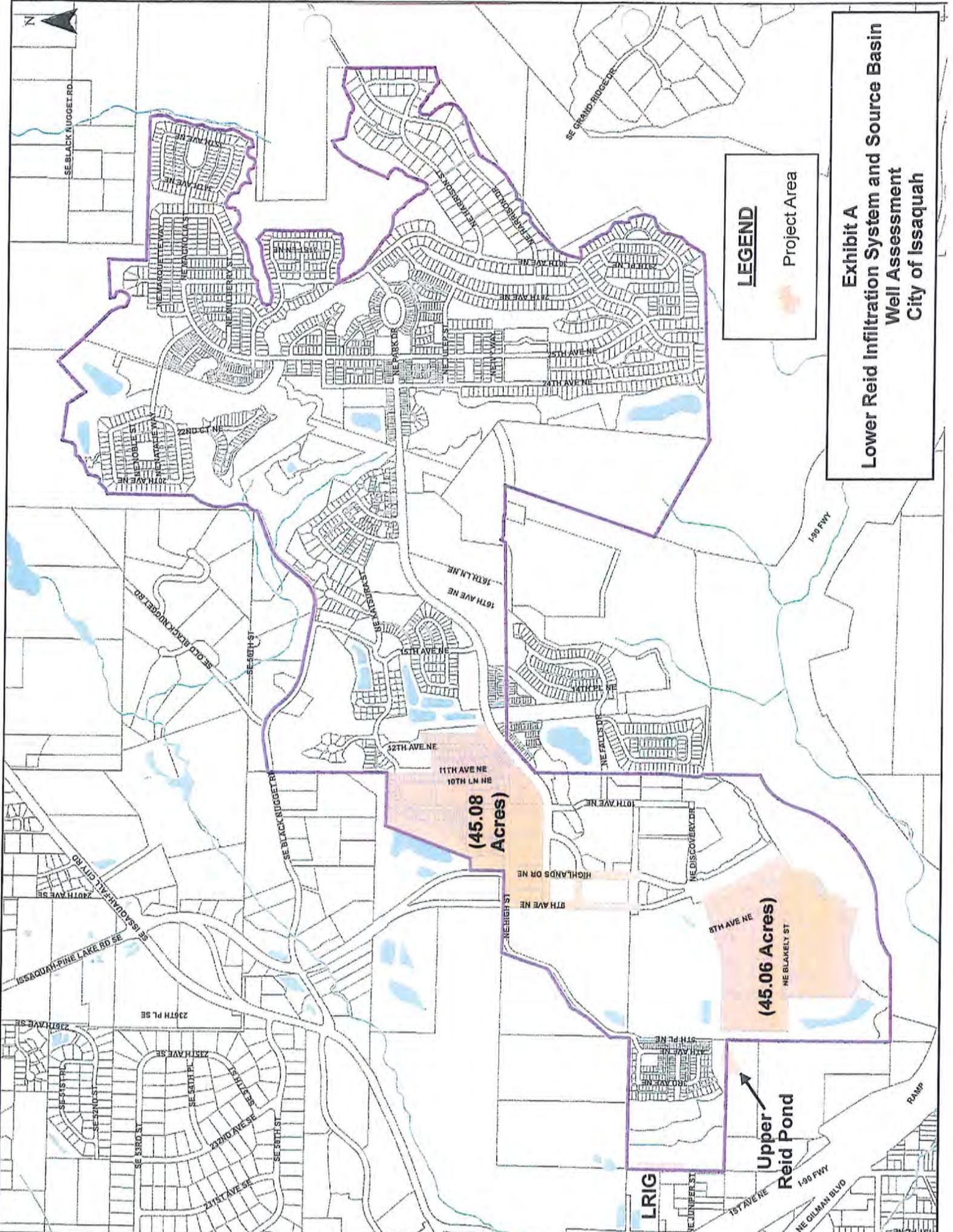
By:   
Robert Abbott, President

Dated: 3-17-14

APPROVED AS TO FORM:

By:   
John Milne

**EXHIBIT A**  
**DEPICTION OF PROJECT AREA**



**LEGEND**

 Project Area

**Exhibit A**  
**Lower Reid Infiltration System and Source Basin**  
**Well Assessment**  
**City of Issaquah**

**(45.08 Acres)**

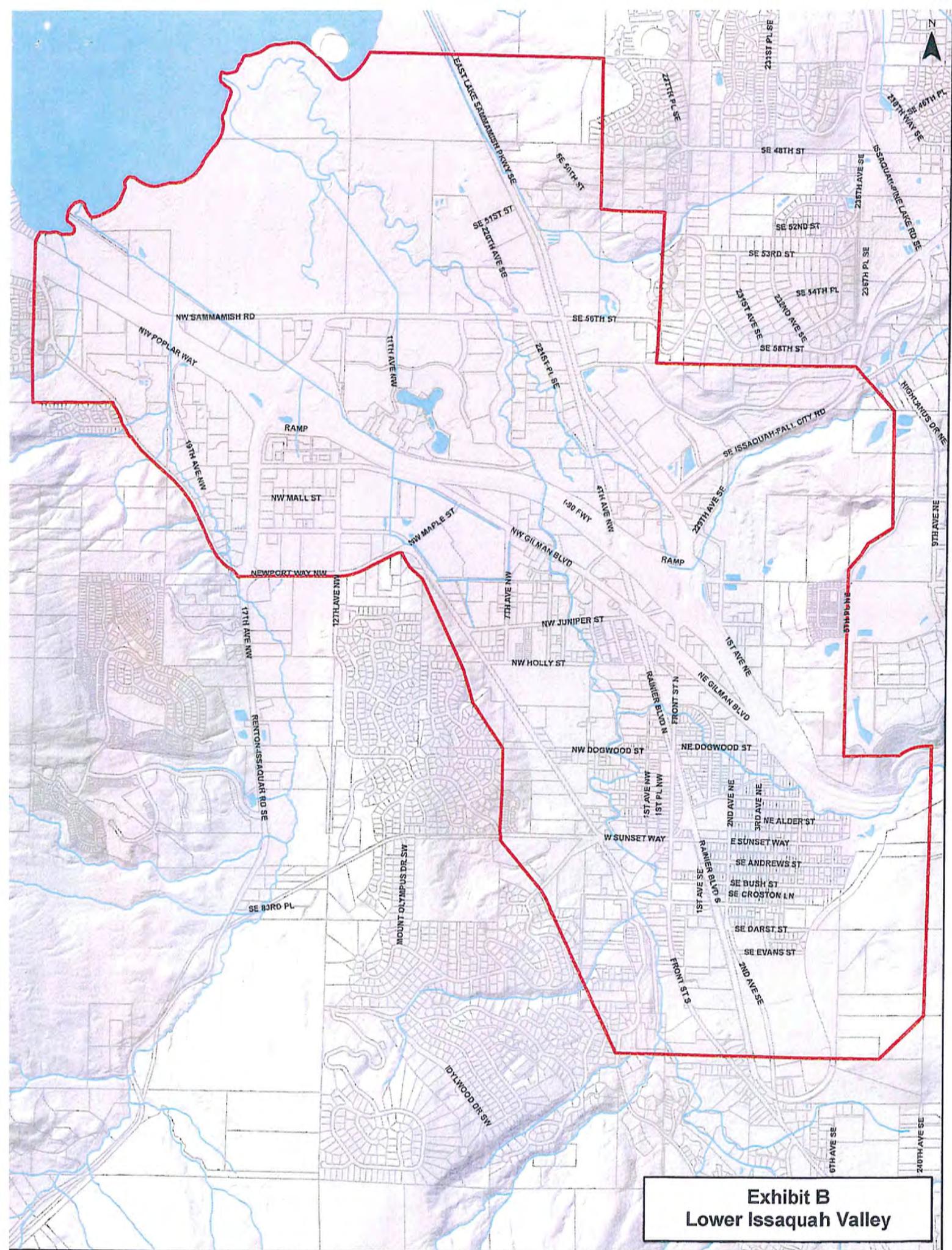
**(45.06 Acres)**

**Upper Reid Pond**

**LRIG**

SE BLACK NUGGET RD  
 SE GRAND RIDGE DR  
 I-90 FWY  
 SE SAQUAH PINE LAKE RD  
 SE SAQUAH CITY RD  
 SE 40TH AVE SE  
 SE 33RD ST  
 SE 32ND ST  
 SE 31ST AVE SE  
 SE 30TH PL SE  
 SE 29TH AVE SE  
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**EXHIBIT B**  
**DEPICTION OF LIV**



**Exhibit B**  
**Lower Issaquah Valley**

**ATTACHMENT B**

## 2014-2018 LRIG MITIGATION PROJECT LIST

This list is prepared in accordance with Sections 2.04 of the City of Issaquah / Sammamish Plateau Water and Sewer District Interlocal Agreement on Lower Reid Infiltration Gallery (LRIG) Decommissioning (City Resolution 2014-01; District Resolution #4330).

**Table 1 – Project List and Cost Summary**

Project Name	Description	Date	Estimated Cost
Mitigation Project Design	Prepare final design, specification and estimate for LRIG mitigation projects. Recommended projects were evaluated and proposed in report entitled <i>Issaquah Highlands Decommissioning of Lower Reid Infiltration Gallery (LRIG) – Mitigation Report (Mead &amp; Hunt December 2014)</i>	2015	\$50,000
Wetland NF10 low flow diversion/augmentation	New connection to system, add WQ vault and spreaders to wetland	2016-2017	\$260,000
Wetland NF18 low flow diversion/augmentation	Increase splitter baseflow, enlarge WQ swale, add flow spreaders	2016-2017	\$85,000
Wetland NF27 low flow diversion/augmentation	Increase clean water flow split, add flow spreaders	2016-2017	\$5,000
Wetland EF13 low flow diversion/augmentation	Increase clean water flow split, add flow spreaders	2016-2017	\$81,000
Wetland NF34 low flow diversion/augmentation	Increase baseflow from mixed flow pre-pond splitter, add WQ swale, add flow splitters	2016-2017	\$110,000
Contingency		2016-2017	\$63,000
Subtotal			\$654,000
2014 Expenditures	LRIG Mitigation Design, decommissioning construction contract, and LRIG Mitigation Report	2014	\$346,000
Total 2014-2018 Cost			\$1,000,000

**ATTACHMENT C**



**Issaquah Highlands  
Decommissioning of Lower  
Reid Infiltration Gallery  
(LRIG) – Mitigation Report**

**Final Report prepared for:  
City of Issaquah**

Report prepared by

**Mead  
& Hunt**

*Offices Nationwide*

*[www.meadhunt.com](http://www.meadhunt.com)*

December 2014

# Table of Contents

	Page
1.0 Introduction .....	1
2.0 Background .....	2
3.0 Methodology .....	4
3.1 Issaquah Highlands WWHM4 Model .....	4
3.2 North Fork Issaquah Creek HEC-RAS Model .....	4
3.3 Wetland Enhancements .....	4
3.4 Facility Retrofits .....	5
3.5 Creek Improvements .....	5
4.0 WWHM4 Basin Updates and Calibration .....	6
4.1 Construction Updates to 2012 Model .....	6
4.2 Data Collection .....	7
4.3 Calibration .....	8
4.4 Flow Comparison from Updated Model .....	10
5.0 North Fork Issaquah Creek HEC-RAS Model .....	11
5.1 Existing Model Files .....	11
5.2 Modeling Flows .....	12
5.3 Model Results .....	15
6.0 On-Site Mitigation – Wetland Flow Enhancement .....	18
6.1 Methodology .....	18
6.2 Project Opportunity Locations .....	18
6.3 Summary – Wetland Flow Enhancement .....	21
7.0 On-Site Mitigation – Facility Modifications .....	22
7.1 Methodology .....	22
7.2 Project Opportunity Locations .....	22
7.3 Summary – Facility Modifications .....	22
8.0 Channel Stability and Potential In-stream Mitigation .....	23
8.1 Methodology .....	23
8.2 Summary – Creek Improvements .....	23
9.0 Summary .....	25
10.0 Conclusion .....	28

## Tables

Table 1. Basin Update Parameters.....	6
Table 2. Outflows to North Fork Issaquah Creek with LRIG Online and Offline.....	10
Table 3. FIS Published Flows – North Fork Issaquah Creek.....	13
Table 4a. Revised Flow Inputs – LRIG Online.....	14
Table 4b. Revised Flow Inputs – LRIG Offline.....	15
Table 5. HEC-RAS Revised Existing Result Summary at North Fork Outfall.....	17
Table 6. Wetland Hydrology Improvement Areas.....	20
Table 7. Wetland Flow Enhancement Project Cost Summary.....	21
Table 8. Calculated Streambed Gravel Design Comparison – LRIG Online and Offline.....	24
Table 9. Summary of Project Opportunities Studied.....	25

## Figures

Figure 1. Project Area and Study Features.....	3
Figure 2. HSPF and Gaged Storm Events.....	7
Figure 3. Calibration Graphic – 6/14 – 6/15/2014 Storm Event.....	9
Figure 4. LMMP Work Map with Cross-Section and Flow Change Locations.....	12
Figure 5. Contributing Flow Areas – Updated HEC-RAS Model.....	14
Figure 6. HEC-RAS Flow Profiles – North Fork Issaquah Creek at Issaquah Highlands Outfall.....	16

## Appendices

Appendix A - Issaquah Highlands WWHM4 Modeling

Appendix B - North Fork Issaquah Creek HEC-RAS Modeling

Appendix C - Cooke Scientific Wetland Hydrology Mitigation Memo

Appendix D - Wetland Hydrology Improvement Concept Plans and Cost Estimates

Appendix E - North Fork Issaquah Creek Gradation and Bank Stabilization

## 1.0 Introduction

Issaquah Highlands is a 577-acre master planned community comprised of residential, commercial, and public developments. Initial planning and permitting began around 1996. The community is located in the northeastern part of the City of Issaquah on the Sammamish Plateau. Storm water runoff from most of the community discharges into North Fork Issaquah Creek at an outfall near the intersection of Interstate 90 and East Lake Sammamish Parkway, about 1 mile southeast of the North Fork confluence with Issaquah Creek. Other smaller portions of the community discharge to North Fork Issaquah Creek farther upstream and also to East Fork Issaquah Creek.

This report focuses on the storm system discharges into North Fork Issaquah Creek, as well as stream hydraulics of the creek upstream and downstream of the main project discharge. The City of Issaquah has signed an agreement with the Sammamish Plateau Water and Sewer District (SPWSD) to decommission the Lower Reid Infiltration Gallery (LRIG), an infiltration facility close to the main project discharge to North Fork Issaquah Creek. This facility was originally intended to provide storm water disposition through infiltration and was designed to receive 6 cfs (cubic feet per second) of peak inflow.

After the Camp Creek Landslide in 2004, the Issaquah Highlands Major Development Review Team (MDRT) studied infiltration in Development Area 4 and recommended that all infiltration be discontinued in this area except the LRIG and Microsoft facilities. Part of this recommendation was that the LRIG's capacity be increased from 6 cfs to 9 cfs. For the purposes of this study, the maximum infiltration function of the LRIG when online during the 100-year event is 9 cfs, as approved in an amendment to the development agreement.

The purpose of this study is to investigate potential hydrologic and/or hydraulic mitigation measures that will offset the decommissioning of the LRIG and the loss of that 9 cfs infiltration capacity. Project permits, including State Environmental Policy Act (SEPA) review, require that this quantity of infiltration (or an equivalent) be replaced with other storm water management controls in order to meet drainage standards and mitigate other project impacts.

## 2.0 Background

Issaquah Highlands was originally permitted in 1996. In recent years, the SPWSD has contended that the LRIG, which receives storm water from a portion of the development, was possibly contaminating the Lower Issaquah Valley Aquifer (LIVA) that a nearby SPWSD well draws from. This claim has not been substantiated but a settlement between the City of Issaquah and SPWSD has been agreed upon, which includes abandonment of the LRIG. This report evaluated modifications of existing hydrologic models to quantify potential impacts that abandonment of the LRIG might have on North Fork Issaquah Creek downstream of the main outfall and to develop storm system retrofit projects that will mitigate peak flow rate increases that will result from the abandonment.

On January 13, 2014, a memorandum of agreement (MOA) was prepared between the City of Issaquah and SPWSD. This MOA settles the dispute between the two parties. Since the MOA, an interlocal agreement (ILA) (dated March 17, 2014) has been prepared between the two parties to decommission the LRIG. As part of the ILA, SPWSD has agreed to fund up to \$1,000,000 for design, construction, and installation of new storm water management projects, facilities, or systems to manage storm water generated in the project area, including but not limited to retention/detention, water quality treatment, land acquisition for flood control, and other actions, as necessary, to mitigate the impacts of increased surface water discharge of storm water caused by the loss of groundwater infiltration at the LRIG.

Mead & Hunt has previously studied the Issaquah Highlands storm drainage system in the *Issaquah Highlands Comprehensive Storm Drainage Model 2012 Update* and *Issaquah Highlands Optimization of the Comprehensive Storm Drainage Model 2012 Update*. In the model update study, a WWHM4 (Western Washington Hydrology Model, Version 4.0) model was constructed to analyze the system using tools and storm water standards that had been updated since the original planning and construction in the mid-1990s. The tools and findings of these studies served as a starting point in the 2014 WWHM4 model update, calibration effort, and study of the LRIG decommissioning effect on outflows to North Fork Issaquah Creek.

Mead & Hunt has also previously studied the hydrology and hydraulics of North Fork Issaquah Creek for the City. Flows to this creek are affected by the function (or non-function) of the LRIG facility. An updated Hydrologic Engineering Center River Analysis System (HEC-RAS) hydraulic model based on the existing FEMA regulatory HEC-2 floodplain model was previously compiled and executed by Mead & Hunt engineers at the request of the City. This previously developed model was used as a starting point for the hydraulic study conducted to check sensitivity of upstream and downstream areas to flow change at various frequency storm events.

**Figure 1** shows the overall study area, the LRIG facility, the primary Issaquah Highlands outfall to North Fork Issaquah Creek, areas of 2014 updates to the WWHM4 model, locations where existing storm facilities might be retrofitted to obtain flow rate reductions, and locations where partial flows may be diverted from closed conveyances into wetlands. In this report it will be shown that diversion of flows to wetlands would reduce peak flows discharging to North Fork Issaquah Creek, mitigating the loss of the LRIG, and provide additional benefits such as wetland recharge, groundwater recharge, and surface water runoff volume reduction. Aspects of proposed wetland hydration mitigation strategies are discussed in more detail later in this report.



## 3.0 Methodology

To study the impacts from the LRIG decommissioning and possible mitigation measures, two distinct but related hydraulic systems were studied. First, outflows from the Issaquah Highlands development to North Fork Issaquah Creek were calculated using the updated WWHM4 model to evaluate the performance of the LRIG and on-site mitigation measures. Second, since North Fork Issaquah Creek is the downstream discharge channel and a mapped floodplain, a previously developed HEC-RAS model was used to estimate channel hydraulics and investigate whether off-site, in-stream hydraulic improvements would be beneficial mitigation measures. On-site mitigation measures were investigated, including enhancing existing wetland flows and retrofitting existing storm water management facilities. Improvements to North Fork Issaquah Creek were considered as off-site mitigation measures.

### 3.1 Issaquah Highlands WWHM4 Model

The Issaquah Highlands WWHM4 model is a continuous runoff simulation modeling platform powered by a locally calibrated Hydrological Simulation Program-Fortran (HSPF) engine. The model simulates runoff response to decades of continuously recorded rainfall data in order to capture the varying effects of back-to-back and discrete bursts of rainfall during various times of the year. WWHM4 modeling can produce statistically derived peak flows for "frequency events" such as the 100-year flood. These frequency event flow estimates were used to simulate a range of flow performance for the LRIG, and compared to published frequency event flow estimates in the project HEC-RAS hydraulic model of North Fork Issaquah Creek to investigate potential channel improvements as a result of flow change.

### 3.2 North Fork Issaquah Creek HEC-RAS Model

Updated as part of a previous task for the City, the HEC-RAS model is a steady-state step backwater model commonly used to estimate energy and water surface elevations in open channels. As part of the hydrologic and hydraulic study to support the effective FEMA regulatory floodplain mapping for North Fork Issaquah Creek, flows in the channel were estimated for the 10-, 50-, and 100-year frequency storms. These flows provided a starting point for adjustment based on estimated outflow from the Issaquah Highlands development, and extrapolation to estimated flows during more frequent events such as the 1.1- and 2-year events.

### 3.3 Wetland Enhancements

Dr. Sarah Spear Cooke, a wetland scientist, has been studying the wetlands within the Issaquah Highlands area since the development began in the 1990s. Mead & Hunt staff met with Dr. Cooke to discuss areas where, based on several years of observation, wetlands in the upper elevation portions of the development would thrive with more discharge directed to them from the storm water system. With the goal of increasing wetland hydration during a full range of storm events, opportunities to adjust existing flow splitter manholes or make new connections to draw additional flow from the existing storm system were vetted. These facilities were evaluated for their potential to meet the mitigation needs associated with the LRIG decommissioning.

### **3.4 Facility Retrofits**

The City identified retrofits to two existing storm water management facilities in the development where additional volume appears to be available as currently configured. These facilities were evaluated for their potential to meet the mitigation needs associated with the LRIG decommissioning.

### **3.5 Creek Improvements**

The North Fork Issaquah Creek HEC-RAS Model was used to evaluate the channel stability within the Creek and evaluate impacts of the LRIG decommissioning and the potential for in-stream mitigation.

## 4.0 WWHM4 Basin Updates and Calibration

The WWHM4 model developed in 2012 was updated for 2014 to reflect construction that has been observed completed or breaking ground in the study area, based on 2014 aerial photos. New development since 2012 is either complete or in progress in the West 45, Town Center, Town Center South, East 42, Burnstead, and NPE basins, as shown in **Figure 1**. Where recent construction was complete, detailed measurements in CAD mapping were used to update basin parameters. Where construction in progress was observed, build-out impervious surfaces previously established by established zoning in each basin were used to prorate full development in the selected areas into the overall basin parameters in the WWHM4 model.

One of the study goals was to improve calibration of the WWHM4 model by comparing the physically measured system response to actual storm events with the response to similar events in the HSPF synthetic rainfall record as predicted by the updated WWHM4 model. Data loggers attached to in-pipe volumetric weirs were used to measure inlet and outlet flows for selected ponds during the months of May and June 2014, with the goal of providing calibration data for adjustment of the hydrologic parameters in the WWHM4 model study area. Data was collected periodically from the loggers and compared to actual gage data from a nearby location published on the internet by Weather Underground (The Weather Channel, LLC). Once adjustments to the existing model were complete, scenarios were executed to establish outflows to North Fork Issaquah Creek from the Issaquah Highlands development in the estimated 2014 condition, with the LRIG both online and offline.

### 4.1 Construction Updates to 2012 Model

Based on aerial photos, revised impervious land uses were calculated for basins containing projects that were observed to have been recently completed. For basins where a construction project was observed to have broken ground, the fraction of the subbasin that showed construction was prorated to reflect build-out conditions, then the overall basin definition updated. **Figure 1** shows the areas where basin land use has been updated to reflect observed construction. **Table 1** provides a summary of the updates to various basins in the WWHM4 model, organized by affected land use types.

**Table 1. Basin Update Parameters**

Basin	Total	Const.	Roads	Roads	Lawn	Lawn	Dwvy	Dwvy	Roof	Roof	Sdwk	Sdwk
	Area	Area	EX	2014	Ex	2014	EX	2014	EX	2014	EX	2014
Upper Reid (Towncenter/Vista Park)	80.03	3.56	31.31	31.76	19.83	17.52	26.78	27.45	0.00	0.85	0.00	0.34
NPE	55.87	14.22	13.86	13.86	19.51	19.51	19.51	14.54	0.00	0.00	0.00	4.97
W4S	71.14	13.14	13.97	13.97	32.34	29.86	22.14	24.62	0.00	0.00	0.00	0.00
E42	57.14	2.46	18.71	18.71	32.25	31.04	6.18	6.61	0.00	0.77	0.00	0.00

## 4.2 Data Collection

In-pipe volumetric weirs were placed in the following locations to monitor flows and facility performance:

- NPE Pond Inlet
- NPE Pond Outlet
- NP2 Pond Outlet

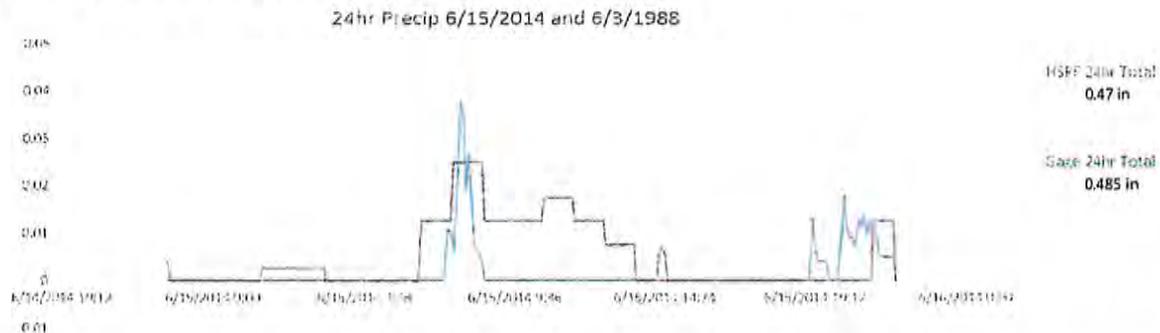
Stages in these pipes were measured from May 29, 2014 through July 10, 2014, allowing back-calculation of flows through the pipes during this period based on the volumetric weir rating tables.

The in-pipe weir at the inlet of the NPE Pond was flushed out of position during the early hours of June 13, 2014, during an early burst of rainfall just before a 0.5" precipitation event. The weir was repositioned and braced on June 25, 2014.

Precipitation data was downloaded from a rain gage located at Highland Creek Estates, which is maintained by Weather Underground. Gaged precipitation data for the periods when flows were measured was compiled and searched for measured actual rainfall events.

The HSPF precipitation time series was downloaded for the period from October 1, 1973 to September 30, 1998 from the WVHM4 model for the Sea-Tac rain gage. A storm event that began on June 2, 1988 in the HSPF time series most closely matched a measured real event (June 14, 2014 to June 15, 2014) in terms of total volume, flow intensity, and peak distribution. Preference was given to synthetic storms that occurred in the June timeframe to try to match up seasonal hydrologic conditions in the calibration comparison. **Figure 2** presents the selected 24-hour precipitation period chosen for calibration study.

**Figure 2. HSPF and Gaged Storm Events**

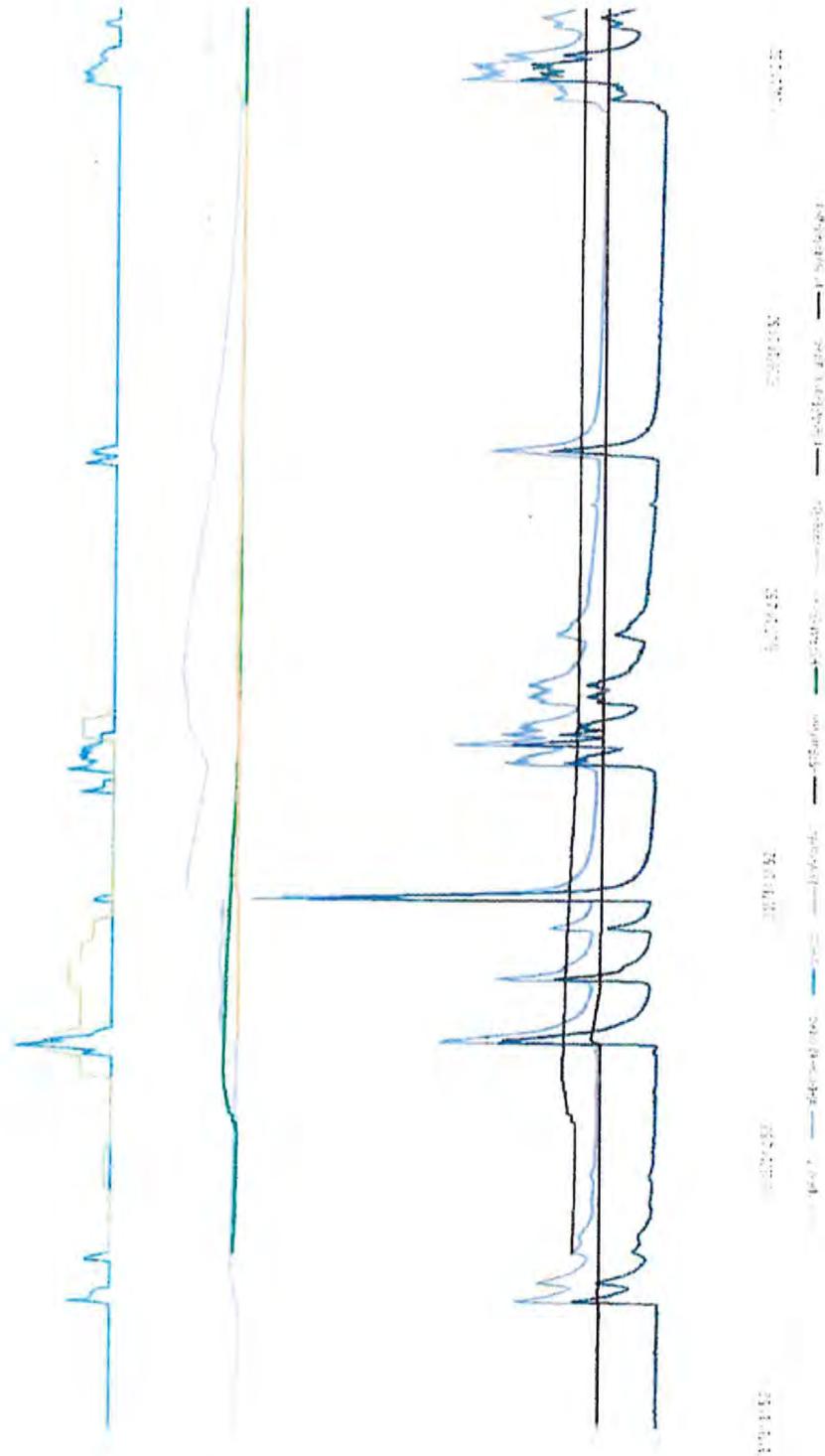


Although the inlet pipe to the NPE Pond had its weir blown out during this event, the outlet pipe data was intact, and this appeared to be the strongest available correlation storm. Unlike NP2 Pond, where inlet flows were not gaged, the weir gage data from the inlet pipe to NPE allows observation of base flows before and after the in-pipe weir was pushed out of position.

### 4.3 Calibration

The correlation between the predicted HSPF response to the synthetic storm and the real response to the actual storm showed the estimated response by the WWHM4 to be overly conservative in terms of both stage and flow for the storm analyzed. Because no events over approximately 0.5" were recorded, it was decided that calibration of peaks or recession curves to reduce modeled flows would include too large of a margin of error to be valuable, and may have yielded results that underestimated flows in larger events based on adjustment of hydrologic parameters. Therefore, no adjustments were made to the WWHM4 calibration parameters. Further flow gaging during wetter months of the year will yield data more likely to contribute to a valuable calibration exercise. In addition the time series data will be revised to use the rain gauge used to calibrate against as opposed to Seatac. **Figure 3** shows the precipitation, inlet, and outlet stages of NPE Pond used in the calibration exercise.

Figure 3. Calibration Graphic – 6/14 – 6/15/2014 Storm Event



While further calibration of the WWHM4 model would add value, use of the model's default parameters is considered to yield a sufficiently conservative estimate of flows for conveyance sizing and is also valid for capturing the interplay between storm water management facilities and the various outfalls at creek and wetland discharge points.

#### 4.4 Flow Comparison from Updated Model

Once adjustments to the existing model were complete, scenarios were executed to establish outflows to North Fork Issaquah Creek from the Issaquah Highlands development in the estimated 2014 condition, with the LRIG both online (Condition 1) and offline (Condition 2). **Table 2** illustrates the results of both conditions.

**Table 2. Outflows to North Fork Issaquah Creek with LRIG Online and Offline**

<u>Outflows to North Fork Issaquah Creek with LRIG Online / Offline</u>		
	North Fork Outflow - LRIG Online - Condition 1	North Fork Outflow - LRIG Offline - Condition 2
Return Period	(cfs)	(cfs)
2 year	22.33	28.96
5 year	26.64	34.30
10 year	29.32	37.62
25 year	33.70	41.62
50 year	36.10	44.51
100 year	38.44	47.32

As shown in this table, removal of LRIG from the system results in a 9 cfs increase in the 100-year peak discharge at the North Fork Outfall. This is expected, because this is equal to the infiltration capacity of the LRIG, and flows shunted around the LRIG go directly to the outfall. Since the LRIG discharges primarily base flow, similar increases in outfall discharge are found throughout the entire range of flow frequencies.

## 5.0 North Fork Issaquah Creek HEC-RAS Model

In order to investigate the hydraulic effects of increased flow in North Fork Issaquah Creek due to the LRIG decommissioning, a hydraulic model of the creek was needed. An existing HEC-2 floodplain hydraulic model for the creek, which was originally the basis for the FEMA Flood Insurance Study (FIS) and had previously been updated to the current HEC-RAS software standard, was the basis for developing the model for this study. While models compiled with the goal of performing a flood study contain a range of simulation flows corresponding to flooding events, they generally do not include estimates of more frequently encountered flow rates that do not necessarily cause flooding problems, but may cause channel incision and bed material transport. Additionally, the watershed footprint used to derive the original FIS flow values may not take into account changes in drainage patterns brought about by intervening development.

In the case of the North Fork Issaquah Creek watershed, the original total drainage area considered in the FIS study is slightly different from the more recently defined boundary shown on King County iMap. Additionally, neither basin boundary entirely includes the Issaquah Highlands within the basin boundary. The flow change locations coded along the length of the previous model do not reflect the addition of the main outflow to the Creek from Issaquah Highlands just upstream of the I-90 crossing.

In order to specifically study hydraulic effects of the LRIG decommissioning and develop potential mitigation measures, a revised model was needed which included revisions to the flow inputs to consider a widened range of frequent events, the additional area drawn into the basin through the Issaquah Highlands development, and the flow change in the creek that occurs at the project's main North Fork outfall. The following is a discussion of how these revisions were enacted for this study.

### 5.1 Existing Model Files

The existing condition HEC-RAS model, developed by Northwest Hydraulic Consultants for the 1995 FEMA re-study of North Fork Issaquah Creek, was used as the geometric basis for hydraulic modeling in North Fork Issaquah Creek. **Figure 4** shows the Limited Map Maintenance Project (LMMP) work map used as part of the FEMA re-study, with flow change locations on the North Fork Issaquah Creek model.



**Section 5.0**  
**North Fork Issaquah Creek HEC-RAS Model**

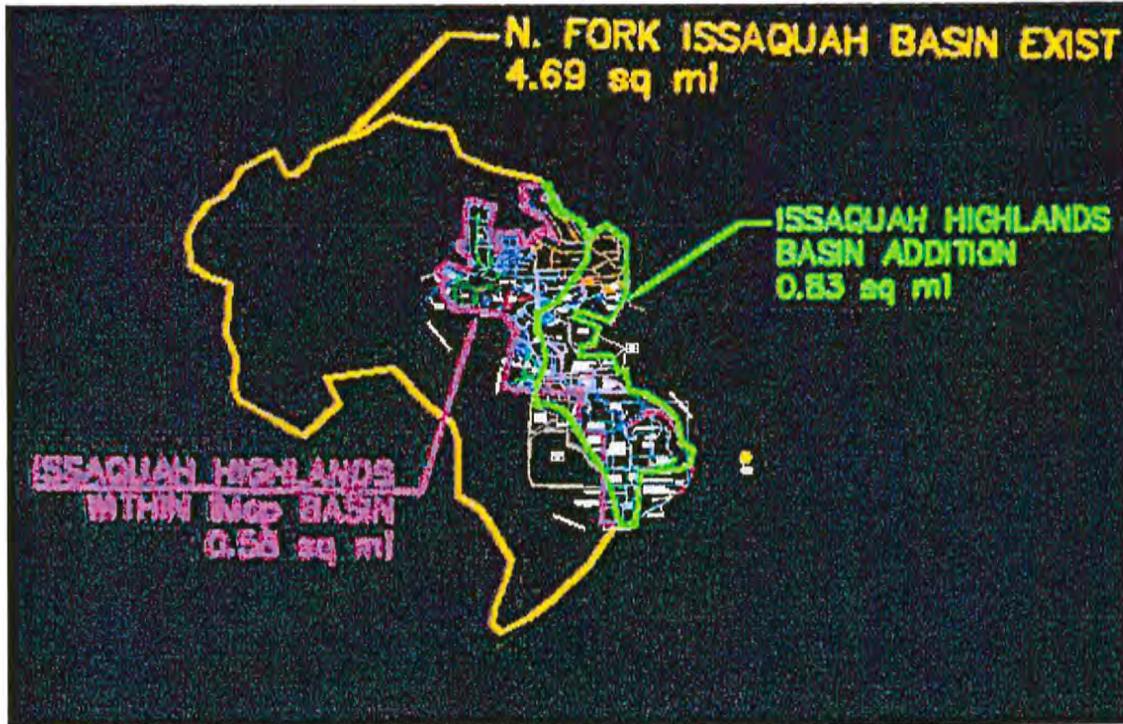
In the published FIS flows, during the 10-year event, a single flow is used throughout the entire reach of North Fork Issaquah Creek, whereas during events above 10 years, overflow from the main stem is included at lower areas of the reach. **Table 3** shows the FIS study model flows.

**Table 3. FIS Published Flows – North Fork Issaquah Creek**

<u>Flow Change Location</u>	<u>River Station</u>	<u>10-yr</u>	<u>50-yr</u>	<u>100-yr</u>	<u>Note:</u>
1	49	176	269	315	Top of reach, assumes no overflow, same as mouth for 10-yr
2	10	176	469	755	Flow change @ Section "E," SE 61st St, includes overflow from main stem above 10-year
3	6	176	489	835	Flow change @ Section "C," @ end of SE 60th St

Basin areas referenced in the effective King County FIS were compared to basin areas shown on the King County iMap drainage database. The FIS lists the drainage area as 4.8 square miles, whereas King County shows approximately 4.69 square miles. It was found that the development of Issaquah Highlands pulled an additional 0.83 square miles into the tributary area for North Forth Issaquah Creek, and 0.58 square miles are within the previously delineated drainage basin. The breakout of these areas is shown in **Figure 5**.

Figure 5. Contributing Flow Areas – Updated HEC-RAS Model



Upstream flows of the North Fork outfall were prorated to remove the fraction comprised by the Issaquah Highlands area. A new flow change location was added to the model at River Station 39, to add flows from the Issaquah Highlands North Fork outfall, as calculated by the WWHM4 model. Downstream flow increase increments from the main stem of Issaquah Creek were kept the same. An estimated flow for more frequent storm events was desired, since the majority of material transport in creeks fed by urbanized areas occurs nearer to 50% of the 2-year event, according to recent research published by the U.S. EPA. Once the published FIS flows were adjusted for the 10-, 50-, and 100-year events, they were charted at each flow change location, and regression equations were developed for the trend lines in each LRIG scenario. These equations were used to estimate flows for 50% of the 2 year and the 2-year events for the HEC-RAS model. **Tables 4a** and **4b** summarize the revised project flow inputs to the HEC-RAS model.

Table 4a. Revised Flow Inputs – LRIG Online

Freq. (yrs) River Station	Regressed Flows		Adjusted FIS Flows			Note:
	50% of 2 Year	2 Year	10 Year	50 Year	100 Year	
49	130	133	154	236	276	Top of Reach
39	157	160	184	272	314	IH-North Fork Outfall
10	112	119	184	472	754	North Fork - Sect. E
6	111	118	184	492	834	North Fork - Sect. C

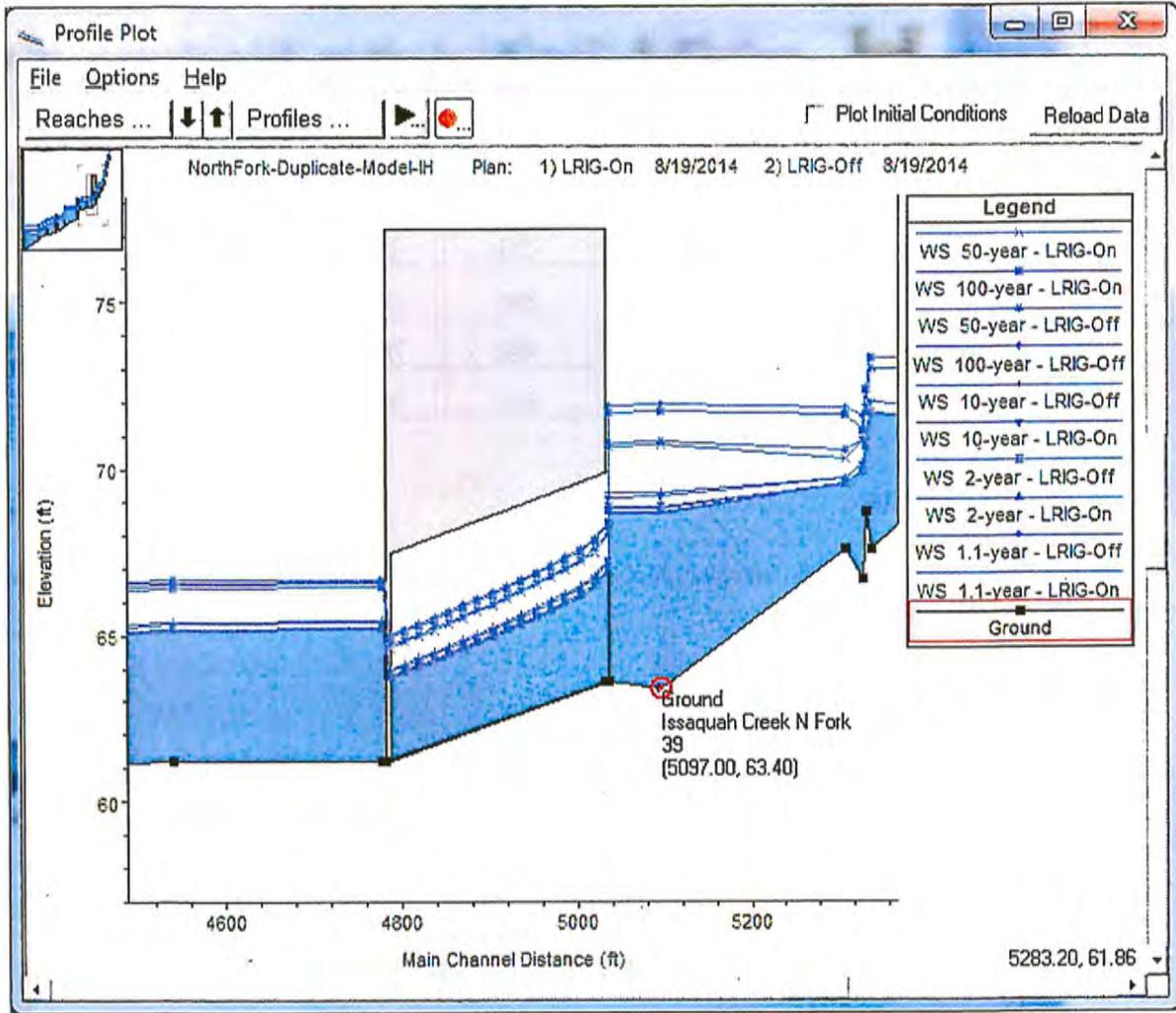
Table 4b. Revised Flow Inputs – LRIG Offline

<u>Freq. (yrs)</u> <u>River Station</u>	<u>Regressed Flows</u>		<u>Adjusted FIS Flows</u>			<u>Note:</u>
	<u>50% of 2</u> <u>Year</u>	<u>2</u> <u>Year</u>	<u>10</u> <u>Year</u>	<u>50</u> <u>Year</u>	<u>100</u> <u>Year</u>	
49	130	133	154	236	276	Top of Reach
39	166	168	192	280	323	IH-North Fork Outfall
10	120	128	192	480	763	North Fork - Sect. E
6	119	127	192	500	843	North Fork - Sect. C

### 5.3 Model Results

The HEC-RAS water surface (WS) elevation profile at the Issaquah Highlands North Fork outfall (Station 39) is shown in **Figure 6**.

Figure 6. HEC-RAS Flow Profiles – North Fork Issaquah Creek at Issaquah Highlands Outfall



The tabulated results of the project HEC-RAS modeling at Station 39 are presented in **Table 5**.

**Table 5. HEC-RAS Revised Existing Result Summary at North Fork Outfall**

Reach	River Sta	Profile	Plan	Q Total (cfs)	Min Ch El (ft)	W.S. Elev (ft)	Vel Chnl (ft/s)	Top Width (ft)
N Fork	39	50% of 2-year	LRIG-On	157	63.4	68.66	1.8	34.99
N Fork	39	50% of 2-year	LRIG-Off	166	63.4	68.83	1.81	36.05
N Fork	39	2-year	LRIG-On	160	63.4	68.72	1.81	35.35
N Fork	39	2-year	LRIG-Off	168	63.4	68.86	1.82	36.28
N Fork	39	10-year	LRIG-On	184	63.4	69.16	1.83	38.11
N Fork	39	10-year	LRIG-Off	192	63.4	69.3	1.84	39.01
N Fork	39	50-year	LRIG-On	272	63.4	70.7	1.88	50.83
N Fork	39	50-year	LRIG-Off	280	63.4	70.84	1.88	53.81
N Fork	39	100-year	LRIG-On	314	63.4	71.73	1.76	73.1
N Fork	39	100-year	LRIG-Off	323	63.4	71.95	1.73	77.99

The results of the revised modeling show that in all simulated events, unmitigated additional flows from the LRIG decommissioning cause the water surface elevation to rise 0.1–0.2', the top width of the water surface to increase 3–4', and the average channel velocity to increase by 0.01 ft/sec at the lower end of the flow range and decrease by 0.03 ft/sec in the 100-year event. The rise in water surface elevation dissipates upstream at River Station 43 (Section "U" as shown on **Figure 4**). The rise in water surface elevation reduces to 0.1' just downstream of the I-90 culvert and dissipates completely by River Station 8 (Section "D" as shown on **Figure 4**). In areas where the 100-year flows exceed the ordinary channel, the modeled width of the floodplain dissipates the effect of the additional flow such that the rise is only a few hundredths of a foot and the floodplain width only expands by a few feet. In general, the modeled increase in flow of an unmitigated decommissioning of the LRIG does not appear to have significant flooding impacts. This is because of the relatively small increase in flows—approximately 5% during the 2-year event and 3% at the 100-year event.

## 6.0 On-Site Mitigation – Wetland Flow Enhancement

The wetland areas identified within the Issaquah Highlands that could benefit from additional flow augmentation are primarily in the upstream (higher elevation) areas of the development's drainage area. A strategy proposed to mitigate outflows in response to abandoning the LRIG is to direct more base flow and primary runoff flows to those wetlands that have been identified as lacking sufficient hydrology.

Dr. Cooke worked with Mead & Hunt staff to identify areas where wetlands have at times over the year been observed to be under-hydrated. Based on estimates of flow at various points in the Issaquah Highlands during various storm events obtained from the WWHM4 model, Mead & Hunt engineers investigated the feasibility of making new connections or altering existing connections to the development's conveyance system to direct more storm flow to the identified potential wetland augmentation areas. These connections would divert storm water that has been treated either by existing storm water ponds or will be treated by new treatment vaults that would be designed as part of this process.

### 6.1 Methodology

At each location that showed potential for wetland flow augmentation, the estimated flow available to divert was checked based on the WWHM4 modeling results, and the feasibility of new connections was checked based on City of Issaquah system map invert elevations, knowledge of the areas from field observations, and King County iMap published topography. Initial designs were developed at six locations where it appears feasible to draw additional flows from the system to the wetlands/stream corridors. The method used to demonstrate mitigation for the removal of the LRIG was to match the 50 year cumulative daily volume that was infiltrated with the cumulative volume of the additional flow to the wetlands. This method was determined to be the most accurate method as peak flows in WWHM are determined using regression for return periods and therefore introduce error when an attempt is made to mathematically combine them. Each conceptual design took into account the new connection point or adjustment to the existing conveyance system, preliminary layout of new drainage features, the target discharge increase at that location, and planning level cost for that particular project. Dr. Cooke evaluated each location with field observations and provided recommendations for refinement at each location, which are summarized in **Appendix C**.

### 6.2 Project Opportunity Locations

Initially the following six wetlands as shown in **Figure 1** were identified as potential project areas:

1. NF10 above Pole Creek
2. NF18 along southeastern edge
3. NF27 by N1 Pond
4. EF13 west of South Pond
5. EF23 below College Road
6. NF34 along eastern edge below Falls Pond

**On-Site Mitigation – Wetland Flow Enhancement**

Upon further detailed analysis of the site infrastructure, wetland site EF23 was determined to no longer be a practical option as this storm pipe for the flow diversion is approximately 30 feet deep and located behind a retaining wall. Concept plans and cost estimates have been developed for the remaining five locations where increasing base flows to wetlands is predicted to yield mitigation benefits for reducing flows at the North Fork outfall while also benefiting wetland health through augmenting the post development flows that have been observed by Dr. Cooke to be reduced over pre-development conditions. A description of each modification is described in **Table 6** and concept plans and cost estimates are included as **Appendix D**. The flow values used in the tables are approximations and will be determined precisely upon actual full project design.

## On-Site Mitigation – Wetland Flow Enhancement

Table 6. Wetland Hydrology Improvement Areas

<u>Existing Wetland</u>	<u>Inflow Source(s) - Current</u>	<u>Current Configuration</u>	<u>Proposed Modification</u>	<u>Approximated Discharge Flow Increase (100-year)</u>	<u>Preliminary Cost</u>	<u>Cost/cfs of flow (100-year)</u>
NF 10	Direct roof connections - Basin NPE	Piping directly from downspouts	Add splitter just upstream of NPE Pond, add WQ vault and dispersion piping with lateral spreaders	2.0 cfs	\$260,000	~\$80,000
NF 18	South Basin via flow splitters	South Pond baseflow Splitter #1 + swale	Increase baseflow from Splitter #1, augment existing swale and flow spreaders as necessary	2.5 cfs	\$85,000	~\$34,000
NF 27	Clean water flow spreader - N1 Pond Cell 1; currently designed for .25 cfs	Low flows directed to flow spreader	Modify flow split to increase primary (wetland) discharge limit, add additional flow spreaders	1.5 cfs	\$5,000	~\$3,300
EF 13	South Pond outlet flow spreader (clean water)	South Pond outlet splitter feeds low flows	Modify flow split to increase primary (wetland) discharge limit, add flow spreaders	2.0 cfs	\$81,000	~\$40,500
NF 34	Minor orifice flow of mixed (clean and dirty) Falls Pond main inflows, emergency overflow from Falls Pond	Mixed flow-downturned elbow with 0.5" orifice, birdcage emergency outflow	Increase baseflow from final pre-pond mixed-flow splitter into NF 34 with treatment	2.0 cfs	\$110,000	~\$55,000

### 6.3 Summary – Wetland Flow Enhancement

Based on this review, it is concluded that the runoff volume from the decommissioned LRIG can be feasibly mitigated through increased baseflow discharge to wetlands that have been identified as prime candidates to receive additional hydration. This mitigation strategy will benefit the ecological health of the wetlands within the Issaquah Highlands development. A summary of the anticipated flow mitigation flow rate and conceptual cost for each wetland area is included in **Table 7**.

**Table 7. Wetland Flow Enhancement Project Cost Summary**

<b>Wetland Project</b>	<b>Approximated 100 yr Flow Rate Mitigation</b>	<b>Time Series Volume (Acre-Ft)</b>	<b>Conceptual Cost</b>
Wetland NF 10	2.0 cfs	5,970	\$260,000
Wetland NF 18	2.5 cfs	12,543	\$85,000
Wetland NF 27	1.5 cfs	2,284	\$5,000
Wetland EF 13	2.0 cfs	3,073	\$81,000
Wetland NF 34	2.0 cfs	7,400	\$110,000
<b>Totals</b>	<b>10 cfs</b>		<b>\$541,000</b>

## **7.0 On-Site Mitigation – Facility Modifications**

Another potential strategy to mitigate for the decommissioning of the LRIG by reducing outflows to North Fork Issaquah Creek, the City identified retrofits to two existing storm water management facilities in the development: the W4 ponds and the Area 4 flow splitter, which could direct more flow to the Upper Reid Pond, where additional volume appears to be available as currently configured.

### **7.1 Methodology**

Primarily based on the methodology of the previous Optimization Study, the WWHM4 model was used to simulate modifications to the Upper Reid Pond outflow control structure and the associated Area 4 splitter connection. Modifications to the W4 ponds were considered through modification of the outflow structure as well as increase in the cell volume.

### **7.2 Project Opportunity Locations**

Storage in the W4 ponds, Cell 4, could potentially be increased by excavating additional volume. This would allow this facility, with flow control modifications, to reduce peak discharges from this pond. The cost of this over-excavation will vary depending on the amount of flow attenuation but could range from \$50,000 to \$100,000, including modification of the flow control structure.

Another potential on-site mitigation measure to reduce flows at the North Fork outfall is modification of the Area 4 flow splitter. By opening the 12-inch gate valve that conveys high flows from the Falls Pond high flow splitter into the Upper Reid Pond via the Area 4 flow splitter, the Upper Reid Pond's available volume could be used to manage a larger portion of drainage flows from the development and effect a net reduction in flow, which may assist in mitigating for the decommissioning of the LRIG. This modification to the function of the Area 4 splitter will be mainly an operational change but may require improvement of the existing valves, conveyance, and outfall features. Estimated cost would be in the range of \$25,000 to \$50,000.

### **7.3 Summary – Facility Modifications**

Modifications to existing facilities may assist in part in achieving flow mitigation for the decommissioned LRIG facility. Adding volume at desired locations and making minor adjustments to flow splitting and outlet control at selected facilities is a way to assist with the overall flow reduction strategy. However, these facility changes are being proposed as part of a separate initiative to improve performance of the Issaquah Highlands storm water system. The City has stated that other mitigation options should be identified to offset the loss of the LRIG.

## 8.0 Channel Stability and Potential In-stream Mitigation

Osborn Consulting, Inc. (Osborn) was retained to evaluate the channel stability within North Fork Issaquah Creek as a result of the LRIG decommissioning for consideration of off-site mitigation within the creek. As an additional option to wetland baseflow augmentation and facility modifications, mitigation of upstream or downstream hydraulic impacts through stabilization projects was considered. The range of flow increases up to 9 cfs during various frequency events from an unmitigated decommissioning of the LRIG, and their effects on the stages, velocities, and flow widths within the channel were evaluated to determine the effects on bed material transport.

### 8.1 Methodology

Osborn has completed their analysis which compares stable sediment distribution within the channel for the scenarios with the LRIG online and offline. To do this, the creek system was broken up into four segments corresponding to the HEC-RAS flow change locations, and the analysis was performed for several river stations within each segment.

The potential for loss of the LRIG causing a change in bed sediment distribution is based on the streambed gravel design method and roughened channel design outlined in Chapter 3 of the *2013 Water Crossing Design Guidelines* (Washington Department of Fish and Wildlife [WDFW]). The analysis steps were as follows:

1. Calculate the 84th percentile sediment diameter ( $D_{84}$ ) based on channel slope, channel width, and 100-year flow at various river stations using the unit-discharge bed design – Bathurst equation.
2. The calculated  $D_{84}$  and the provided channel flow depth were compared against Table 3-1 in the WDFW *2013 Water Crossing Design Guidelines*. Table 3-1 displays predicted water depth,  $D_{84}$  and slope relations based on Paleohydraulic analysis performed by J.E. Costa. Using the average depth and the average channel slope, Table 3-1 identified a  $D_{84}$ . These  $D_{84}$  were consistently higher than those identified during Step 1. So the  $D_{84}$  determined in this step were considered the maximum values of  $D_{84}$  required for the site.
3. The resulting values of  $D_{84}$  were compared for the two scenarios: LRIG online and LRIG offline.
4. Ratios were applied to  $D_{84}$  to calculate  $D_{100}$ ,  $D_{50}$ , and  $D_{16}$  resulting in a streambed gravel gradation that represents a natural sediment distribution. Results were plotted to show the predicted range of sediment distribution throughout the creek.

The assessment prepared by Osborn is included as **Appendix E**.

### 8.2 Summary – Creek Improvements

**Table 8** presents the results of the gradation study.

Table 8. Calculated Streambed Gravel Design Comparison – LRIG Online and Offline

Summary of $D_{84}$		
---------------------	--	--

LRIG On		
Flow, cfs	$D_{84}$ Average, feet	$D_{84}$ Max. feet
276	1.00	3.00
314	0.20	2.00
754	0.20	2.50
834	0.20	1.50

LRIG Off		
Flow, cfs	$D_{84}$ Average, feet	$D_{84}$ Max. feet
276	1.00	3.00
323	0.20	2.00
763	0.20	2.50
843	0.20	1.50

These initial results indicate that the proposed LRIG offline condition will not result in a measureable change in the bed sediment distribution compared to the LRIG online condition. Both scenarios predicted the same  $D_{84}$ . Additional field assessment is necessary to confirm if the actual sediment distribution is within the predicted range (via pebble count) and if channel conditions appear stable (look for signs of erosion). If field assessment finds signs of instability, recommendations for improved channel stability will be made.

## 9.0 Summary

Mitigation for decommissioning the LRIG was studied through three strategies: existing pond volume optimization, addition of wetland enhancement features, and improvements to the channel in North Fork Issaquah Creek. This study work was based on updates to published land uses and creek flows to the extent possible, and builds on optimization studies previously performed for the Issaquah Highlands system. The following is a summary of the areas of study and findings as of this report, with additional details summarized in **Table 9**.

**Table 9. Summary of Project Opportunities Studied**

Location	Proposed Modification	Peak Flow Goal	Project Benefits	Estimated Project Cost
Wetland NF 10	New connection to system, add WQ vault and spreaders to wetland	2.0 cfs	Decreases project outfalls to North Fork Issaquah Creek, improves wetland ecology	\$260,000
Wetland NF 18	Increase splitter baseflow, enlarge WQ swale, add flow spreaders	2.5 cfs	Decreases project outfalls to North Fork Issaquah Creek, improves wetland ecology	\$85,000
Wetland NF 27	Increase clean water flow split, add flow spreaders	1.5 cfs	Decreases project outfalls to North Fork Issaquah Creek, improves wetland ecology	\$5,000
Wetland EF 13	Increase clean water flow split, add flow spreaders	2.0 cfs	Decreases project outfalls to North Fork Issaquah Creek, improves wetland ecology	\$81,000
Wetland NF 34	Increase baseflow from mixed flow pre-pond splitter, add WQ swale, add flow splitters	2.0 cfs	Decreases project outfalls to North Fork Issaquah Creek, improves wetland ecology	\$110,000
W4 Ponds Cell 4	Increase pond volume, modify flow control structure	3.4 cfs	Increases storage capacity and attenuation of peak flows	\$50,000– \$100,000
Area 4 Splitter	Open valve to direct high flows from Falls Pond to Upper Reid Pond, improve outfall at Upper Reid Pond	9.3 cfs	Allows Upper Reid Pond to manage inflows from Falls Pond during high flow events	\$25,000– \$50,000

#### WWHM4 Model Update and Calibration

Land use updates to the WWHM4 model were made based on observations of construction activity between 2012, the last time the model was updated, and 2014. Calibration data was gathered during the spring of 2014 at two of the detention pond facilities in the development, and a correlation was attempted between real measured rainfall events and historic rainfall events, which are coded into the WWHM4 model. Study of measured flow data for calibration of the model did not appear to contain significant enough storm events to justify adjustment to the hydrologic calculation parameters within the model. Revised outflows to North Fork Issaquah Creek were determined for the revised condition with the LRIG both online and offline. This analysis confirmed that the loss of infiltration capacity at the LRIG would result in a corresponding increase in discharge at the North Fork Outfall—about 8–9 cfs throughout the range of flow frequencies.

#### HEC-RAS Model Preparation

A hydraulic model of North Fork Issaquah Creek was needed in order to investigate potential downstream impacts from a decommissioning of the LRIG if it was not supported by hydrologic mitigation within the Issaquah Highlands drainage basin. While the physical parameters of the existing HEC-RAS model used in a previous study were not altered, flow inputs were changed to add another flow change point at the North Fork outfall from the Issaquah Highlands. Flows originally derived from the FEMA FIS were used as a basis for the flows used in the hydraulic modeling. These flows were adjusted based on revised basin delineation since construction of the Issaquah Highlands development, and regression equations were developed to estimate more frequent flows than those defined in the FIS study. The model was executed with the revised set of flows, which showed that the water surface, velocity, and bankful width effects of the LRIG decommissioning appear to be fairly minor at the North Fork outfall, resulting in increased 100-year flow elevations on the order of 0.1–0.2' downstream of the outfall.

#### On-Site Mitigation – Wetland Flow Enhancement

Areas in the upper elevations of the Issaquah Highlands development were studied to see if existing wetlands could benefit from additional storm water flow drawn from the development's storm water conveyance system. An experienced wetland biologist, Dr. Cooke, has monitored the health of these wetlands for several years and was consulted regarding where additional storm water flow might be beneficially directed. Six wetland areas were identified and studied for potential new or additional inflow, conceptual designs were developed to implement additional watering of the wetlands, and planning-level costs were assigned to each project.

Depending on location and configuration, the cost to implement varies by location, amount of flow sought to be diverted, and whether the storm water flows are considered "clean" or require water quality treatment. The total cost to provide mitigation for LRIG decommissioning using this strategy is about \$541,000.

#### On-Site Mitigation – Facility Modifications

Modifications to select existing facilities were considered as possible ways to assist in mitigating for increased flows from the LRIG decommissioning. Adding capacity to the W4 ponds and making adjustments to the Area 4 flow splitter were identified as areas where potential projects would be desirable to the City. The additional volume in the W4 ponds would allow for varying increases in flow attenuation depending on

**Mead&Hunt**

amount excavated. The Area 4 splitter would direct high flows from the Falls Pond to the Upper Reid Pond to take advantage of storage capacity that does not appear to be utilized based on current modeling. The costs of these modifications are expected to range from \$25,000 to \$100,000, depending on desired outflow reduction from this measure. However, these improvements have been identified under a separate project to improve the operation and performance of the Issaquah Highlands storm water system, and therefore are not recommended for LRIG mitigation unless other options are not available.

Off-Site Mitigation – Creek Improvements

The HEC-RAS model developed for the project was given to Osborn Consulting in order to perform a local study of bank instability and/or potential bed degradation, which could potentially be triggered by a change in flows resulting from the LRIG decommissioning. Initial study findings indicate that the design stable channel gradation is the same for both the LRIG online and LRIG offline conditions. Additional field assessment may indicate signs of current instability, at which point recommendations for improved channel stability will be made.

## 10.0 Conclusion

It appears that the 9 cfs that was originally discharged to the LRIG during the 100-year event is most effectively mitigated through increased discharge to selected upstream wetlands within the study area. Additional wetland discharges would not only help mitigate additional outflow but also assist in maintaining the beneficial ecology and aesthetics of the development area. Additional flow mitigation, if needed, can also be achieved through previously identified facility modification projects. Opportunities to adjust facilities have been studied thoroughly in recent years, and selected facility modifications have been discussed recently with the City. However, these facility modifications are intended to address other watershed enhancements and are, therefore, less desirable to provide the needed mitigation for this project. Hydraulic improvement projects upstream and downstream within the North Fork Issaquah Creek channel are expected to provide nominal benefit as it is expected that the impacts from the LRIG decommissioning will have a nominal effect on the channel hydraulics and stability. It is entirely possible that there might be isolated areas along North Fork Issaquah Creek that would benefit from stabilization improvements, but this was not part of the analysis for the report.

The general conclusion of this report is that on-site mitigation measures, primarily through wetland hydrology augmentation, will likely be able to effectively reduce or eliminate the increase in peak outflow to North Fork Issaquah Creek brought about by the decommissioning of the LRIG.

## AGREEMENT

This Agreement (“Agreement”) is made by and between the City of Issaquah, Washington (“Issaquah” or “City”), and the Sammamish Plateau Water and Sewer District (“District”) (individually a “Party” and collectively the “Parties”) for the purposes set forth below.

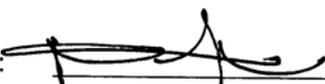
Whereas, the Parties have entered into a Memorandum of Agreement (“MOA”) dated January 13, 2014 which sets forth certain commitments agreed upon by the Parties, and

Whereas, pursuant to that MOA, and in consideration of the terms and conditions set forth herein, the Parties agree as follows:

1. If Issaquah determines to proceed with an assumption of all or part of the District and its property and utility facilities located within Issaquah under Chapter 35.13A RCW, or to allow or to consent to another city proceeding with the assumption of all or part of the District and its property and utility facilities located within Issaquah, within 10 years of March 17, 2014, pursuant to RCW 35.13A.070, Issaquah agrees to only do so with the consent of the District and based on a process and schedule agreed to by the Parties. Provided, the City shall have the right to proceed with a unilateral attempt to assume the District immediately after the expiration of such ten-year period. Beginning no later than year three (3) of the ten-year period, the Parties will undertake three-party discussion, including the City of Sammamish, regarding governance and utility service delivery options relative to the District, Issaquah, and Sammamish. As part of such discussions, the Parties agree to promptly and in good faith provide and disclose non-exempt public records to facilitate the discussion and study process.
2. The District shall not take any formal position with respect to Issaquah’s proposed annexation of the Klahanie PAA relative to the February 11, 2014 election. The District further agrees not to publicly respond to Issaquah’s August 2013 Assumption Study of the District (“Assumption Study”) nor to release any report on the Assumption Study unless required to do so as a matter of law. The City agrees the Assumption Study will not be used in the future with respect to any assumption of all or any portion of the District.
3. The Parties agree to resolve all outstanding claims regarding public records act disputes, agree to withdraw existing public records requests, and mutually waive all claims for alleged violation of the public records act. The City and the District shall bear their own costs and fees associated with those requests and related disputes.
4. Within forty eight (48) hours of the Effective Date of this Agreement, the District shall remove its signs referencing the District’s web site [www.letstalkaboutourwater.org](http://www.letstalkaboutourwater.org), decommission such web site, and de-link such web site from the District’s general web site and remove all related links from the District’s general web site.

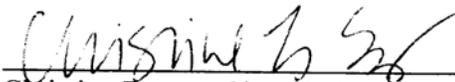
5. This Agreement is made under, and shall be governed by and construed in accordance with the laws of the State of Washington. Venue and jurisdiction of any lawsuit involving this Agreement shall exist exclusively in state and federal courts in King County, Washington. If either Party breaches or threatens to breach this Agreement, the other Party shall be entitled to seek all legal, injunctive or other equitable relief. All terms and conditions of this Agreement shall be subject to enforcement in an action for specific performance.
6. This Agreement shall be effective on the date by which both Parties have executed this Agreement ("Effective Date").
7. This Agreement may be executed in counterparts, each of which shall be deemed an original and with the same effect as if the Parties had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.
8. The Parties represent and warrant this Agreement has been duly approved and authorized by their respective legislative authorities, that each Party has the full power and authority to enter into this Agreement and to carry out the actions required of them by this Agreement, and all persons signing this Agreement in a representative capacity represent and warrant they have the full power and authority to bind their respective municipal entities.

CITY OF ISSAQUAH

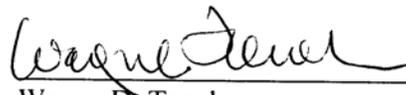
By:  \_\_\_\_\_  
Fred Butler, Mayor

Dated: 1/21/14

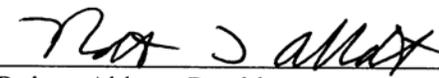
ATTEST:

By:  \_\_\_\_\_  
Christine Eggers, City Clerk

APPROVED AS TO FORM:  
OFFICE OF CITY ATTORNEY:

By:  \_\_\_\_\_  
Wayne D. Tanaka

SAMMAMISH PLATEAU WATER  
& SEWER DISTRICT

By:  \_\_\_\_\_  
Robert Abbott, President

Dated: 1-21-14

APPROVED AS TO FORM:

By:  \_\_\_\_\_  
John Milne

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is made by and between the Sammamish Plateau Water and Sewer, a municipal corporation ("District") and the City of Issaquah, a municipal corporation ("Issaquah") (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

### RECITALS

A. Issaquah has applied to the State of Washington Department of Ecology ("Ecology") for a permit to discharge stormwater from approximately 81 acres within the Issaquah Highlands development ("Project Area") into the Lower Reid Infiltration Gallery ("LRIG") and from the LRIG into the ground in the Lower Issaquah Valley ("LIV"). The District maintains public water supply wells in the Lower Issaquah Valley Aquifer ("LIVA") located down gradient of the LRIG which provide approximately fifty (50) per cent of the District's water supply.

B. The Parties, together with City of Sammamish representatives, have undertaken a process in good faith to address the disposition of stormwater from the Project and have agreed to decommissioning of the LRIG and to provide additional funding for stormwater management within the Project Area which the Parties feel will address the objectives and concerns of all of the Parties regarding the disposition of the Project Area stormwater.

C. The purpose of this Agreement is to describe the commitments agreed upon by the Parties.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual considerations contained in this Agreement, the Parties agree as follows:

1. This Agreement shall be signed by authorized representatives of the Parties by Monday, January 13, 2014, or shall have no further force or effect. The execution of this Agreement will require the Parties to negotiate an Interlocal Agreement (ILA) which will provide for the decommissioning of the LRIG and funding for the management of stormwater within the Project Area. A draft ILA shall be prepared no later than February 18, 2014, for consideration and final action and approval by the City Council and District Board of Commissioners no later than March 17, 2014, or this Agreement with respect to the ILA shall have no further force and effect.

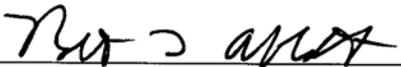
2. The Parties also agree to prepare a separate contractual agreement which shall be approved by the District Board of Commissioners and the City Council and executed by duly authorized representatives by January 21, 2014, fully incorporating the terms and conditions in Paragraph No's 8, 10, 11 and the further provision that the District agrees not to publically respond to the City's August 2013 Assumption Study of the District ("Assumption Study") or release any report on the Assumption Study unless required to do so as a matter of law.
3. The District shall fund up to \$1,000,000.00 for the decommissioning of the LRIG and funding for management of stormwater within the Project Area. The District's funding for decommissioning the LRIG will be available to reimburse Issaquah once the District has approved plans to decommission the LRIG and the LRIG has been decommissioned. The balance of the funding commitment from the District up to a total of \$1,000,000 will be available to reimburse invoices submitted by the City for stormwater management projects within the Project Area.
4. Issaquah shall decommission the LRIG in 2014 in accordance with an agreed schedule as set forth in the ILA. The City agrees to decommission the LRIG in a manner acceptable to the District that will render the LRIG inoperable for injection or infiltration of stormwater as set forth in the ILA. The City further agrees that it will not re-commission the LRIG to inject or infiltrate stormwater at the LRIG without the written approval of the District.
5. Issaquah shall own and assume sole operational and maintenance responsibility for any additional stormwater treatment or management facilities within the Project Area and related structures and piping.
6. This Agreement is not contingent on any monitoring or reporting requirements; any such requirements would be outside this Agreement and subject to the City's Phase II Municipal Stormwater Permit for Western Washington ("Phase II Permit"). The District agrees it will not appeal the City's permit to discharge stormwater under the Phase II Permit or otherwise challenge the City's discharge of stormwater from the Project Area to surface water.
7. Issaquah agrees not to inject or infiltrate stormwater from the Project Area to the LRIG site or to another site within the Lower Issaquah Valley and will withdraw its application to DOE for a Washington State waste discharge permit within ten (10) days of the execution of the ILA.

8. The Parties agree if Issaquah determines to proceed with an assumption of all or part of the District and its property and utility facilities located within Issaquah under Chapter 35.13A RCW, or to allow or to consent to another city proceeding with the assumption of all or part of the District and its property and utility facilities located within Issaquah, within ten (10) years of the effective date of the ILA, Issaquah agrees to only do so with the consent of the District and based on a process and schedule agreed to by the Parties. Provided, the City shall have the right to proceed with a unilateral attempt to assume the District immediately after the expiration of such ten-year period. Beginning no later than year three (3) of the ten-year period, the Parties will undertake three-party discussions, including Sammamish, regarding governance and utility service delivery options relative to the District, Issaquah, and Sammamish. As part of such discussions, the Parties agree to promptly and in good faith provide and disclose non-exempt public records to facilitate the discussion and study process.
9. The District agrees to dismiss its pending appeal regarding the Phase II Permit presently before the PCHB and further agrees to waive any and all claims related to the LRIG as long as the LRIG site is not used to inject or infiltrate stormwater. The release and waiver of claims regarding the City's proposed wastewater discharge permit for the LRIG will be mutual and each Party agrees to bear its own fees and costs.
10. The District will not take any formal position with respect to the City's proposed annexation of the Klahanie PAA area relative to the February 11, 2014 election.
11. The Parties agree to resolve all outstanding claims regarding public records act disputes, withdraw existing public records requests, and shall mutually waive all claims and each bear their own costs and fees, associated with those requests and related disputes. The Assumption Study will not be used in the future.
12. The Parties agree that any press release regarding this Agreement shall be jointly approved and shall clearly state that the terms of this Agreement are in anticipation of and contingent upon the execution of an ILA between the Parties. Following the mutual execution of an ILA as referenced in Section 1 above, the Parties will issue a joint press release regarding the resolution of the issues addressed in the ILA, the contents of which the Parties shall mutually agree to. Neither Party will issue a press release or communicate with news services regarding the issues addressed in the ILA that deviates from the agreed-upon terms of the joint press release. Within 48 hours of execution of the separate agreement described in Paragraph 2 above, the District shall also remove its signs referencing the District's web site [www.letstalkaboutourwater.org](http://www.letstalkaboutourwater.org), decommission such web site, and de-link such web site from the District's general web site and remove all related links from the District's general web site.

13. The Parties agree that all terms and conditions of the ILA and the non-assumption agreement described in Paragraph 2 above shall be subject to enforcement in an action for specific performance.

14. The above Recitals are incorporated by reference herein and made part of this Agreement.

SAMMAMISH PLATEAU WATER AND SEWER DISTRICT

By: 

Its: Board of Commissioners President

Dated: 1/13/2014

CITY OF ISSAQUAH

By: 

Its: Mayor

Dated: 1/13/2014

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**AGREEMENT BETWEEN BELLEVUE AND CITY  
OF ISSAQUAH REGARDING THE ASSUMPTION  
OF SOUTH COVE AND GREENWOOD POINT (2015)**



**RESOLUTION NO. 2015-14**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, ACCEPTING THE INTERLOCAL AGREEMENT BETWEEN CITY OF BELLEVUE AND CITY OF ISSAQUAH AS THE NOTICE OF INTENT TO PETITION FOR ASSUMPTION OF UTILITIES FOR THE AREA KNOWN AS SOUTH COVE AND GREENWOOD POINT, PROVIDING FOR THE ASSUMPTION WATER AND SEWER SERVICES FROM THE CITY OF BELLEVUE, AND AUTHORIZING THE MAYOR TO SUBMIT A NOTICE OF INTENTION FOR CITY OF BELLEVUE WATER AND SEWER UTILITIES BOUNDARY ASSUMPTION APPLICATION TO THE WASHINGTON STATE BOUNDARY REVIEW BOARD OF KING COUNTY.

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WHEREAS, the City of Issaquah, Washington, and the City of Bellevue have entered into an Interlocal Agreement, Exhibit A, that sets forth a cooperative relationship for Issaquah's assumption of the water and sewer services, which serves as mutual consideration for each party, for the area generally known as South Cove and Greenwood Point and described and identified in the site map in Exhibit A; attached hereto and incorporated by this reference as if set forth in full; and

WHEREAS, the City Council has decided and advised the City of Bellevue that the City of Issaquah will accept the proposed assumption of the water and sewer services, in accordance with the Interlocal Agreement; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

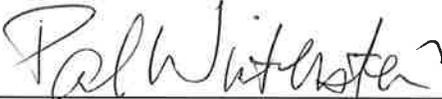
Section 1. That the City Council accepts the proposed assumption of water and sewer services as generally described in Exhibit A.

Section 2. All property within the territory hereby sought to be assumed shall have water and sewer service provided by the City of Issaquah.

Section 3. The Mayor is hereby authorized and directed to submit the required Notice of Intent for the City of Bellevue Water and Sewer Utilities Boundary Assumption to the Washington State Boundary Review Board for King County. The Notice of Intent shall be filed as soon as may be practicable (but not longer than 180 days) after the City receives the signed Interlocal Agreement referenced in Section 1 from the City of Bellevue.

PASSED by the City Council of the City of Issaquah the 3rd day of August, 2015.

APPROVED:

  
\_\_\_\_\_  
PAUL WINTERSTEIN, COUNCIL PRESIDENT

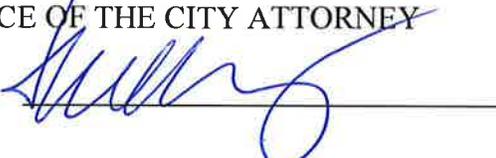
Approved by the Mayor of the City of Issaquah the 3rd day of August, 2015.

  
\_\_\_\_\_  
FRED BUTLER, MAYOR

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK, CHRISTINE EGGERS

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By:   
\_\_\_\_\_

RESOLUTION NO. 2015-14 (AB 6844)

Exhibit A:  
Bellevue/Issaquah Interlocal Agreement regarding the Water and Sewer Utilities  
Assumption of South Cove and Greenwood Point

**WATER AND SEWER UTILITY ASSUMPTION AGREEMENT  
BETWEEN  
CITY OF BELLEVUE AND CITY OF ISSAQUAH**

**THIS AGREEMENT** is made by and between the City of Bellevue, a municipal corporation, in King County, Washington (“Bellevue”), and the City of Issaquah, a municipal corporation, in King County, Washington (“Issaquah”) for the purposes set forth herein.

**RECITALS**

WHEREAS, the City of Bellevue assumed the King County Water District No. 97 which provided water service in the South Cove and Greenwood Point areas in 1973; and

WHEREAS, the City of Bellevue assumed the Eastgate Sewer District which provided sewer service in the South Cove and Greenwood Point areas on December 31, 1994; and

WHEREAS, the City of Issaquah annexed the South Cove/Greenwood Point areas on March 2, 2006; and

WHEREAS, the City of Bellevue continues to provide water and sewer service for the South Cove and Greenwood Point areas despite those areas being annexed into the City of Issaquah; and

WHEREAS, the Cities of Issaquah and Bellevue entered into an Interlocal Agreement in June 2014 in which both cities agreed to cooperatively work together and to negotiate in good faith terms regarding existing capital facilities, joint use facilities where appropriate and shared costs associated with the assumption of utilities by the City of Issaquah; and

WHEREAS, the Cities have completed their negotiations related to the assumption of the water and sanitary sewer utilities in the South Cove/Greenwood Point area within the City of Issaquah; and

WHEREAS, the Cities of Issaquah and Bellevue wish to enter into this agreement to set forth the terms for assumption of the water and sanitary sewer utilities in the South Cove/Greenwood Point area;

NOW, THEREFORE, the Cities of Issaquah and Bellevue agree as follows:

Section 1: The City of Bellevue agrees to:

- A. Support the assumption of its water and sanitary sewer utilities within the South Cove/Greenwood Point area, as shown in Attachment A, by the City of Issaquah.

- B. Transfer its responsibilities to the City of Issaquah associated with providing water and sanitary sewer service to the South Cove/Greenwood Point area, effective January 1, 2017 or at such time as the Issaquah's billing system has been upgraded and is fully operational, whichever date is later (the "Assumption Effective Date").
- C. Transfer its water and sanitary sewer utility assets located within the South Cove/Greenwood Point area, including any necessary easements, to Issaquah at no cost by the Assumption Effective Date.
- D. As of the Assumption Effective Date, wheel Cascade Water supply through Bellevue's water Utility to the South Cove/Greenwood Point Area under the terms of the Amendment to the existing Water Facilities Agreement between City of Bellevue and City of Issaquah, dated September 9, 2005.
- E. Within 2 years of the Assumption Effective Date, coordinate with Issaquah on the installation of pressure reducing valve station along the 12-in water main at 4500 W Lake Sammamish Pkwy to improve fire flows and increase pressures in the South Cove/Greenwood Point area and the upstream water service area in Bellevue. Bellevue shall pay for fifty percent (50%) of the project cost of installing the PRV station, inclusive of the cost for designing and constructing the underground vault structure and lid, pressure reducing valve, and site preparation/restoration. Issaquah shall pay for one hundred percent (100%) of the cost for any telemetry systems to connect the PRV to Issaquah's supervisory control and data acquisition (SCADA) system.
- F. As of the Assumption Effective Date, operate its systems such that the operating hydraulic grade line ("HGL") is maintained at a minimum of 248 feet (NAVD88) at the two interties at approximately the following locations:

4210 181ST AVE SE  
4316 W LAKE SAMMAMISH PKWY SE

Within two years of the Assumption Effective Date, Bellevue shall increase the HGL in the water system west of the new Pressure Reducing Valve (PRV) station at 4500 W Lake Sammamish Parkway, such that the operating HGL is maintained at approximately 270 feet (NAVD88) at the two intertie locations.

If additional operational changes are being planned that could impact pressure or flows then Bellevue shall work with Issaquah to mitigate such changes to ensure proper service levels are maintained in the South Cove/Greenwood Point area, unless Issaquah's water system is hydraulically disconnected from Bellevue's system. If capital improvements are necessary to maintain the pressures and flows, the two agencies will work together in good faith to determine how the costs of such facilities will be paid.

- G. Transfer to Issaquah within 15 days of the Assumption Effective Date, \$93,370 from its Water Utility Capital Renewal and Replacement Fund and \$157,574 from its Sanitary Sewer Utility Capital Renewal and Replacement Fund representing an equitable amount attributable to transferring the aging assets.
- H. As of the Assumption Effective Date, provide drinking water supply at the interties that meet all local, state, and federal water quality standards for drinking water. If an issue of water quality arises that potentially affects the intertie locations, Bellevue will notify Issaquah’s Operations Department at (425) 837 – 3470 and work with Issaquah for appropriate actions.
- I. Transfer all utility billing information and maintenance records as of the Assumption Effective Date to Issaquah.
- J. As of the Assumption Effective Date, water and sewer service to the Issaquah addresses below are Issaquah’s responsibility but will remain connected to Bellevue’s water system or downstream sanitary sewer system, unless Issaquah makes system modifications to route flows through Issaquah’s system.

Issaquah Addresses Which Flow into Bellevue’s Sewer System

4233 182ND AVE SE, ISSAQUAH  
 4261 182ND AVE SE, ISSAQUAH  
 18126 SE 42ND PL, ISSAQUAH  
 18131 SE 42ND PL, ISSAQUAH  
 18135 SE 42ND PL, ISSAQUAH  
 18136 SE 42ND PL, ISSAQUAH  
 18139 SE 42ND PL, ISSAQUAH  
 18144 SE 42ND PL, ISSAQUAH  
 18145 SE 42ND PL, ISSAQUAH  
 18151 SE 42ND PL, ISSAQUAH  
 18156 SE 42ND PL, ISSAQUAH  
 18160 SE 42ND PL, ISSAQUAH  
 18217 SE 43RD CT, ISSAQUAH  
 18220 SE 43RD CT, ISSAQUAH  
 18221 SE 43RD PL, ISSAQUAH  
 18223 SE 43RD CT, ISSAQUAH  
 18224 SE 43RD PL, ISSAQUAH  
 18226 SE 43RD CT, ISSAQUAH  
 18227 SE 43RD PL, ISSAQUAH  
 18229 SE 43RD CT, ISSAQUAH  
 18230 SE 43RD PL, ISSAQUAH  
 18232 SE 43RD CT, ISSAQUAH

Issaquah Addresses Connected to Bellevue’s Water System

18153 SE 41ST LN, ISSAQUAH

18233 SE 43RD PL, ISSAQUAH  
18235 SE 43RD CT, ISSAQUAH  
18236 SE 43RD PL, ISSAQUAH  
18239 SE 43RD PL, ISSAQUAH  
4230 181ST PL SE, ISSAQUAH  
4234 181ST PL SE, ISSAQUAH  
4240 181ST PL SE, ISSAQUAH  
4241 181ST PL SE, ISSAQUAH  
4248 181ST PL SE, ISSAQUAH  
4249 181ST PL SE, ISSAQUAH  
4256 181ST PL SE, ISSAQUAH  
4257 181ST PL SE, ISSAQUAH  
4263 181ST PL SE, ISSAQUAH  
4264 181ST PL SE, ISSAQUAH  
4266 182ND AVE SE, ISSAQUAH  
4269 181ST PL SE, ISSAQUAH  
4304 182ND PL SE, ISSAQUAH  
4310 182ND AVE SE, ISSAQUAH  
4313 182ND PL SE, ISSAQUAH  
4321 182ND PL SE, ISSAQUAH  
4326 182ND PL SE, ISSAQUAH  
4329 182ND PL SE, ISSAQUAH  
4320 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH (Includes 4316-4356)  
4337 182ND PL SE, ISSAQUAH  
4343 182ND PL SE, ISSAQUAH  
4402 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH  
4404 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH  
4406 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH  
4410 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH  
4412 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH  
4416 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH  
4418 W LAKE SAMMAMISH PKWY  
SE, ISSAQUAH

Issaquah will read the meters and bill its water and sewer rates for these addresses. Issaquah recognizes that as these meters receive services from Bellevue but are in Issaquah's jurisdiction, that Issaquah will be responsible for

the Cascade Water Alliance purchased water costs and/or for the King County Wastewater Treatment Division wastewater treatment costs, for these addresses.

Should Issaquah receive service-related complaints from these addresses it will notify Bellevue of the complaint and Bellevue will promptly investigate its system if warranted and coordinate with Issaquah for Bellevue's response, unless Issaquah makes system modifications to route the water and/or sewer flows through Issaquah's system.

Bellevue and Issaquah shall seek to connect new or redeveloped customers to their respective water and sewer systems, to the extent feasible. Where infeasible, Bellevue and Issaquah shall work cooperatively to provide water and sewer service through connections to the others' water and sewer systems.

- K. By the Assumption Effective Date, install meters at the two intertie locations in accordance with Bellevue design and operation standards. The meters shall be capable of monitoring and recording flow in both directions. Issaquah shall pay for one hundred percent (100%) of the project cost for designing and installing the meter vaults and lids, the flow meters, communications equipment, and site preparation/restoration.
- L. Continue billing and collection of Direct Facility Connection Charges and Capital Recovery Charges from properties located within the assumption area as applicable.

Section 2: The City of Issaquah agrees to:

- A. Take over the responsibilities associated with providing water and sanitary sewer service to the South Cove/Greenwood area by the Assumption Effective Date.
- B. Within 2 years of the Assumption Effective Date, install a pressure reducing valve (PRV) station along the 12-in water main at 4500 W Lake Sammamish Pkwy to improve fire flows and increase pressures in the South Cove/Greenwood Point area and the upstream water service area in Bellevue. Issaquah shall pay for fifty percent (50%) of the project cost of installing the PRV station, inclusive of the cost for designing and constructing the underground vault structure and lid, pressure reducing valve, and site preparation/restoration. Issaquah shall pay for one hundred percent (100%) of the cost for any telemetry systems to connect the PRV to Issaquah's supervisory control and data acquisition (SCADA) system.
- C. As of the Assumption Effective Date, provide water and/or sewer services to the Bellevue addresses below that will be served by Issaquah's water system or Issaquah's downstream sanitary sewer system, unless Bellevue makes system modifications to route the flows through Bellevue's system.

Addresses Connected to Issaquah's

Addresses Connected to Issaquah's

Sewer System

18110 SE 41ST LN, BELLEVUE  
18130 SE 41ST LN, BELLEVUE  
18131 SE 41ST LN, BELLEVUE  
4300 W LAKE SAMMAMISH PKWY  
SE, BELLEVUE

Water System

4300 W LAKE SAMMAMISH PKWY  
SE, BELLEVUE

Bellevue will read the meters and bill its water and sewer rates for these addresses. Bellevue recognizes that as these meters receive services from Issaquah but are in Bellevue's jurisdiction, that Bellevue will be responsible for the Cascade Water Alliance purchased water costs and for the King County Wastewater Treatment Division wastewater treatment costs for these addresses.

Should Bellevue receive complaints from these addresses, it will notify Issaquah of the complaint and Issaquah will promptly investigate its system if warranted and coordinate with Bellevue for Issaquah's response, unless Bellevue makes system modifications to route the water and/or sewer flows through Bellevue's system.

Bellevue and Issaquah shall seek to connect new or redeveloped customers to their respective water and sewer systems, to the extent feasible. Where infeasible, Bellevue and Issaquah shall work cooperatively to provide water and sewer service through connections to the others' water and sewer systems.

- D. Assume responsibility for all project costs associated with future system modifications to separate Issaquah's water and sewer customers from Bellevue's water and sewer systems.
- E. Coordinate with Bellevue on the installation of meters at the interties at the time which they are being installed. Issaquah shall pay for one hundred percent (100%) of the project cost for designing and installing the meter vaults and lids, flow meters, communications equipment, and site preparation/restoration. The meters shall be designed and installed by Bellevue.
- F. Provide bi-monthly water consumption data to Bellevue until meters are installed at the interties, for purposes of determining the amount of Cascade Water supply wheeled through Bellevue's water Utility to the South Cove/Greenwood Point Area
- G. If an issue of water quality arises that potentially affects the intertie locations, Issaquah will notify the Bellevue Operations Department at (425) 452 – 7840 and work with Bellevue for appropriate actions.

Section 3: Contracts

- A. Any latecomers agreements or other outstanding contracts for properties or facilities within the assumption area shall be assigned to Issaquah on the Assumption Effective Date.

#### Section 4: Term and Termination

- A. This Agreement shall remain in effect in perpetuity, unless otherwise terminated as provided herein.
- B. Any party may terminate this Agreement prior to the Assumption Effective Date by providing thirty (30) days written notice to the other parties.

#### Section 5: Indemnification and Hold Harmless.

Each party to this Agreement agrees to protect, defend, indemnify and hold harmless the other party and their officers, employees and agents from any loss, claim, judgment, settlement or liability, including costs and attorney's fees, arising out of and to the extent caused by the negligent acts or omissions of the indemnifying party related to activities under this Agreement. For this purpose, each indemnifying party, by mutual negotiation, hereby waives, as respects all other non-indemnifying parties only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the any non-indemnifying party incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this Section, all such fees, expenses and costs shall be recoverable from the indemnifying party. This section shall survive the termination of this Agreement.

#### Section 6: General Provisions

- A. Governing Law; Forum. The Agreement will be governed by the laws of Washington and its choice of law rules. Venue for any dispute arising out of this Agreement shall be in King County, Washington.
- B. Severability. If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- C. Nonwaiver. Any failure to enforce strict performance of any provision of this Agreement will not constitute a waiver of the right to subsequently enforce such provision or any other provision of this Agreement.
- D. No Assignment. Neither the Agreement nor any of the rights or obligations of any party arising under the Agreement may be assigned, without the other

party's prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.

- E. Force Majeure. None of the parties shall be deemed in default hereunder and none shall be liable to the others if any party is substantially unable to perform its obligations hereunder by reason of any fire, earthquake, flood, tsunami, hurricane, epidemic, accident, explosion, strike, riot, civil disturbance, act of public enemy, embargo, war, military necessity or operations, act of God, any municipal county, state or national ordinance or law, any executive or judicial order, or similar event beyond such party's control.
- F. Notices. All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth below:

City of Bellevue: Deputy Director  
Utilities Department  
450 110<sup>th</sup> Ave NE  
Bellevue, WA 98004

City of Issaquah: Director  
Public Works Engineering Department  
City Hall Northwest  
1775 12<sup>th</sup> Ave NW  
P.O. Box 1307  
Issaquah, WA 98027

Any party may change its address specified in this paragraph by giving the other written notice in accordance with this paragraph.

- G. Legal Fees. In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.
- H. Counterparts. The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

Approved as to Form  
Bellevue Legal Counsel

CITY OF BELLEVUE (“Bellevue”)

By \_\_\_\_\_  
Its \_\_\_\_\_  
Dated \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_  
Dated \_\_\_\_\_

Issaquah Legal Counsel

CITY OF ISSAQUAH (“Issaquah”)

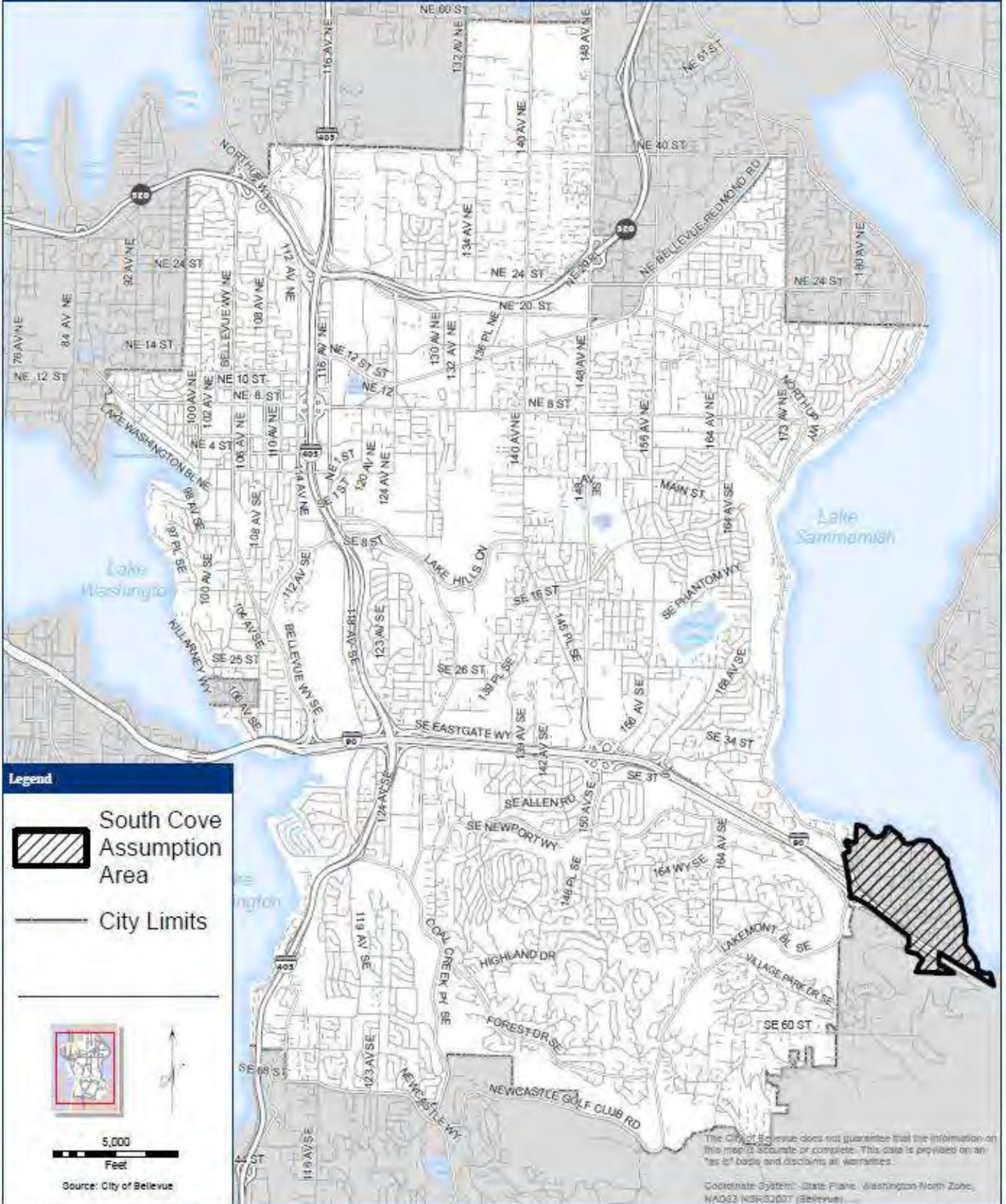
By \_\_\_\_\_  
Its \_\_\_\_\_  
Dated \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_  
Dated \_\_\_\_\_

ATTACHMENT A  
ASSUMPTION AREA MAPS

# City of Bellevue Vicinity

## South Cove Assumption



The City of Bellevue does not guarantee that the information on this map is accurate or complete. This data is provided on an "as-is" basis and disclaims all warranties.

Coordinate System: State Plane, Washington North Zone, NAD83 (NAD832007 (Bellevue))





Exhibit B: Legal Description

That portion of Sections 18, 19 and 20, Township 24 North, Range 6 East, W.M., King County, Washington, described as follows:

Beginning at a point on the Southwesterly shoreline of Lake Sammamish, said point bears North 01°19'41" East from a point on the North line of Timber Lake Lane, as recorded in Volume 103 of Plats, Pages 16-18, a distance of 154.56 feet Westerly from the Northeast corner of Lot 30 of said plat, said point being on the Bellevue city limits as annexed under Ordinance No. 5277;

Thence along said Bellevue city limits the following courses:

Thence South 01°19'41" West to said point on the North line;

Thence North 88°59'22" West along the North line of Lots 31, 32 and 33 of said plat to the East line of Lot 34 of said plat;

Thence Northerly along said East line to the Southerly most corner of Lot 51 of said plat;

Thence Northwesterly along the Southwest line thereof to the Easterly most corner of Lot 50 of said plat;

Thence Southwesterly along the Southeast line thereof and the Southeast line of Lot 49 of said plat to the Northeast corner of Lot 48 of said plat;

Thence Southeasterly along the Northeast line thereof and the Northeast line of Lot 46 of said plat to the Northwest line of Tract E of said plat;

Thence Northeasterly along said Northwest line to the Northerly most corner of said Tract E;

Thence Southeasterly along the Northeast line thereof to the Easterly most corner of said Tract E;

Thence Southwesterly along the Southeast line thereof to the East margin of SR 901, as shown on SR 90 MP 7.71 to MP 11.73, Richards Road to Lake Sammamish, Right of Way and Limited Access Plan, sheets 10 and 11, dated June 12, 1969;

Thence Southerly along said East margin to an angle point 90.00 feet opposite SR 901 Station 102+00;

Thence Southerly along a line 90 feet Easterly of and parallel with the SR 901 Line to the Southerly limited access line of SR 90, as shown on said Right of Way and Limited Access Plan;

Thence, leaving said Ordinance No. 5277 and following Bellevue Ordinance No. 4789, Southeasterly along said limited access line to the Easterly Bellevue city limits in said Section 18 as described in said Ordinance No. 4789;

Thence South 11 15' 01" West 547.48 feet to a point on said city limits;

Thence South 09°57'07" West 159.87 feet;

Thence South 19 40' 53" East 519.68 feet to a point on the South line of said Section 18, said point being 595.00 feet Easterly of the Southwest corner of said

Section 18, said point also being on the Issaquah city limits as annexed under Ordinance No. 1881;

Thence leaving said Bellevue city limits and following said Issaquah city limits the following courses:

Thence Easterly along said South line to its intersection with the Southwesterly margin of SE Newport Way;

Thence Southeasterly along said Southwesterly margin to its intersection with the East line of the West 99.00 feet of Government Lot 1 of said Section 19;

Thence, leaving said Ordinance No. 1881 and following Issaquah Ordinance No. 1880 Northerly along said East line to the Northeasterly margin of said SE Newport Way ;

Thence, leaving said Ordinance No. 1880 and following Issaquah Ordinance No. 1018 to the East line of said section;

Thence Northerly along said East line to its intersection with the Northerly margin of SR 90;

Thence North 58 32' 30" West along said Northerly margin 59.78 feet;

Thence North 59°27'00" East 75.58 feet;

Thence North 20°57'00" East 117.14 feet;  
Thence North 54°21'00" East 146.11 feet;  
Thence North 73°01'30" East 157.79 feet to the shore of Lake Sammamish in Government Lot 6 of said Section 20;  
Thence, leaving said Issaquah city limits, Northwesterly and Westerly along said Southwesterly shoreline of Lake Sammamish to the Point of Beginning;

TOGETHER with all adjacent shorelands;

EXCEPT that portion of the Southwest Quarter of Section 18, Township 24 North, Range 6 East, W.M. in King County, Washington described as follows:

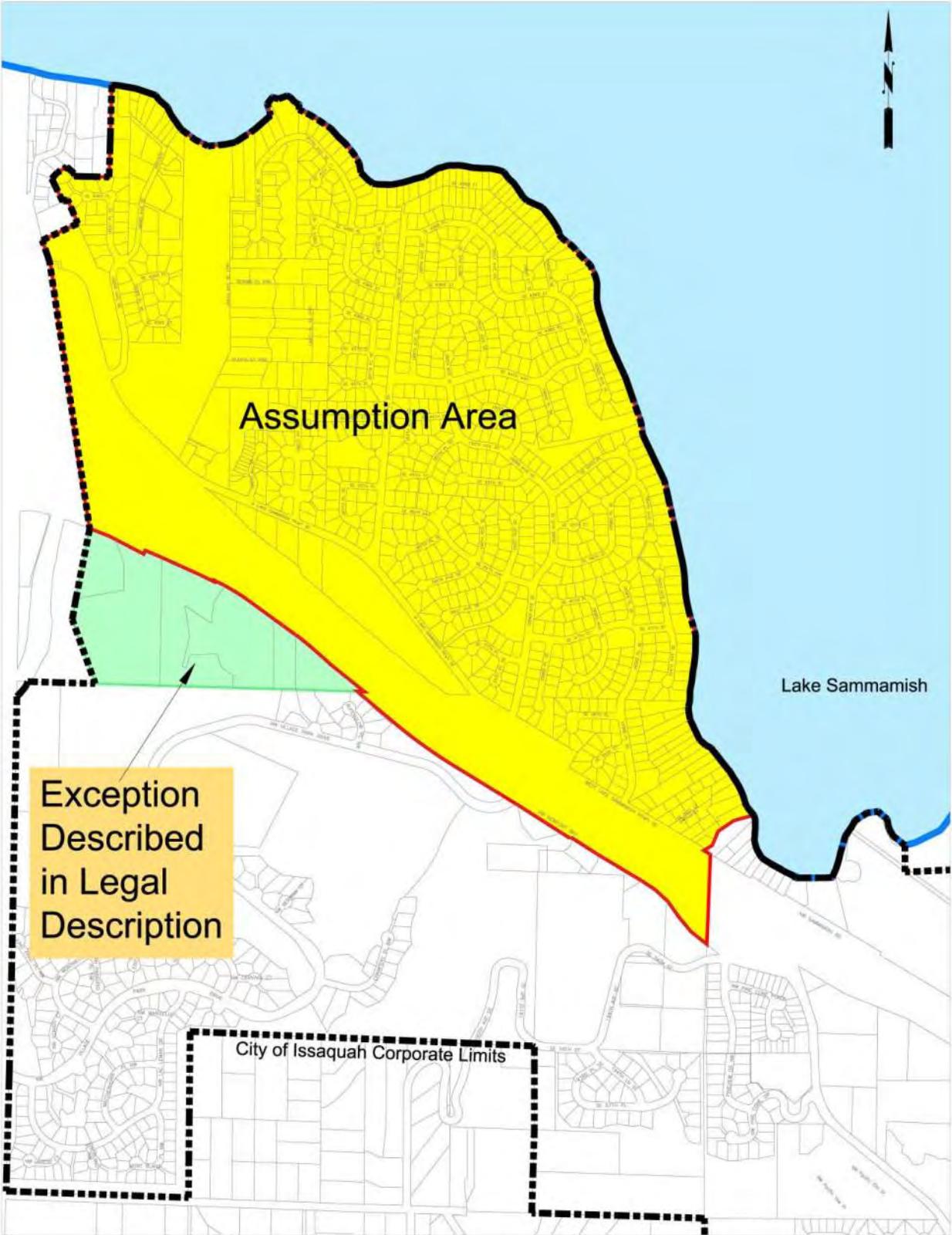
Beginning at the intersection of the easterly limits of the City of Bellevue as described in City of Bellevue Ordinance 4789 with the southerly margin of SR 90 as shown on the SR 90 MP 7.71 to MP 11.73, Richard Roads to Lake Sammamish, Right of Way and Limited Access Plans, Sheets 9 and 10 of 25, dated June 12, 1969;  
Thence along said easterly limits of the City of Bellevue the following courses and distances:  
Thence South 11° 15' 01" West 547.48 feet to an angle point in said easterly limits;  
Thence South 09°57'07" West 159.87 feet to an angle point in said easterly limits;  
Thence South 19° 40' 53" East 519.68 feet to a point on the South line of said Section 18, said point being 595.00 feet Easterly of the Southwest corner of said Section 18, said point also being on the Issaquah city limits as annexed under Ordinance No. 1881;  
Thence easterly along the south line of said of Section 18 to said southerly margin of SR 90;  
Thence northwesterly along said margin to the Point of Beginning.

Note: The bearings shown herein were taken from the referenced documents and may not necessarily be on the same basis of bearing.

Note: This legal description was originally prepared for the City of Issaquah by Perteet Inc. and revised by the City of Issaquah to included changes requested on March 22, 2005 by the King County DOT Engineering Services Division. The legal description was revised again on March 25, 2015 to exclude a portion of the assumption area. The exception legal description was prepared by Triad. The legal description prepared by Perteet, Inc. was not verified by Triad.



3/25/15



DISTRIBUTION SCHEDULE  
City of Issaquah

FINAL STEP  
Original Filed in  
Clerk's Records Room

Resolution No. 2015-14

AB 6844

DATE:

Subject: Accepting Interlocal Agreement between City of Bellevue and City of Issaquah as the Notice of Intent to petition for assumption of utilities for the area known as South Cove and Greenwood Point

08/03/2015 Date passed by City Council  
08/03/2015 Signed by Mayor  
08/03/2015 Signed by Council President  
08/03/2015 Signed by City Clerk

Electronic copies of executed document distributed as follows: Date Completed:

MRSC (per RCW 35A.39.010) – email notification 8-18-15  
Code Publishing Website n/a  
Originating Department: Name, Dept Sheldon Lynne, PWE  
Other: None n/a  
Website Posting (iCompass) 8-19-15

Hard copies of executed document distributed as follows:

Other: none  
Certified Copies: 0  
Total photocopies needed 0

(Reviewed by City Clerk ell) (Date 8/18)

mpw  
Maria Portugal-Woodey, Support Services Specialist

8-19-15  
Date

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**WATER FACILITIES AGREEMENT BETWEEN  
BELLEVUE AND CITY OF ISSAQUAH (2005)**



RECEIVED  
SEP 21 2005  
PUBLIC WORKS ENG.

**WATER FACILITIES AGREEMENT BETWEEN  
CITY OF BELLEVUE  
AND CITY OF ISSAQUAH**

CR# 38205 DATE 09-19-05 Loc 05-739 PO 510799  
Res 7212

**THIS AGREEMENT** is made by and between the City of Bellevue, a municipal corporation, in King County, Washington ("Bellevue"), and the City of Issaquah, a municipal corporation, in King County, Washington ("Issaquah") for the purposes set forth herein.

**RECITALS**

WHEREAS, the areas of Glacier Ridge (including Montreux) and Lakemont Triangle are within the City of Issaquah (shown on Exhibit A); and

WHEREAS, Issaquah currently serves these areas for water supply through two interties with Bellevue located at SE 42<sup>nd</sup> and SE Newport Way, and SE 60<sup>th</sup> and 180<sup>th</sup> Avenue SE; and

WHEREAS, Issaquah plans to serve a portion of Glacier Ridge with water supplied through a third, future intertie with Bellevue located near Cougar Mountain Drive and 180<sup>th</sup> Avenue SE; and

WHEREAS, in order to serve Glacier Ridge and Lakemont Triangle, Issaquah uses portions of Bellevue's transmission, distribution, pumping and storage facilities; and

WHEREAS, Issaquah and Bellevue are both members of Cascade Water Alliance and receive wholesale water supply from Cascade Water Alliance; and

WHEREAS, Cascade Water Alliance has provided service points of delivery to Issaquah along its transmission main located in Newport Way; and

WHEREAS, Issaquah needs portions of some of Bellevue's facilities (such as reservoirs, pump stations, and transmission mains) to supply water to Glacier Ridge (including Montreux) and Lakemont Triangle areas; and

WHEREAS, Bellevue has agreed to allow use of its system by Issaquah to deliver water supply to Issaquah's Glacier Ridge and Lakemont Triangle areas;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged, Bellevue and Issaquah agree as follows:

1. This Agreement supercedes and replaces all other agreements for wholesale water supply service between Issaquah and Bellevue.

2. Bellevue shall allow Issaquah to use portions of its water utility facilities as defined in this Agreement for delivery of water supply to the City of Issaquah at the existing interties and one future intertie located at: 1.) SE 42<sup>nd</sup> and SE Newport Way and 2.) SE 60<sup>th</sup> and 180<sup>th</sup> Avenue SE and 3.) near Cougar Mountain Drive and 180<sup>th</sup> Avenue SE (future intertie).
3. This Agreement allows the use of Bellevue's system by Issaquah to allow delivery of water supply to a limited area of Issaquah's water service area. The number of Equivalent Residential Units (ERU's) to be served within Lakemont Triangle (through the Newport Way intertie) shall not exceed 400 (600 Multi-family units). The number of ERU's to be served within Glacier Ridge (through the SE 60<sup>th</sup> intertie) shall not exceed 700 ERU's total, with no more than 150 ERU's of the 700 total being supplied water through the future intertie on or near Cougar Mountain Drive. An ERU shall be defined as being equal to one for each single family detached dwelling and shall be based on a mutually agreeable formula for all other uses.
4. Bellevue shall provide a maximum fire flow of 2500 gallons per minute at the SE 60<sup>th</sup> and 180<sup>th</sup> Avenue SE connection and 2000 gallons per minute at the SE 42<sup>nd</sup> and SE Newport Way connection and 1500 gallons per minute at the future connection near Cougar Mountain Road and 180<sup>th</sup> Avenue SE. It is understood that the actual rate of flow at the point of use is dependent upon the hydraulic behavior of the distribution system between the connection points and the point of use and Bellevue therefore makes no representation with regard thereto.
5. Issaquah agrees to pay Bellevue its fair share of the capital costs of the existing facilities (previously constructed by Bellevue) included on Exhibit B. The cost of these existing facilities will be recovered as a connection fee of \$1,098 for each ERU that is served by the Newport Way connection, \$3,761 for each ERU that is served by the SE 60<sup>th</sup> connection, and \$5,767 for each ERU that is served by the future Cougar Mountain Drive connection. These fee amounts are for all new connections made in 2005 and will be adjusted annually by an amount equal to the percent annual change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Seattle Metropolitan Area. These fees will be collected by Issaquah and paid to Bellevue in the manner described in paragraph 9 of this Agreement.
6. The future facilities included on Exhibit B are to be provided in response to development activity in the area supplied by the future connection near Cougar Mountain Drive and 180<sup>th</sup> Avenue SE, hence the cost of constructing these facilities is Issaquah's responsibility and is dependent upon developer contributions and construction.

7. Bellevue shall own and maintain all facilities within its service area that are jointly used by Bellevue and Issaquah.
8. Issaquah shall own and maintain all facilities that are solely used for service to Issaquah, regardless of the location of the facilities. Bellevue shall not tap into any Issaquah water main without Issaquah's written approval. Such approval shall not be unreasonably withheld.
9. Issaquah agrees to pay Bellevue's applicable standard connection fees for each ERU that is served. These fees will be collected by Issaquah on a unit by unit basis at the time that water service is requested. An annual payment will be made to Bellevue representing the connection fees that were collected during the preceding twelve month period. The annual payment shall be made on or near December 31<sup>st</sup> of each year that new connections are added. A letter report shall accompany the payment, which includes an accounting of the connections added during the year.
10. Issaquah shall read both the master meter located on SE 60<sup>th</sup> and the future master meter located on or near Cougar Mountain Drive monthly and shall report consumption to Cascade Water Alliance.
11. Issaquah shall sum the bi-monthly consumption on the retail meters in the Lakemont Triangle area and add 10% (to address water losses in the system) and report that as consumption to Cascade Water Alliance. The metering devices shall be periodically calibrated in accordance with manufacturer's specifications to guarantee accuracy. If, due to water quality considerations, Issaquah needs to periodically flush its main, Issaquah shall install a metered flushing station to record consumptions.
12. Issaquah shall pay Cascade Water Alliance for the wholesale water it receives through these interties.
13. Upon execution of this Agreement Issaquah shall pay Bellevue \$24,000 for the use of its facilities listed in this Agreement for 2004 and \$24,500 for 2005. For subsequent years, the previous year's payment shall be adjusted annually by an amount equal to the percent annual change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Seattle Metropolitan Area, and the amount due shall be paid in equal monthly installments.
14. Whenever possible, Bellevue will notify Issaquah 4 years in advance of when the renewal or replacement of capital facilities necessary under this Agreement is anticipated. Issaquah's fair share contribution for construction capital shall be determined by the percentage share listed in Exhibit C for each facility under this Agreement.

15. Bellevue agrees that the delivery of water to the point of connections will meet the same standards of reliability, rate of flow, and quality that it provides to its retail customers.
16. Issaquah is currently studying the possibility of annexing the South Cove area in accordance with its adopted land use plan. Bellevue currently is providing water service to this area. At the time of annexation, Bellevue is interested in Issaquah taking the service responsibility for South Cove. Upon annexation, Bellevue and Issaquah agree to negotiate an amendment to this Agreement to create an additional supply intertie and to wheel water on behalf of Cascade Water Alliance to serve this area.
17. Cascade Water Alliance shall be made aware of any planned modifications to any of the connections and shall be approved by Cascade Water Alliance if, as part of the modifications, a new connection is planned on the Cascade Water Alliance system.
18. When Issaquah discontinues use of any part of Bellevue's facilities identified in this Agreement by providing supply from a different location then the annual costs paid to Bellevue will be renegotiated based upon the logic used to determine the costs identified in this Agreement.
19. In the event that Issaquah or Bellevue withdraws from Cascade Water Alliance or Cascade Water Alliance dissolves, Issaquah and Bellevue will renegotiate this Agreement for continued delivery of water as necessary.
20. **Dispute Resolution.** Each City shall designate representatives for the purposes of administering this Agreement and resolving disputes arising from this Agreement. Each City shall notify the other in writing of its designated representatives. Each City may change its designated representatives by written notice to the other.

Disputes that cannot be resolved by the representatives designated herein shall be referred to the chief executive officer of each City for mediation and/or settlement. If the executive officers are unable to reach settlement, the cities agree to mediate in good faith before a mutually acceptable mediator, with costs of the mediation to be shared equally between the cities. In the event a settlement cannot be reached through mediation, either party may bring an action in King County Superior Court to enforce any provision of this Agreement.

21. **Liability/Hold Harmless.** Bellevue shall indemnify, defend, and hold harmless the City of Issaquah, its officers, agents and employees, from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Bellevue, its officers, agents and employees, in the performance of this Agreement. With respect to the performance of this Agreement and as to claims against Issaquah, its officers, agents and employees, Bellevue expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Bellevue. This paragraph shall not apply to any damage resulting from the negligence of Issaquah, its agents, and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Issaquah, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Bellevue, its officers, agents, and employees.

Issaquah shall indemnify, defend, and hold harmless the City of Bellevue, its officers, agents and employees, from and against any and all claims, losses, or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Issaquah, its officers, agents and employees, in the performance of this Agreement and as to claims against Bellevue, its officers, agents and employees, Issaquah expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Issaquah. This paragraph shall not apply to any damage resulting from the negligence of Bellevue, its agents, and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Bellevue, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Issaquah, its officers, agents and employees.

22. **Effective Date.** This Agreement is effective upon the date of the last signature below.

Approved as to Form  
Bellevue Legal Counsel

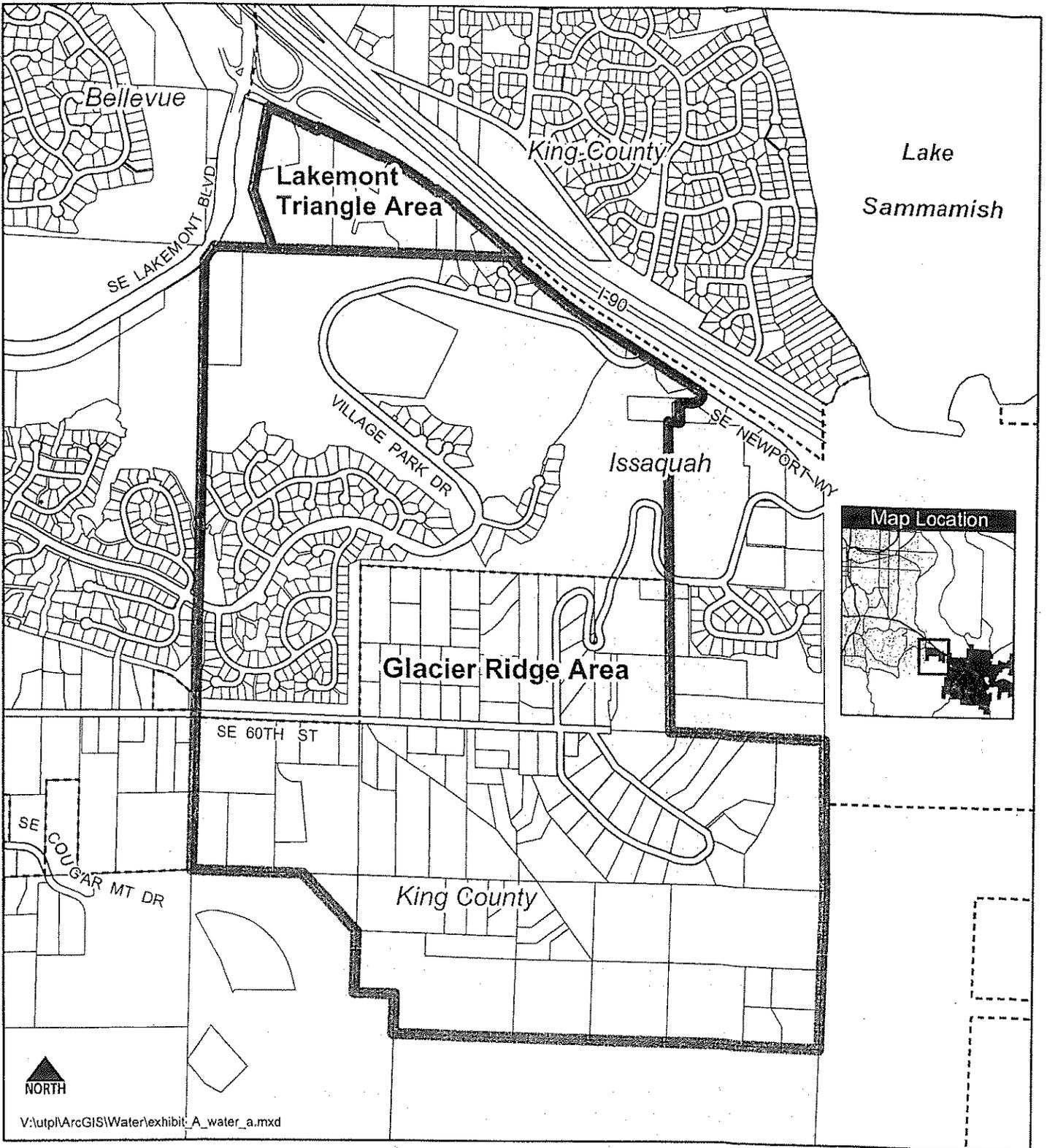
By Patricia Cole  
Its Assistant City Attorney  
Dated 6-13-05

CITY OF BELLEVUE ("Bellevue")

By EP Oberer  
Its Deputy City Manager  
Dated 9/15/05

Issaquah Legal Counsel  
By Leanne Wood  
Its \_\_\_\_\_  
Dated 9/16/05

CITY OF ISSAQUAH ("Issaquah")  
By Ann Trisinger  
Its Mayor  
Dated 9/16/05



V:\utpl\ArcGIS\Water\exhibit\_A\_water\_a.mxd

City of Bellevue  
IT Department  
GIS Services

Plot Date: 5/11/2005

# Exhibit A

## Glacier Ridge & Lakemont Triangle Areas of Issaquah

This map is a graphic representation derived from the City of Bellevue Geographic Information System. It was designed and intended for City of Bellevue staff use only; it is not guaranteed to survey accuracy. This map is based on the best information available on the date shown on this map. Any reproduction or sale of this map, or portions thereof, is prohibited without express written authorization by the City of Bellevue.

NOTE: If you have specific questions concerning information contained on this map, please contact the sponsoring department as shown on this map.

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## EXHIBIT B

### LIST OF FACILITIES NEEDED TO SUPPLY WATER TO THE NEWPORT WAY CONNECTION WITH ISSAQUAH

1. Parksite Reservoir (520 Elevation) – 2.0 MG
2. Newport Reservoir (520 Elevation) – 3.0 MG
3. 3 Regional Supply Inlet Stations (Eastgate, SE 28<sup>th</sup>, and 161<sup>st</sup> SE Inlets)
4. 3,000 lf of 24" Pipe (Located in Newport Way between 161<sup>st</sup> SE and 163<sup>rd</sup> SE; and in 163<sup>rd</sup> SE and 164<sup>th</sup> Way between Newport Way and the Newport Reservoir)
5. 7,500 lf of 16" Pipe (Located in 148<sup>th</sup> SE and under I-90 between the SE 28<sup>th</sup> Inlet and SE 36<sup>th</sup>; and in 161<sup>st</sup> SE and under I-90 between Newport Way and a point just north of Eastgate Way; and in an easement between Newport Way and the Parksite Reservoir)
6. 17,200 lf of 12" Pipe (Located in SE 28<sup>th</sup> and easements roughly paralleling I-90 between the SE 28<sup>th</sup> Inlet and 161<sup>st</sup> SE; and in Newport Way between 163<sup>rd</sup> SE and the Newport Way Issaquah Connection; and in Newport Way between 145<sup>th</sup> SE and 150<sup>th</sup> SE; and in 145<sup>th</sup> SE, SE 42<sup>nd</sup> Place, 146<sup>th</sup> SE, Eastgate Drive and 148<sup>th</sup> SE between Newport Way and SE 36<sup>th</sup>; and in 150<sup>th</sup> SE, SE 38<sup>th</sup> and SE 36<sup>th</sup> from Newport Way to 148<sup>th</sup>)

### LIST OF FACILITIES NEEDED TO SUPPLY WATER TO THE SE 60<sup>TH</sup> CONNECTION WITH ISSAQUAH

1. Newport Pump Station (pumps from 520 Elevation to 850 Elevation)
2. 850 Elevation 12" Transmission Main (between the Newport Pump Station and the Cougar Mountain #1 Pump Station and Reservoir)
3. Cougar Mountain #1 Pump Station (pumps from 850 Elevation to 1150 Elevation)
4. 1150 Elevation 12" Transmission Main (between the Cougar Mountain #1 Pump Station and Reservoir to the Cougar Mountain #2 Pump Station and Reservoir)
5. Cougar Mountain #2 Reservoir (1150 Elevation) – 1.05 MG
6. 1150 Elevation Issaquah 12" Transmission Main (between the Cougar Mountain #2 Reservoir and the SE 60<sup>th</sup> Issaquah Connection)
7. 1150 Elevation Water Meter, Vault, Appurtenances (SE 60<sup>th</sup> Issaquah Connection)
8. Second Source of Supply Facilities for the SE 60<sup>th</sup> Issaquah Connection

### LIST OF ADDITIONAL FACILITIES NEEDED TO SUPPLY WATER TO THE FUTURE COUGAR MOUNTAIN ROAD CONNECTION WITH ISSAQUAH

1. Cougar Mountain #2 Pump Station (pumps from 1150 Elevation to 1465 Elevation) - existing facility
2. 1465 Elevation 12" Transmission Main (between the Cougar Mountain #2 Pump Station and Reservoir and the Cougar Mountain #3 Pump Station and Reservoir) - existing facility
3. Cougar Mountain #3 and 3A Reservoirs (1465 Elevation Reservoirs) – 2.0 MG and 0.3 MG – existing facility
4. 1465 Elevation Issaquah Transmission Main (between the Cougar Mountain #3 Reservoir and the Cougar Mountain Drive Issaquah connection) – future facility
5. 1465 Elevation Water Meter, Vault, and Appurtenances (Cougar Mountain Drive Issaquah Connection) – future facility

## Exhibit C

### Bellevue/Issaquah Percentage Use of Joint Use Facilities

Based on the number of Equivalent Residential Units (ERU's) served

#### For the Area Identified in the 2/6/90 Lakemont Triangle Interlocal Agreement

Exhibit B of the 2/6/90 agreement identifies Bellevue regional facilities that provide water service to this area and estimates that 6372 ERU's in Bellevue are served by these facilities (Issaquah ERU not included).

The 2/6/90 agreement allows 600 MF Units to be served in Issaquah.  $600 \text{ MF} \times 0.62 \text{ MF/SF} = 372 \text{ ERU}$ .

Therefore, the facilities identified in Exhibit B benefit each city by the following percentage breakdown:

6372 Bellevue ERU's served	94.48 % of Total ERU's
372 Issaquah ERU's served	5.52 % of Total ERU's
6744 TOTAL	

#### For the Area Identified in the 4/18/01 Glacier Ridge Interlocal Agreement

##### Number of ERU's served in each pressure zone

<u>Bellevue</u>	<u>Issaquah</u>	<u>Pressure Zone</u>	<u>Data Source</u>
1300 ERU	0 ERU	850 ft. HGL	1995 Newport P.S. Capacity Check Calculations
979 ERU	0 ERU	1000 ft. HGL	1999 Cougar Mt. Storage Requirement Calculations
1439 ERU	550 ERU	1150 ft. HGL	1999 Cougar Mt. Storage Requirement Calculations
555 ERU	0 ERU	1300 ft. HGL	1999 Cougar Mt. Storage Requirement Calculations
402 ERU	150 ERU	1465 ft. HGL	1999 Cougar Mt. Storage Requirement Calculations
169 ERU	0 ERU	1575 ft. HGL	1999 Cougar Mt. Storage Requirement Calculations

##### Newport Pump Station (520 zone to 850 zone)

4844 Bellevue ERU's served	87.37 % of Total ERU's
700 Issaquah ERU's served	12.63 % of Total ERU's
5544 TOTAL (850 through 1575 zones)	

##### 850 Zone 16"/12" Transmission Main (Newport P.S. to Cougar Mt. #1 P.S. & Res.)

Approximate length of this pipe:                      3,500 ft. of 16"                      5,200 ft. of 12"

4844 Bellevue ERU's served	87.37 % of Total ERU's
700 Issaquah ERU's served	12.63 % of Total ERU's
5544 TOTAL (850 through 1575 zones)	

**850 Zone to 1150 Zone Cougar Mt. #1 Pump Station**

3544 Bellevue ERU's served	83.51 % of Total ERU's
<u>700 Issaquah ERU's served</u>	<u>16.49 % of Total ERU's</u>
4244 TOTAL (1000 through 1575 zones)	

**1150 Zone Cougar Mt. #2 Reservoir (1.0 MG)**

Actual storage required by this reservoir's direct service area is approx. 1.77 MG\*.  
0.30 MG of this storage is for fire flow (2500 gpm for 2 hrs.) and benefits each City equally.

3544 Bellevue ERU's served	83.51 % of Total ERU's
<u>700 Issaquah ERU's served</u>	<u>16.49 % of Total ERU's</u>
4244 TOTAL (1000 through 1575 zones)	

Percentage share of storage adjusted to account for fire storage being shared equally (50% each):

77.83 % Bellevue  $[(83.51\% \times 1.47 \text{ MG} + 50\% \times 0.30 \text{ MG}) / 1.77 \text{ MG}]$   
22.17 % Issaquah  $[(16.49\% \times 1.47 \text{ MG} + 50\% \times 0.30 \text{ MG}) / 1.77 \text{ MG}]$

**1150 Zone 12" Transmission Main (Cougar Mt. #1 P.S. to Cougar Mt. #2 P.S. & Res.)**

Approximate pipe length: 1,300 ft

3544 Bellevue ERU's served	83.51 % of Total ERU's
<u>700 Issaquah ERU's served</u>	<u>16.49 % of Total ERU's</u>
4244 TOTAL (1000 through 1575 zones)	

**1150 Zone 12" Issaquah Transmission Main (1150 Reservoir to Issaquah Supply Meter)**

Approximate pipe length: 4600 ft

Since this main also provides benefit to Bellevue customers, it will be considered to benefit each city equally.

50 % Bellevue  
50 % Issaquah

**1150 Zone second supply to Issaquah (required by this Interlocal agreement)**

This additional supply is provided by the following facilities:

- 1465 Zone to 1300 Zone PRV (vault contains a 6" and a 2" PRV)  
Approximately 1500 ft. of pipe in the 1300 Zone
- 1300 Zone to 1150 Zone PRV (vault contains a 6" and a 2" PRV)  
Approximately 1800 ft. of pipe in the 1150 Zone

Since these facilities also provide benefit to Bellevue customers, they will be considered to benefit each city equally.

50 % Bellevue  
50 % Issaquah

**1150 Zone to 1465 Zone Cougar Mt. #2 Pump Station**

1126 Bellevue ERU's served	88.24 % of Total ERU's
<u>150 Issaquah ERU's served</u>	<u>11.76 % of Total ERU's</u>
1276 TOTAL (1300 through 1575 zones)	

**1465 Zone Cougar Mt. #3 Reservoirs (2.0 MG & 0.3 MG)**

Actual storage required by this reservoir's direct service area is approx. 1.53 MG\*.  
0.18 MG of this storage is for fire flow (1500 gpm for 2 hrs.) and benefits each City equally.

1126 Bellevue ERU's served	88.24 % of Total ERU's
<u>150 Issaquah ERU's served</u>	<u>11.76 % of Total ERU's</u>
1276 TOTAL (1300 through 1575 zones)	

Percentage share of storage adjusted to account for fire storage being shared equally (50% each):

83.74 % Bellevue	$[(88.24\% \times 1.35 \text{ MG} + 50\% \times 0.18 \text{ MG}) / 1.53 \text{ MG}]$
16.26 % Bellevue	$[(11.76\% \times 1.35 \text{ MG} + 50\% \times 0.18 \text{ MG}) / 1.53 \text{ MG}]$

**1465 Zone 12" Transmission Main (Cougar Mt. #2 P.S. to Cougar Mt. #3 P.S & Res.)**

Approximate pipe length: 3,400 ft

1126 Bellevue ERU's served	88.24 % of Total ERU's
<u>150 Issaquah ERU's served</u>	<u>11.76 % of Total ERU's</u>
1276 TOTAL (1300 through 1575 zones)	

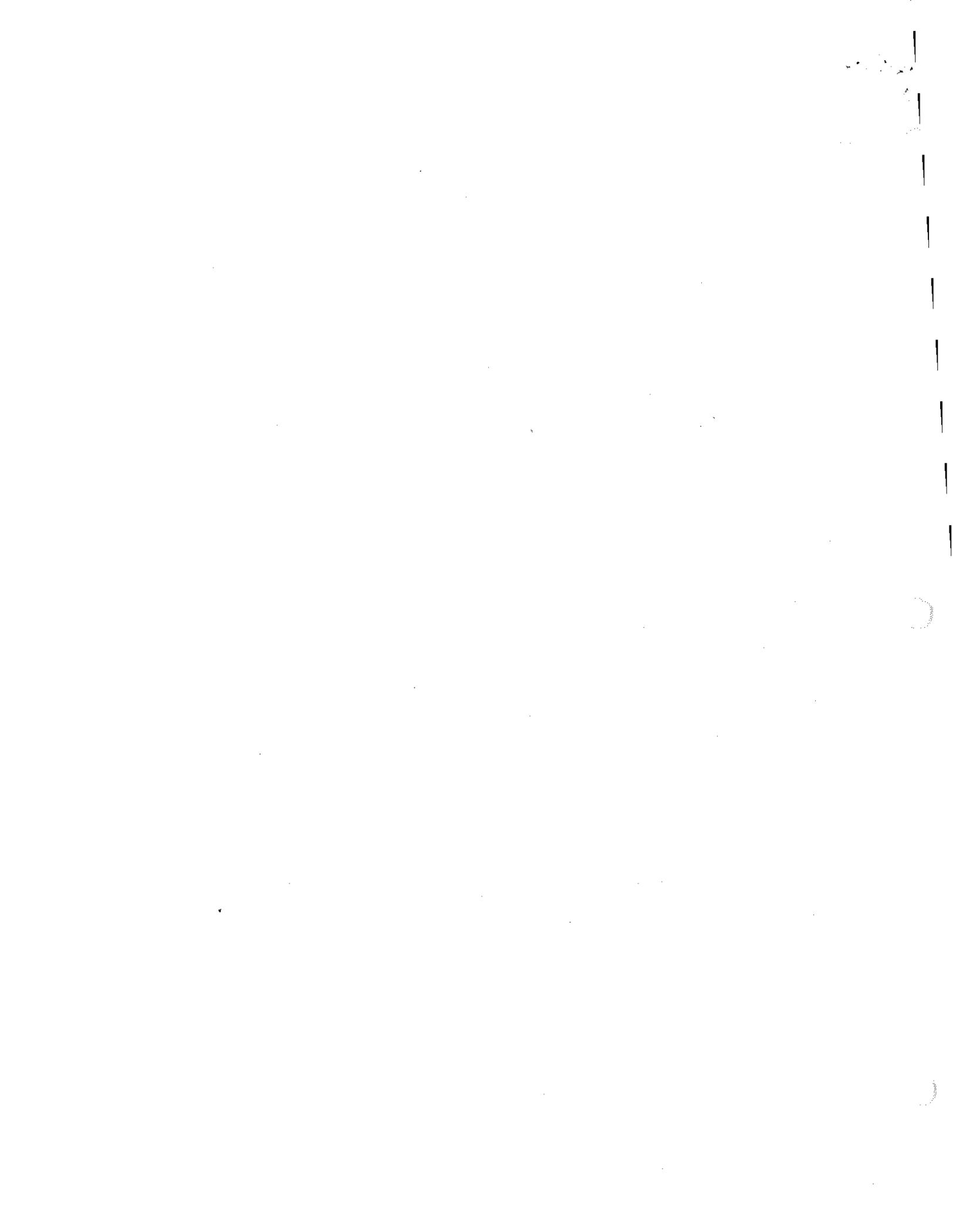
**Future 1465 Zone 8" Issaquah Transmission Main (1465 Reservoir to Issaquah Supply Meter)**

Approximate expected pipe length: 900 ft

Since this main is also expected to provide benefit to Bellevue customers,  
it will be considered to benefit each city equally.

50 % Bellevue
50 % Issaquah

\* Note: Some of the storage required by the 1150 reservoir service area is located in the 1465 reservoirs.



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**AMENDMENT TO WHOLESALE WATER SERVICE AGREEMENT  
FROM CITY OF BELLEVUE TO  
CITY OF ISSAQUAH SERVICE AREA (1999)**



**AMENDMENT TO WHOLESALE WATER SERVICE AGREEMENT**

**FROM**  
**CITY OF BELLEVUE**  
**TO**  
**CITY OF ISSAQUAH SERVICE AREA**  
**(URBAN AREAS)**

FILED NO. 27115  
CITY OF BELLEVUE  
DATE 4/21/99  
M. TOMMCO  
CITY CLERK'S OFFICE  
68 63 87

THIS AMENDMENT ("Amendment") is entered into by the CITY OF BELLEVUE ("Bellevue") and the CITY OF ISSAQUAH ("Issaquah") to amend their existing agreements for wholesale water service from Bellevue to Issaquah on the terms specified herein.

**RECITALS**

WHEREAS, Bellevue and Issaquah have an existing Wholesale Service Water Agreement for Glacier Ridge/Montreux dated August 30, 1989, attached as Exhibit A ("Montreux Agreement"), and for the Lakemont Triangle area dated April 17, 1990, attached as Exhibit B ("Lakemont Triangle Agreement");

WHEREAS, Bellevue and Issaquah wish to continue their mutual efforts for utility service and support regional solutions for water service by extending regional water supply to the urban areas within Issaquah;

WHEREAS, the respective Bellevue and Issaquah City Councils have reviewed and approved extension of water service to meet Issaquah's growth needs and to modify the current interlocal agreements, with the concurrence of the City of Seattle; and

WHEREAS, Seattle has approved the provisions of Bellevue's wholesale water service to Issaquah as reflected in Exhibit D;

**AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged, Bellevue and Issaquah agree as follows:

**1. Bellevue Wholesale Distribution.** Bellevue shall provide wholesale water service to Issaquah as follows:

**1.1 Glacier Ridge/Montreux.** Water shall continue to be provided as set forth in the Montreux Agreement, Exhibit A.

**1.2 Lakemont Triangle.** Water shall continue to be provided as set forth in the Lakemont Triangle Agreement, Exhibit B, except after completion of the Issaquah Regional Facilities described below, Issaquah may connect the Lakemont Triangle service area to the Issaquah Regional Facilities at a connection point mutually approved by the parties.

**1.3 Regional Facilities for Urban Areas.** Water shall be provided to Issaquah for Issaquah's retail distribution and sale in accordance with the following terms of this Amendment.

**2. Description of Regional Facility Extension.** The extension of the wholesale water distribution system under this Amendment shall consist generally of the following (collectively "Issaquah's Regional Facilities"):

**2.1 Supply Amount.** Water supply in the quantity up to 1.7 MGD for average annual daily demand and 4.2 MGD for peak day demand shall be provided by Bellevue via its Water Purveyor Contract with Seattle until the expiration of that purveyor contract (i.e. December 31, 2011).

**2.2 Distribution Route; Meter.** Issaquah's Regional Facilities shall connect to Bellevue's existing 24-inch line along Newport Way east of Bellevue's Eastgate Inlet. Issaquah shall install a master meter meeting the standards in Exhibit C at a mutually approved location in order to measure the wholesale quantity of water conveyed to the Issaquah Regional Facilities. Issaquah shall own the master meter and it shall be capable of readings from remote locations by Bellevue and Seattle. As of the date of this Amendment, the Issaquah Regional Facilities shall consist of the pipes and other capital facilities generally described on Exhibit C. Issaquah may install additional meters and may modify or add components as part of the Regional Facilities so long as the system operates consistent with this Amendment, including the operating standards in Exhibit C. Bellevue shall approve the location, type and make of master meter. The master meter shall be calibrated as recommended by the manufacturer but not less than every three years.

**2.3 Operating Standards.** The parties shall meet the operating standards set forth in Exhibit C.

**2.4 Reliability.** Bellevue's wholesale service to Issaquah shall, to the extent feasible, have the same continuity of service that Bellevue provides its own customers.

**2.5 Water Quality.** Each party will be responsible for complying with applicable state and federal water quality standards as to their respective local water systems. The parties acknowledge that water quality issues may arise in the future due to changes in law or operational conditions. The parties agree to coordinate and to work together in good faith to identify and implement equitable and cost-effective solutions to any such matters. Each party shall meet the standards as set by Bellevue's agreement with Seattle or a future agreement between Bellevue, Issaquah, CWA or other regional water supplier.

**3. Seattle Purveyor Contract.** Seattle has approved this amendment to wholesale water service to Issaquah pursuant to the existing Water Purveyor Contract between the City of Seattle and Bellevue, Section II.B, Resale to Other Parties. Issaquah agrees for its Regional Facilities to abide by the terms and conditions imposed by the Seattle Water Department under its water purveyor contract with Bellevue, including but not limited to shortage sharing, hydraulic gradient, demand charges, cross-connection controls, regional conservation programs,

water quality testing, and other applicable standards, and those terms and conditions are incorporated herein by reference as if fully set forth. Issaquah will participate in Seattle's 1% conservation initiative as to the water received from the regional system.

**4. No Purveyor Status.** This Amendment does not convey purveyor status or water supply rights from the City of Seattle to Issaquah. Issaquah shall not be permitted to sell water outside Issaquah's direct service area (as it may be amended from time to time) without permission from both Bellevue and Seattle, including sales of surface water purchased under this Amendment as well as current Issaquah ground water supplies which, if sold, would result in increased demands for wholesale water under this Amendment. For service within its service area, Issaquah may install additional pipes and facilities connecting to or served by the Regional Facilities, which are not defined as the "Regional Facilities" under this Amendment and do not require approval from Seattle and Bellevue so long as those additions are consistent with the operating obligations and standards for the Regional Facilities set forth in this Amendment. Water supplied under this Amendment shall not be used to supply new golf courses within Issaquah's service area either directly or through substitution from existing Issaquah sources.

**5. Responsibility for Permitting, Construction and Operation.** As between Bellevue and Issaquah, Issaquah shall be solely responsible for the design, engineering, permitting, and construction of all facilities necessary to provide water under this Amendment. Issaquah shall be the lead agency for SEPA. The parties acknowledge Issaquah may enter into separate agreements with responsible private developers or entities to finance and construct the Issaquah Regional Facilities, which upon completion shall be conveyed to and owned by Issaquah. Bellevue shall not have any responsibility for construction or maintenance of the Issaquah Regional Facilities.

**6. Rates; Billing.** Based on the metering performed under Section 2.2 of this Amendment, Bellevue shall bill Issaquah for water deliveries on a monthly basis. Bellevue's billings to Issaquah shall be composed of two elements:

**6.1 Seattle component:** billings for water supply based on the following multipliers of Seattle's New Water Rates to Bellevue for the water supplied to Issaquah: (a) 1.00 times the New Water Rate for the winter period; and (b) 1.52 times the New Water Rate for the summer period; and

**6.2 Bellevue component:** a charge of \$0.07 per CCF for Bellevue's facilities and administrative overhead. Bellevue may adjust the charge annually based on normal inflation without further review and every two years or more based on an acceptable study of administrative and operation costs. Bellevue will pay the Seattle component (Section 6.1) to the Seattle Public Utilities and retain the Bellevue component (Section 6.2) to compensate for Bellevue's costs.

Issaquah shall also reimburse Bellevue for any costs that Bellevue incurs associated with increased capital improvements, operations or maintenance as a result of supplying Issaquah water under this Amendment. An example would be the cost associated with a new pump station

at 163rd and Newport Way which may be required to meet the minimum hydraulic gradeline specified under Exhibit C.

**7. Additional Purveyor Connections to Issaquah Regional Facilities.** Issaquah will not unreasonably restrict access to the Issaquah Regional Facilities by other water purveyors in the region, in the form of an interlocal agreement between Issaquah and the connecting purveyor, subject to (a) approval by Seattle and Bellevue by separate agreement with such connecting purveyor, (b) the connecting purveyor's payment to Issaquah, if Issaquah requests, of a fair share contribution of the costs of Issaquah's Regional Facilities and payment of charges for Issaquah's operational and wheeling expenses, (c) no adverse impact on Issaquah's water service in its service area (e.g. including but not limited to reduction in pressure), and (d) consistency with adopted GMA plans for issues related solely to water supply and transmission services.

**8. Cascade Water Alliance.** After the expiration date of Bellevue's Water Purveyor Contract with Seattle on December 31, 2011, water supply to Issaquah will be subject to future agreement between Bellevue, Issaquah and the Cascade Water Alliance ("CWA") or other regional purveyor or sooner if CWA forms prior to December 31, 2011. Upon execution of a wholesale agreement between the CWA and Seattle and upon Bellevue's joinder in the CWA, Issaquah is required to join the CWA to continue to receive wholesale water under this Amendment. Potential transfer of ownership or capacity rights of Issaquah's Regional Facilities from Issaquah to the CWA would be subject to future agreement between Issaquah and the CWA.

**9. Cooperation.** Bellevue and Issaquah shall cooperate to implement this Amendment.

**10. Dispute Resolution.** Each City shall designate representatives for the purposes of administering this Amendment and resolving disputes arising from this Amendment. Each City shall notify the other in writing of its designated representatives. Each City may change its designated representatives by written notice to the other.

Disputes that cannot be resolved by the representatives designated herein shall be referred to the chief executive officer of each City for mediation and/or settlement. If such dispute is not resolved within sixty (60) days, either City, or both of them, may file a demand for arbitration, in which event the issue shall be submitted to an arbitrator acceptable to both parties and the matter shall be arbitrated pursuant to the rules and procedures of the American Arbitration Association. The decision of the arbitrator shall be final and binding on both Cities.

**11. Liability/Hold Harmless.** Bellevue shall indemnify, defend, and hold harmless the City of Issaquah, its officers, agents and employees, from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Bellevue, its officers, agents and employees, in the performance of this Amendment. With respect to the performance of this Amendment and as to claims against Issaquah, its officers, agents and employees, Bellevue expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend

and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Bellevue. This paragraph shall not apply to any damage resulting from the negligence of Issaquah, its agents, and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Issaquah, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Bellevue, its officers, agents, and employees.

Issaquah shall indemnify, defend, and hold harmless the City of Bellevue, its officers, agents and employees, from and against any and all claims, losses, or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Issaquah, its officers, agents and employees, in the performance of this Amendment and as to claims against Bellevue, its officers, agents and employees, Issaquah expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Issaquah. This paragraph shall not apply to any damage resulting from the negligence of Bellevue, its agents, and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Bellevue, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Issaquah, its officers, agents and employees.

**12. Effective Date.** This Amendment is effective upon the date of the last signature below. Notwithstanding any other provision of this Amendment, Issaquah may elect (by delivery of a letter to Bellevue) not to extend and construct the Regional Facilities, in which event Sections 2 through 11 of this Amendment shall not be effective.

**13. No Other Changes.** Except as expressly amended in this Amendment, there are no changes to the Montreux Agreement (Exhibit A) and the Lakemont Triange Agreement (Exhibit B), which remain in effect in accordance with their terms.

CITY OF BELLEVUE

By: *Hurda M. Baston*

Its: Deputy City Manager

Dated: 4-20-99

Approved as to form:

By: *[Signature]*  
City Attorney

CITY OF ISSAQUAH

By: Ann Frisinger

Its: Mayor

Dated: 4/2/99

Approved as to form:

By: George Jensen  
City Attorney

Attest:  
CITY CLERK

by: Linda Ruckler

**EXHIBITS:**

- A Montreux Wholesale Agreement
- B Lakemont Triangle Wholesale Agreement
- C Description of Regional Facilities and Operational Standards.
- D Letter from Seattle Public Utilities to Bellevue

EXHIBIT A

MONTREUX WHOLESale AGREEMENT

ORIGINAL

FILED NO. 24621  
CITY OF BELLEVUE  
DATE 7/25/89  
CITY CLERK *[Signature]*  
*[Signature]*  
Res. 5159

AGREEMENT FOR WHOLESALE WATER SERVICE  
FROM  
CITY OF BELLEVUE  
TO  
CITY OF ISSAQUAH SERVICE AREA  
(GLACIER RIDGE)

WHEREAS: A sphere of influence agreement has been reached between the City of Bellevue (Bellevue) and the City of Issaquah (Issaquah) that outlines the limits of a future boundary between the Cities, and

WHEREAS: It is desirable that the Cities future water service boundaries correspond with the Cities future corporate limits, and

WHEREAS: Bellevue has now or will in the future be extending water system facilities to serve areas adjacent to, or in close proximity of, its side of the sphere of influence boundary, and

WHEREAS: Bellevue water facilities now exist or will be constructed with a hydraulic elevation that would be capable of providing adequate service pressures to certain areas within Issaquah's service area [(shown on Exhibit 1 and labeled as Glacier Ridge (GR)], and

WHEREAS: Issaquah water facilities are currently a greater distance from the GR service area, and

WHEREAS: An analysis of water service options for Issaquah to serve the GR area, which was conducted by CH2M Hill for Issaquah, concluded that the least cost alternative for water service would be through a wholesale/retail agreement between Bellevue and Issaquah, and

WHEREAS: It is desirable to provide water service to the public in the least costly manner, consistent with jurisdictional boundaries, and

WHEREAS: It is recognized that water service to the GR area will not solve Issaquah's long term water needs and that other solutions will be needed to serve future growth demands.

NOW, THEREFORE be it agreed by the Cities of Bellevue and Issaquah that:

1. Bellevue agrees to provide wholesale water service to Issaquah for the GR area only for retail distribution and sale in accordance with the terms of this agreement.

2. This agreement addresses the provision of wholesale water service to a limited area of Issaquah's water service area. It is not the intent of this agreement to address facilities that would be capable of serving any additional portion of Issaquah's water service area. Such facilities would require a separate agreement.

3. The number of Equivalent Residential Units (ERU's) to be served within the area shall not exceed 700 unless it is mutually agreed that additional ERU's may be served. An ERU shall be defined as being equal to one for each single family detached dwelling, and shall be based upon a mutually agreeable formula for all other uses.

4. Bellevue shall supply water from its 1,150 operating zone, hence the maximum service elevation from this operating zone (without repumping) is approximately 1,050 feet above sea level. Bellevue shall provide a maximum fire flow rate of 2,500 gpm measured at the point of interconnection. It is understood that the actual rate of flow at the point of use is dependent upon the hydraulic behavior of the distribution system between the connection point and the point of use and Bellevue therefore makes no representation with regard thereto.

5. Bellevue agrees that the wholesale service it provides to Issaquah will meet the same standards of reliability, rate of flow and quality, that it provides to its retail service customers. To enhance system reliability, a second (emergency) connection point shall be developed by Bellevue and Issaquah prior to serving over 350 ERU's.

6. The Water Purveyor Contract between the City of Seattle and the City of Bellevue, Section II.B. Resale to Other Parties, requires written consent from Seattle prior to the execution of this Agreement.

Issaquah agrees, for the GR service area, to abide by the standard terms and conditions that are imposed by the Seattle Water Department as well as those imposed by Bellevue, including but not limited to cross-connection controls, water quality testing, water conservation and other applicable standards and those terms and conditions are hereby incorporated by reference herein as if set forth in full. This Agreement does not convey purveyor status or water supply rights from the City of Seattle to Issaquah.

7. Bellevue and Issaquah agree that the water system improvements needed to serve the area are to be provided in response to development activity, hence the construction of the facilities included on Exhibit 2 is dependent upon developer contributions and construction. Issaquah's fair share of the capital cost of facilities to serve the area shall be provided from developer cash contributions and/or developer facility construction directly to or in conjunction with the Developer(s) constructing the improvements included on Exhibit 2.

8. The basis for determining Issaquah's fair share of the capital cost of facilities shall be mutually accepted engineering standards related to sizing of storage, pumping, distribution and transmission facilities as listed on Exhibit 2.

9. Bellevue shall construct, own and maintain all facilities within its service area, that are jointly used by Bellevue and Issaquah through Developer Extension requirements. Bellevue is not obligated to provide these or additional facilities for this purpose at Bellevue's cost.

10. Issaquah shall construct, own and maintain all facilities that are solely used for service to Issaquah, regardless of the location of the facilities through Developer Extension requirements.

11. Issaquah agrees to pay Bellevue's applicable standard connection fees for each ERU that is served. These fees will be collected by Issaquah on a unit by unit basis at the time that water service is requested. An annual payment will be made to Bellevue representing the connection fees that were collected during the preceding twelve month period. The annual payment shall be made on or near December 31st of each year that new connections are added. A letter report shall accompany the payment, which includes an accounting of the connections added during the year.

12. All water supplied to the GR area by Bellevue shall be metered in a manner that is approved by Bellevue. The metering device(s) shall be owned by Bellevue and be periodically calibrated in accordance with manufacturer's specifications to guarantee accuracy.

13. Bellevue will record the water consumption on a bi-monthly schedule and submit a bill to Issaquah for water consumption. The water shall be charged at Bellevue's standard residential water rate. This rate includes charges for maintenance and operation of the jointly used facilities in perpetuity and will not be subject to additional charges for maintenance and operation.

14. Bellevue agrees to obtain all necessary approvals and permits for serving and constructing the jointly used facilities.

15. Issaquah agrees to obtain all necessary approvals and permits for construction of the facilities that will solely serve Issaquah.

16. The City of Issaquah may exercise the right of ownership for its fair share of facilities necessary to serve the area, but will require the consummation of a separate agreement which would address payments, water rates, maintenance and operations, ultimate replacement and other applicable terms and conditions.

17. Dispute Resolution. Each City shall designate representatives for the purposes of administering this Agreement and resolving disputes arising from this Agreement. Each City shall notify the other in writing of its designated representatives. Each City may change its designated representatives on notice to the other.

Disputes that cannot be resolved by the representatives designated herein shall be referred to the chief executive officer of each City for mediation and/or settlement. If not resolved by them within sixty (60) days, either City, or both of them, may file a demand for arbitration, in which event the issue shall be submitted to an arbitrator acceptable to both parties and the matter shall be arbitrated pursuant to the rules and procedures of the American Arbitration Association. The decision of the arbitrator shall be final and binding on both Cities.

18. Liability/Hold Harmless. Bellevue shall indemnify, defend, and hold harmless the City of Issaquah, its officers, agents and employees, from and against any and all claims, losses, or liability, including attorneys fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Bellevue, its officers, agents and employees, in the performance of this agreement. With respect to the performance of this agreement and as to claims against Issaquah, its officers, agents and employees, Bellevue expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Bellevue. This paragraph shall not apply to any damage resulting from the negligence of Issaquah, its agents, and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Issaquah, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Bellevue, its officers, agents, and employees.

Issaquah, shall indemnify, defend, and hold harmless the City of Bellevue, its officers, agents and employees, from and against any and all claims, losses, or liability, including attorneys fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Issaquah, its officers, agents and employees, in the performance of this agreement. With respect to the performance of this agreement and as to claims against Bellevue, its officers, agents and employees, Issaquah expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any

claim brought by or on behalf of any employee of Issaquah. This paragraph shall not apply to any damage resulting from the negligence of Bellevue, its agents, and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Bellevue, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Issaquah, its officers, agents, and employees.

19. Additional Terms and Conditions: The City of Bellevue agrees to provide water to the City of Issaquah under this agreement subject to the following additional terms and conditions:

1. The proposed area to be served by Issaquah with water provided under this agreement shall be physically contiguous to the incorporated limits of the City of Bellevue.
2. A notice of intent to annex the property described in Exhibit 3 hereto, the High Park property, shall be filed by the owners thereof and accepted by the Bellevue City Council within 15 days of approval of this agreement by the Bellevue City Council.
3. Annexation of the High Park property to the City of Bellevue shall be completed within 180 days of acceptance by the Bellevue City Council of the notice of intent to annex the High Park property.

If any of the above conditions are not met, this agreement shall terminate and be of no further force or effect.

HEREBY AGREED TO AND ACCEPTED BY this the 30<sup>th</sup> day of August, 1989.

CITY OF BELLEVUE

Pam Bessometh

Approved as to form:

Paul [Signature]  
Assistant City Attorney

CITY OF ISSAQUAH

[Signature]

[Signature]  
City Attorney



EXHIBIT 2

LIST OF FACILITIES

1. Newport Pump Station Upgrade
2. 850 Pressure - 12" Transmission Main
3. 850 EL to 1150 EL Pump Station
4. 1150 Elevation 12" Transmission Main
5. 1150 Elevation Reservoir - 1.05 MG
6. 1150 Elevation - Issaquah 12" Transmission Main
7. Water Meter, Vault and Appurtenances



City of  
Bellevue

# Notice of Intent to Petition for Annexation

Post Office Box 90012 • Bellevue, WA • 98009 9013  
Planning Department

ANNEXATION High Park

FILE NO. ANN 86-5

ASSESSED VALUE \_\_\_\_\_

TOTAL AREA 448 acres

## DECLARATION

I/We, the undersigned being the owners of real property within the area described which lies outside the corporate limits of the City of Bellevue, Washington, but contiguous thereto, having a value in excess of 10% of the total value of the said described area according to the assessed valuation for general taxation purposes, do hereby declare our intention to circulate a petition for annexation to the City of Bellevue. It is acknowledged that this petition may consist of multiple documents filed independently.

## AUTHORIZATION

Name and signatures of all persons having interest in real property in the subject area whose consent is required by virtue of such interest to authorize the filing of this notice are attached hereto.

CITY OF BELLEVUE  
STANDARD PETITION FORM

WARNING: Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he is not a legal voter, or signs a petition when he is not otherwise qualified to sign or who makes herein any false statement, shall be guilty of a misdemeanor.

1. NAME (print) East-West Partners SIGNATURE C. L. Madison  
ADDRESS 1300 114th AVE S.E. SU. 108 DATE 7/17/89  
Bellevue wa 98004  
PROPERTY DESCRIPTION See Exhibit 1  
(Section and tax lot number or subdivision and lot number)

2. NAME (print) \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
PROPERTY DESCRIPTION \_\_\_\_\_  
(Section and tax lot number or subdivision and lot number)

3. NAME (print) \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
PROPERTY DESCRIPTION \_\_\_\_\_  
(Section and tax lot number or subdivision and lot number)

4. NAME (print) \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
PROPERTY DESCRIPTION \_\_\_\_\_  
(Section and tax lot number or subdivision and lot number)

5. NAME (print) \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
PROPERTY DESCRIPTION \_\_\_\_\_  
(Section and tax lot number or subdivision and lot number)

6. NAME (print) \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
PROPERTY DESCRIPTION \_\_\_\_\_  
(Section and tax lot number or subdivision and lot number)

7. NAME (print) \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
PROPERTY DESCRIPTION \_\_\_\_\_  
(Section and tax lot number or subdivision and lot number)

EXHIBIT 1

Legal Description

PARCEL 1:

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, EXCEPT THE SOUTHEAST QUARTER THEREOF.

PARCEL 2:

THE NORTH 2-1/2 ACRES OF THE EAST 400 FEET OF THE WEST 800 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL 3:

BEGINNING AT A POINT 800 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, AND RUNNING THENCE SOUTH 385 FEET; THENCE EAST 660 FEET; THENCE NORTH 385 FEET; THENCE WEST 660 FEET TO THE POINT OF BEGINNING; EXCEPT THAT PORTION THEREOF CONVEYED TO KING COUNTY, WASHINGTON FOR ROAD BY DEED RECORDED UNDER AUDITOR'S FILE NO. 1617973 AND EXCEPT THE PORTION THEREOF DEEDED TO KING COUNTY FOR ROAD BY DEED RECORDED UNDER AUDITOR'S FILE NO. 4678886.

PARCEL 4:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL 5:

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND RUNNING THENCE EASTERLY ALONG THE SOUTHERLY LINE THEREOF, 140 FEET, MORE OR LESS, TO THE WESTERLY LINE OF THE PETER JOHNSON COUNTY ROAD NO. 1712; THENCE IN A NORTHERLY DIRECTION ALONG THE WESTERLY LINE OF SAID ROAD TO A POINT 60 FEET NORTH OF SAID SOUTHERLY LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE WESTERLY ON A LINE PARALLEL TO AND 60 FEET DISTANT FROM SAID SOUTHERLY LINE 140 FEET, MORE OR LESS, TO THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH, ALONG SAID WEST LINE TO THE POINT OF BEGINNING.

PARCEL 6:

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON; EXCEPT THE SOUTHEAST QUARTER OF SAID NORTHEAST QUARTER OF SOUTHWEST QUARTER; AND EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION; THENCE EAST 140 FEET TO THE WEST LINE OF THE COUNTY ROAD; THENCE NORTH ALONG SAID LINE 60 FEET; THENCE WEST 140 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 60 FEET TO THE POINT OF BEGINNING; AND EXCEPT COUNTY ROAD NO. 1712, AND EXCEPT THAT PORTION PLATTED AS COUGAR GLEN, ACCORDING TO THE PLAT RECORDED IN VOLUME 105 OF PLATS, PAGE 78, IN KING COUNTY, WASHINGTON.

PARCEL 7:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL 8:

THE WEST 3/4THS OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL 9:

THAT PORTION OF THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHEASTERLY OF THE CENTERLINE OF A PRIVATE ROADWAY 60 FEET WIDE; THE CENTERLINE OF WHICH BEGINS ON THE EAST LINE OF SAID SUBDIVISION 635 FEET NORTH OF THE SOUTHEAST CORNER THEREOF AND RUNS THENCE NORTH 77°21' WEST 45.5 FEET; THENCE NORTH 76°42' WEST 105.3 FEET; THENCE NORTH 73°05' WEST 94.3 FEET; THENCE NORTH 74°16' WEST 80.7 FEET; THENCE NORTH 56°40' WEST 12 FEET, MORE OR LESS TO THE WEST LINE OF SAID SUBDIVISION.

PARCEL 10:

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHEASTERLY OF A LINE COMMENCING AT A POINT WHICH IS 126.5 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SUBDIVISION; THENCE NORTH 45°49' WEST 68.6 FEET; THENCE NORTH 44°04' WEST 44.5 FEET; THENCE NORTH 52°37' WEST 38.4 FEET; THENCE NORTH 53°49' WEST 43 FEET; THENCE NORTH 47°31' WEST 44.2 FEET; THENCE NORTH 57°04' WEST 44.6 FEET; THENCE NORTH 69°29' WEST 41.9 FEET; THENCE NORTH 72°34' WEST 50.1 FEET; THENCE NORTH 78°24' WEST 60.6 FEET; THENCE NORTH 75°20' WEST 100.57 FEET; THENCE NORTH 78°32' WEST 120.8 FEET; THENCE NORTH 73°03' WEST 95.7 FEET; THENCE NORTH 80°22' WEST 97.9 FEET; THENCE NORTH 72°03' WEST 96.8 FEET; THENCE NORTH 74°11' WEST 99.8 FEET; THENCE NORTH 75°12' WEST 95.8 FEET; THENCE NORTH 76°24' WEST 104.5 FEET; THENCE NORTH 77°56' WEST 104.7 FEET; THENCE NORTH 77°21' WEST 57.5 FEET, MORE OR LESS, TO THE WEST LINE OF SAID SUBDIVISION.

PARCEL 11:

THE EAST 60 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, EXCEPT THE SOUTH 30 FEET FOR ROAD; ALSO THE EAST 60 FEET OF THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; EXCEPT THE SOUTH 30 FEET FOR ROAD, SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, AND EXCEPT FROM BOTH OF SAID 60 FOOT STRIPS, THAT PORTION LYING NORTHEASTERLY OF A LINE BEGINNING AT A POINT WHICH IS 126.5 FEET NORTH OF THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 45°49' WEST 68.6 FEET; THENCE NORTH 44°04' WEST 44.5 FEET; THENCE NORTH 52°37' WEST 38.4 FEET; THENCE NORTH 53°49' WEST 43 FEET; THENCE NORTH 47°31' WEST 44.2 FEET; THENCE NORTH 57°04' WEST 44.6 FEET; THENCE NORTH 69°29' WEST 41.9 FEET; THENCE NORTH 72°34' WEST 50.1 FEET; THENCE NORTH 78°24' WEST 60.6 FEET; THENCE NORTH 75°20' WEST 100.57 FEET; THENCE NORTH 78°32' WEST 120.8 FEET; THENCE NORTH 73°03' WEST 95.7 FEET; THENCE NORTH 80°22' WEST 97.9 FEET; THENCE NORTH 72°03' WEST 96.8 FEET; THENCE NORTH 74°11' WEST 99.8 FEET; THENCE NORTH 75°12' WEST 95.8 FEET; THENCE NORTH 76°24' WEST 104.5 FEET; THENCE NORTH 77°56' WEST 104.7 FEET; THENCE NORTH 77°21' WEST 57.5 FEET, MORE OR LESS, TO THE WEST LINE OF SAID SUBDIVISION.

PARCEL 12:

ALL OF THE NEW CASTLE 5 ACRE TRACTS, ACCORDING TO THE PLAT RECORDED IN VOLUME 8 OF PLATS, PAGE 56, IN KING COUNTY, WASHINGTON, EXCEPT TRACTS 26, 28, 29, 31 AND 32, AND EXCEPT THAT PORTION CONVEYED TO KING COUNTY FOR LAKEMONT BOULEVARD BY DEED RECORDED UNDER AUDITOR'S FILE NOS. 5821501, 7112290243 AND 7112290248.

PARCEL 13:

THE WEST 330 FEET OF THE NORTH 990 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, EXCEPT PORTION CONVEYED TO KING COUNTY FOR LAKEMONT BLVD. UNDER AUDITOR'S FILE NO. 7112290303.

PARCEL 14:

THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION PLATTED AS EASTMONT HOME TRACTS, ACCORDING TO THE PLAT RECORDED IN VOLUME 57 OF PLATS, PAGES 90 AND 91, IN KING COUNTY, WASHINGTON; AND EXCEPT THAT PORTION PLATTED AS VUEMONT VISTA NO. 1, ACCORDING TO THE PLAT RECORDED IN VOLUME 121 OF PLATS, PAGES 52 THRU 55, INCLUSIVE, IN KING COUNTY, WASHINGTON.

PARCEL 15:

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHERLY OF THE NORTHERLY MARGIN OF LAKEMONT BOULEVARD AS CONVEYED TO KING COUNTY BY AUDITOR'S FILE NO. 7110080297;

ALSO, THE NORTH 30 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, EXCEPT THE WEST 30 FEET OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER.

PARCEL 16:

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING SOUTHERLY OF SOUTHERLY MARGIN OF LAKEMONT BOULEVARD AS CONVEYED TO KING COUNTY BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO. 7110080297.

PARCEL 17:

TRACT 26, NEW CASTLE 5 ACRE TRACTS, ACCORDING TO THE PLAT RECORDED IN VOLUME 8 OF PLATS, PAGE 56, IN KING COUNTY, WASHINGTON.

EXHIBIT B

LAKEMONT TRIANGLE WHOLESAL AGREEMENT

ORIGINAL

FILED NO. 15180  
CITY OF BELLEVUE  
DATE 2/6/90  
CITY CLERK *W. J. ...*  
*O. Connell*  
No. 5232

AGREEMENT FOR WHOLESALE SANITARY SEWER AND WATER SERVICE

FROM  
CITY OF BELLEVUE  
TO  
CITY OF ISSAQUAH SERVICE AREA  
LAKEMONT TRIANGLE

WHEREAS: A sphere of influence agreement has been reached between the City of Bellevue (Bellevue) and the City of Issaquah (Issaquah) that outlines the limits of a future boundary between the Cities, and

WHEREAS: It is desirable that the Cities' future sanitary sewer and water service boundaries correspond with the Cities' future corporate limits, and

WHEREAS: Bellevue sewer and water facilities now exist and may be logically extended to provide adequate service to certain areas within Issaquah's service area (shown on Exhibit C and labeled as Lakemont Triangle), and

WHEREAS: Issaquah sanitary sewer and water facilities are currently a greater distance from the Lakemont Triangle service area, and

WHEREAS: An analysis of sanitary sewer and water service options for Issaquah to serve the Lakemont Triangle service area, concluded that the least cost alternative for sanitary sewer and water service would be through an agreement for joint use of sanitary sewer facilities and a wholesale water service agreement between Bellevue and Issaquah, and

WHEREAS: It is desirable to provide sanitary sewer and water service to the public in the least costly manner, consistent with jurisdictional boundaries, and

WHEREAS: It is recognized that water service to the Lakemont Triangle service area will not solve Issaquah's long term water needs and that other solutions will be needed to serve future growth demands.

AGREEMENT FOR WHOLESALE SANITARY SEWER & WATER SERVICE  
FROM CITY OF BELLEVUE TO CITY OF ISSAQUAH - LAKEMONT TRIANGLE

NOW, THEREFORE be it agreed by the Cities of Bellevue and Issaquah that:

1. This Agreement addresses the provision of wholesale sanitary sewer and water service to a limited area of Issaquah's service area. It is not the intent of this Agreement to address facilities that would be capable of serving any additional portion of Issaquah's service area. Such facilities would require a separate agreement.

2. Bellevue agrees to provide wholesale sanitary sewer and water service to Issaquah for the Lakemont Triangle service area only for sanitary sewer conveyance and for retail water distribution and sale in accordance with the terms of this Agreement.

3. The number of Multi-Family Units to be served within the area shall not exceed 600 unless it is mutually agreed that additional units may be served.

4. Bellevue shall supply water from a 12" diameter main on Newport Way at 17300 block. This 12" main will be new construction by the City of Issaquah, and shall be extended from an existing 12" main located at approximately SE 42nd Place and SE Newport Way, west of the Lakemont Triangle. The estimated total length of new main will be 6350 feet. Issaquah shall be responsible for obtaining all necessary permits associated with the new 12" main. By executing this interlocal agreement, Bellevue agrees to endorse Issaquah's efforts to obtain the permits.

Ownership of the new water line from the point of connection to the existing Bellevue 12" main, shall be Issaquah's including that portion of the new main which will be within Bellevue jurisdictional boundaries. Bellevue shall not tap into Issaquah's 12" main without Issaquah's written approval. Such approval shall not be unreasonably withheld.

5. Bellevue shall provide a maximum fire flow of 2000 GPM measured at the intersection of Newport Way and 180th Ave. It is understood that the actual rate of flow at the point of use is dependent upon the hydraulic behavior of the distribution system between the connection point and the point of use and Bellevue therefore makes no representation with regard thereto.

6. Bellevue agrees that the wholesale water service it provides to Issaquah will meet the same standards of reliability, rate of flow and quality, that it provides to its retail service customers.

7. The Water Purveyor Contract between the City of Seattle and the City of Bellevue, Section II.B. Resale to Other Parties, requires written consent from Seattle prior to the execution of this Agreement.

AGREEMENT FOR WHOLESALE SANITARY SEWER & WATER SERVICE  
FROM CITY OF BELLEVUE TO CITY OF ISSAQUAH - LAKEMONT TRIANGLE

Issaquah agrees, for the Lakemont Triangle service area, to abide by the standard terms and conditions that are imposed by the Seattle Water Department as well as those imposed by Bellevue, including but not limited to cross-connection controls, water quality testing, water conservation and other applicable standards and those terms and conditions are hereby incorporated by reference herein as if set forth in full. This Agreement does not convey purveyor status or water supply rights from the City of Seattle to Issaquah.

8. The basis for determining Issaquah's fair share of the water capital cost of facilities shall be mutually accepted engineering standards and cost estimates related to sizing of storage, pumping, distribution and transmission facilities as listed on Exhibit B.

9. All water supplied to the Lakemont Triangle service area by Bellevue shall be metered by individual service meters to all water users. The metering device(s) shall be owned by Issaquah and be periodically calibrated in accordance with manufacturer's specifications to guarantee accuracy. If, due to water quality, Issaquah needs to periodically flush its main, Issaquah shall install a metered flushing station to record consumptions.

10. Issaquah shall read the individual meters on a bi-monthly schedule. Issaquah shall submit a payment to Bellevue for water consumption. The water shall be charged at Bellevue's standard residential water rate.

11. Bellevue agrees to allow Issaquah to connect the Issaquah sewer main serving the Lakemont Triangle area, into an existing Bellevue sewer facility in the vicinity of SE Newport Way and Lakemont Blvd. (future). (See Exhibit C.)

12. Issaquah agrees to pay Bellevue for their fair share of the sewer facilities on West Lake Sammamish which must be upgraded to serve both the Lakemont Triangle area and proposed Bellevue needs. The basis for determining the fair share computations shall be mutually accepted engineering standards related to sizing of the sewage facilities. (See Exhibit A) Upgrading of existing sewer facilities will include approximately 6000 L.F. of sewer trunk at an estimated cost of \$1,500,000.00 (1989 dollars).

Upgrading by Bellevue of the sewer facilities to meet additional capacity demands resulting from proposed Lakemont Triangle Development, and payment by Issaquah for its associated costs are conditional upon a signed commitment from the Developers to Issaquah. A signed commitment from the Developer will be required by Issaquah prior to building permit approval, which will include the portion for which the Developer must contribute toward the sanitary sewer upgrade. Failure by Developers to provide a signed

AGREEMENT FOR WHOLESALE SANITARY SEWER & WATER SERVICE  
FROM CITY OF BELLEVUE TO CITY OF ISSAQUAH - LAKEMONT TRIANGLE

commitment in a timely manner prior to finalization of plans to upgrade the Bellevue sewer, will result in the reduction of the sewer upgrade by Bellevue, shall release Issaquah from all monetary responsibility for that portion of the upgrade costs and Issaquah would not be able to connect to Bellevue's sewer facilities.

13. Bellevue shall construct, own and maintain all sanitary sewer facilities within its service area that are jointly used by Bellevue and Issaquah.

14. Bellevue agrees to bill and Issaquah agrees to pay a monthly user fee of \$.87 per Multi-Family Unit per month for sewage conveyance capacity, after construction. This rate includes charges for maintenance and operation of the jointly used facilities in perpetuity and will not be subject to additional charges for maintenance and operation.

15. Bellevue and Issaquah agree that the sanitary sewer and water system improvements needed to serve the area are to be provided in response to development activity, hence the construction of the facilities is dependent upon Developer contributions and construction. Issaquah's fair share of the capital cost of facilities to serve the area shall be provided from Developer cash contributions and/or Developer facility construction.

16. Issaquah shall construct, own and maintain all sanitary sewer and water facilities that are solely used for service to Issaquah, regardless of the location of the facilities.

17. Issaquah agrees to pay Bellevue's applicable general facilities fees for each Multi-Family Unit that is served. These fees will be collected by Issaquah on a unit by unit basis at the time that service is granted under Building Permit approval. An annual payment will be made to Bellevue representing the connection fees that were collected during the preceding twelve month period. The annual payment shall be made on or near December 31st of each year that new connections are added. A letter report shall accompany the payment, which include an accounting of the connections added during the year.

18. Bellevue agrees to obtain all necessary approvals and permits for serving and constructing the jointly used facilities.

AGREEMENT FOR WHOLESALE SANITARY SEWER & WATER SERVICE  
FROM CITY OF BELLEVUE TO CITY OF ISSAQUAH - LAKEMONT TRIANGLE

19. Issaquah agrees to obtain all necessary approvals and permits for construction of the facilities that will solely serve Issaquah.

20. Dispute Resolution. Each City shall designate representatives for the purposes of administering this Agreement and resolving disputes arising from this Agreement. Each city shall notify the other in writing of its designated representatives. Each City may change its designated representatives on notice to the other.

Disputes that cannot be resolved by the representatives designated herein shall be referred to the Chief Executive Officer of each City for mediation and/or settlement. If not resolved by them within sixty (60) days, either City, or both of them, may file a demand for arbitration, in which event the issue shall be submitted to an arbitrator acceptable to both parties and the matter shall be arbitrated pursuant to the rules and procedures of the American Arbitration Association. The decision of the arbitrator shall be final and binding on both Cities.

21. Liability/Hold Harmless. Bellevue shall indemnify, defend, and hold harmless the City of Issaquah, its officers, agents and employees, from and against any and all claims, losses, or liability, including attorneys fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Bellevue, its officers, agents and employees, in the performance of this Agreement. With respect to the performance of this Agreement and as to claims against Issaquah, its officers, agents and employees, Bellevue expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Bellevue. This paragraph shall not apply to any damage resulting from the negligence of Issaquah, its agents and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Issaquah, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Bellevue, its officers, agents and employees.

Issaquah shall indemnify, defend and hold harmless the City of Bellevue, its officers, agents and employees, from and against any and all claims, losses, or liability, including attorneys fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Issaquah, its officers, agents and employees, in the performance of this Agreement. With respect to the performance of this Agreement and as to claims against Bellevue, its officers, agents and employees, Issaquah expressly waives its immunity under Title 51 of the

AGREEMENT FOR WHOLESale SANITARY SEWER & WATER SERVICE  
FROM CITY OF BELLEVUE TO CITY OF ISSAQUAH - LAKEMONT TRIANGLE

Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Issaquah. This paragraph shall not apply to any damage resulting from the negligence of Bellevue, its agents and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of Bellevue, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Issaquah, its officers, agents and employees.

HEREBY AGREED TO AND ACCEPTED BY this the 19<sup>th</sup> day of  
April, 19890.

CITY OF BELLEVUE

Pam Basson

CITY OF ISSAQUAH

Howan C. Hinde

Mayor

Approved as to form:

[Signature]  
Assistant City Attorney

Wayne Devula 3/14/90  
City Attorney

52:50

EXHIBIT A

COST ALLOCATION FOR  
SOUTH VASA PARK SEWER TRUNK

Issaquah will serve 600 Multi-Family Units (360 Equiv. Single Family Units) via a sewer pump station. Normally peak flow from 600 MF Units would be approximately 200 gpm, it is anticipated that the pump station will be sized for around 275 gpm, which is equivalent to 825 MF or 495 SF Units. For flow demand and determining Issaquah's share of the trunk costs, 495 Equiv. SF Units is being used for Issaquah. The total number of projected equivalent single family units in the South Vasa Trunk is 2009, including Issaquah.

1) Cost for constructing new trunk.

The estimated project cost is \$1,567,000. Therefore, the cost per Equiv. SF Unit is  $\$1,567,000/2009 = \$780$ . \*\*

2) Replacement and M&O costs.

Replacement cost = \$1,560,000

Anticipated life of trunk = 75 years

Replacement cost per year =  $\$1,560,000/75 = \$20,800$

Assume annual M&O cost = \$1000

Total annual cost = \$21,800

Issaquah's share =  $495/2009 = 25\%$

Issaquah's cost per year =  $.25(\$21,800) = \$5,450$

Cost per MF unit per month =  $\$5,450/600 \text{ SF units}/12 \text{ months}$   
= \$0.75 per month

3) Additional cost for admin., insurance, liability, etc.  
+15% = \$0.12

TOTAL MONTHLY CHARGE PER MF UNIT PER MONTH = \$0.87

\*\* This is in 1989 dollars, interest will be added to the cost for connection made in future years.

EXHIBIT B

COST OF  
SOUTH 520 ZONE REGIONAL FACILITIES

1) Estimated ultimate equivalent single family units

Ultimate Max. day demand (MDD) = 4.9 MGD  
(1985 Water Comp. Plan, pg. 3-12)

Avg. Day Demand per capita = 80 gpcd

3.1 persons per SF unit

ADD per equiv. SF unit = 80 gpcd X 3.1 = 248 gpd

MDD = ADD X 2.4

MDD for equiv. SF = 248 gpd X 2.4 = 769 gpd

(All from 1986 Water Comp. Plan Amend., pg. 11 & 12)

Estimated ultimate SF units in South 520 Zone =  
4,900,000 MGD / 769 gpd = 6372

2) Estimated replacement cost of existing regional facilities:

2MG Steel Reservoir	= \$ 800,000
3MG Concrete Reservoir	= \$1,300,000
*2 Supply Inlet Stations	= \$1,350,000 (60% = \$810,000)
*8500 lf - 24" Pipe	= \$1,490,000 (60% = \$894,000)
*9400 lf - 16" Pipe	= \$1,175,000 (60% = \$705,000)
*17200 lf - 12" Pipe	= \$1,720,000 (60% = \$1032,000)

TOTAL = \$5,541,000

\* These facilities provide service to other areas, therefore, only 60% will be allocated to the South 520 Zone.

Estimated depreciation of the facilities:

Reservoirs

age 13 years - expected useful life 100yrs  
depreciation = 13/100 = 13%

Inlets - new no depreciation

Pipe

avg age 16 years - expected life 75yrs  
depreciation = 16/75 = 21%

Depreciation value

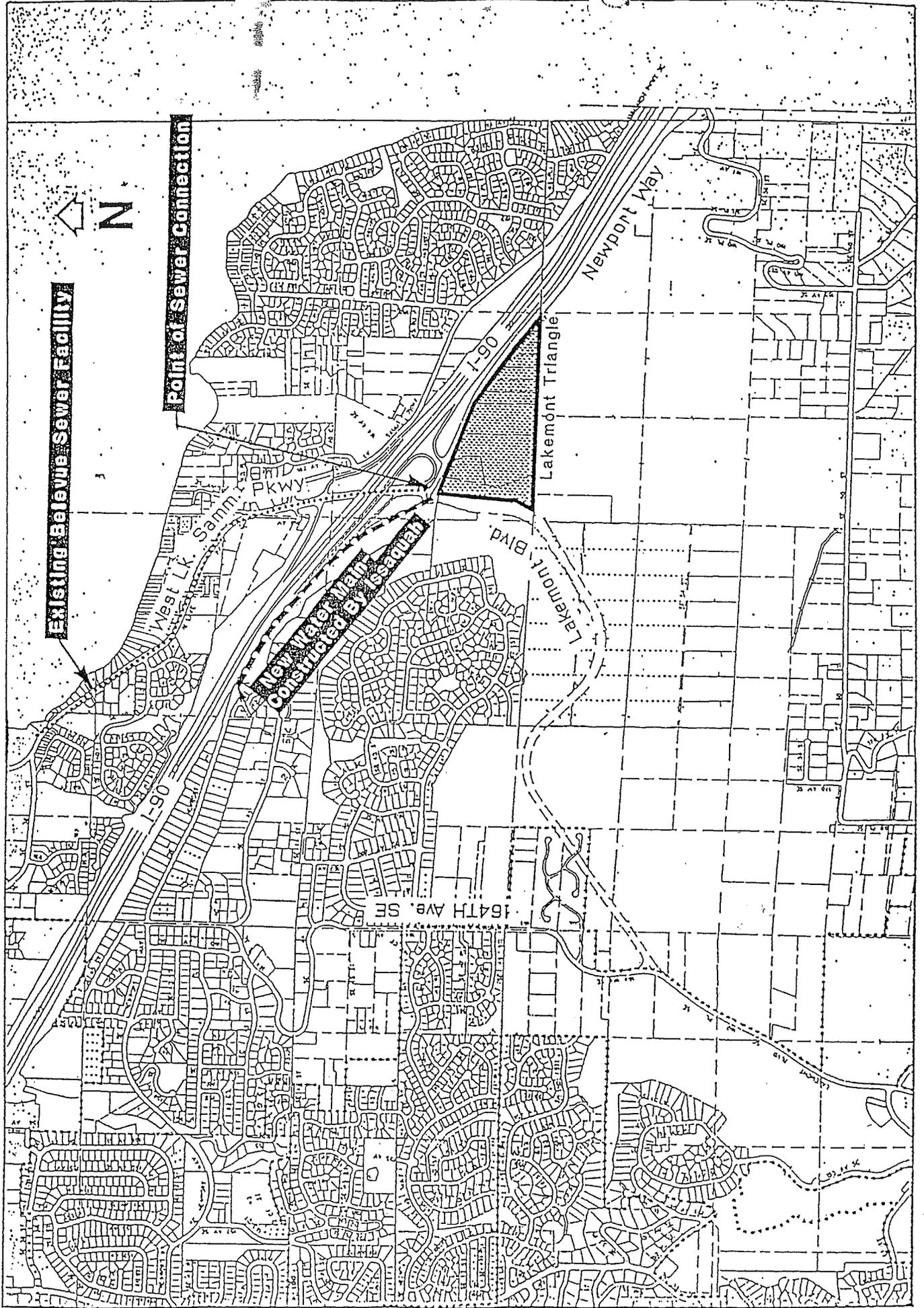
Reservoirs = \$2,100,000 X .13 = \$273,000

Pipes = \$3,441,000 X .21 = \$722,000

TOTAL FACILITIES REPLACEMENT COSTS MINUS DEPRECIATION

\$5,541,000 - \$995,000 = \$4,546,000

ESTIMATED COST PER EQUIVALENT SF UNIT = \$4,546,000 / 6372  
= \$715



## EXHIBIT C

### DESCRIPTION OF REGIONAL FACILITIES AND OPERATIONAL STANDARDS

#### GENERAL DESCRIPTION:

The "Issaquah Regional Facilities" include the following:

- Water pipelines, valves, fittings, thrust restraint, and surface restoration from a point of connection on 163<sup>rd</sup> and Newport Way to a point of connection at the Holly Street Pump Station and the future First Ave Pump Station.
- Flow metering facilities at the point of connection on 163<sup>rd</sup> and Newport Way, at the Holly Street Pump Station, and at the First Ave Pump Station.
- Pressure control facilities (including pressure stabilization, pressure reducing and pressure increasing) at the point of connection at the Holly Street Pump Station and at the future First Ave Pump Station.
- Flushing facilities that are not yet located, but that will be adjacent to the pipeline somewhere between 163<sup>rd</sup> and Newport Way and the Holly Street Pump Station.

Flow control facilities located at the Holly Street Pump Station and the future First Ave Pump Station and automatic control and telemetry facilities necessary to comply with the demand metering charge provisions of this contract.

The "Generalized Bellevue System Improvements," include the following. The generalized improvements to Bellevue's Water Utility System listed below may be constructed as part of the facilities necessary to provide water to Issaquah under this Agreement.

- Approximately 300 feet of 16-inch diameter watermain.
- Pressure reducing valve station.
- Pump station.
- Zone disconnect.
- Meter improvements at the Eastgate Inlet.

#### OPERATIONAL STANDARDS:

**Minimum Hydraulic Gradient:** A minimum hydraulic gradeline of 520 feet will be maintained at the point of connection with the Bellevue Water System at 163<sup>rd</sup> and Newport Way. The datum for this elevation will be the overflow elevation in the Newport Reservoir (520'). This minimum hydraulic gradeline will be accomplished either by Seattle operational change(s) or by Issaquah constructing a pump station at 163<sup>rd</sup> and Newport Way which after construction will be owned and operated by Bellevue.

**Maximum Flowrate:** Seattle will not be obligated to sell to Bellevue nor will Bellevue be obligated to sell to Issaquah volumes of water which exceed the  $Q_a$  or  $Q_i$  as specified in Section 2.1 of this Amendment. These flow rates may be exceeded during emergencies if supply is available from Bellevue and Seattle.

**Demand Charge Compliance:** Bellevue is obligated to maintain demand metered flowrates in accordance with their Purveyor Contract with Seattle (Appendix III-H). Issaquah will operate the aggregate of the Issaquah meters within the same "Demand Charge" operating limitations. The limitations are summarized below:

The "Demand Factor" for the aggregate of the Issaquah Water Meters is determined by dividing the greatest "fifteen minute average flowrate" by the "twenty-four hour average flowrate" of the same day. A "day" for the purposes of this calculation commences at nine a.m. and ends at nine a.m. the following calendar day. The fifteen-minute average flowrate is the average rate of flow over a fifteen-minute period. The fifteen-minute period starts on the hour and ends fifteen minutes later and then at subsequent fifteen-minute intervals. The twenty-four hour average flow is the average flowrate from 9:00 a.m. to 8:59 a.m. the following day.

The ten maximum flow days for the aggregate of the Issaquah meters will be used to determine the average demand factor for demand charge compliance. The average demand factor is the average of the demand factors of the ten maximum flow days for the aggregate of the Issaquah meters.

Issaquah will be responsible for a demand charge when the average demand factor exceeds 1.3.

Issaquah will pay demand charge fees if Issaquah exceeds the 1.3 demand charge threshold and if Seattle imposes demand charge fees on Bellevue. If Issaquah exceeds the demand charge threshold (1.3) but Bellevue is not charged or does not exceed the threshold because of lower flowrates in their own meters, Issaquah will not pay a demand charge. If both Bellevue and Issaquah exceed the demand charge threshold, Issaquah will pay its fair share of the charge using the demand charge computation methods in the Bellevue Purveyor Agreement.

Issaquah will set its flowrate by 8:00 a.m. each day and communicate the flowrate setpoint to Bellevue.

EXHIBIT D

LETTER FROM SEATTLE PUBLIC UTILITIES TO BELLEVUE



# City of Seattle

Paul Schell, Mayor

Seattle Public Utilities  
Diana Gale, Director

March 10, 1999

Mr. Lloyd Warren  
Utility Director  
City of Bellevue  
P.O. Box 90012  
Bellevue, WA. 98009-9012

RE: Amendment of wholesale water service agreement between Bellevue and Issaquah

Dear Mr. Warren:

I have received the final version of the amendment to the Wholesale Water Service Agreement from the City of Bellevue to the City of Issaquah. Based on the content therein and on the premise that this amended agreement will be adopted by both the City of Issaquah and the City of Bellevue in its current form, I hereby approve of this amended agreement. Thank you for the work you and your staff have contributed to the timely resolution of Issaquah's water supply needs.

Sincerely,

A handwritten signature in cursive script that reads "Diana Gale".

Diana Gale  
Director

---

**CASCADE JOINT MUNICIPAL UTILITY SERVICES  
AGREEMENT (2012)**



# Memorandum

**To:** Elaine Kraft  
Cascade Water Alliance

**From:** Darcey Strand  
Shared Service

**Date:** July 10, 2012

**Re:** CWA Joint Municipal Utility Services Agreement

---

Elaine, the signed contract is attached. Sorry for the delay in process. We hope to receive a copy of the recorded document on completion of the process.

Thanks again.



# Signature Routing Form

2012-285

Contract Routing No.

YES	NO	REQUIRED (if 'No' provide explanation)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BUSINESS LICENSE PRINTOUT w/City (if sole proprietor or partnership see box below-must have DOR form)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	DEPARTMENT OF RETIREMENT (DOR) FORM
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BOND & RETAINAGE - REQUIRED ON ALL PUB
<input type="checkbox"/>	<input checked="" type="checkbox"/>	CERTIFICATE OF INSURANCE & ADDITIONAL IN
<input type="checkbox"/>	<input checked="" type="checkbox"/>	PUBLIC WORKS SPECIFIC- LARGE OR SMALL JOBS (C
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ARCHITECT/ENGINEER SERVICES - Shared Proc
<input type="checkbox"/>	<input checked="" type="checkbox"/>	W-9 FORM (original to AP, no need to keep copy in clerk's files)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	CC'd to Finance (bill of sale, right of way, deeds, property transfer, new construction, loaned items, donations, art work, etc.)

Please return **ORIGINAL** countersigned or recorded et to Clerk's for official files as soon as you receive it.

## APPROVALS (routing order-pass to next person)

DM FORM	RISK MANAGEMENT (LOG IN)
N/A	CITY ATTORNEY
N/A	PAYROLL -if req- ATTACH DOR form
NRB 7/3/12	FINANCE DIRECTOR
#12007/3/12	MAYOR
cel 7/10/12	CITY CLERK (LOG OUT)

## RECORDING

W/ KING COUNTY

INTERLOCALS/WEB

YES  NO

YES  NO

DATE:

DATE:

## DISTRIBUTION (w/DATES)

CITY CLERK FILES \_\_\_\_\_

CONTRACTING PARTY C/O DEPT \_\_\_\_\_

ORIGINATING DEPT \_\_\_\_\_

*NOTE* For SWK projects, written call around documents for \$5 for \$35-199k) - OR - a copy of the Shared Procurement Portal "advertisement for bid" and subsequent results **must be attached** - along with copy of Shared Procurement Portal website showing contractor listed on Roster.  
*NOTE* For formal bids, bid summary and copy of bid announcement, and bond/retainage - **must be attached**.

PWE CONTRACT # N/A This is an agreement to:  Receive Funds  Disburse Funds  Other

PWE Project Number(s) / Name(s) with Amounts: N/A

Contracting Entity: Cascade Water Alliance

Date Original Contract Signed By Contracting Party 4-10-12 Number of Original Document(s) provided: 2

Contact Person at Above Entity: Chuck Clark Phone: 425-453-1555

Official Title of Doc Attached (not dept name for it): CWA Joint Municipal Utility Service Agreement

Summary Purpose of Document: This document ratifies the March 28, 2012 amendments to the CWA Joint Municipal Utility Service Agreement.

Effective Date(s) of Document: From: 6-4-12 To: Withdrawal Change Order/Addendum # n/a

Originating Department: Public Works Engineering Staff Person: Sheldon Lynne Phone 3426

- Total City Funding for this Contract (even if zero): \$ 0
- Total Non-City Funding for this Contract (even if zero): \$ 0
- Total Overall Project Budget (for entire project - not just City portion or this single contract total): \$ 0

Agenda Bill #/Date Approved (if City Council authorization needed - do not submit before approval) #16396 6/4/12

Cost Accounting Review: Jeri Hogan Date: 6/27/12 Commit Authority Req  Mayor  Dir

Originating Dept Director Approval: (Signature) Sheldon Lynne

DATE ACTUALLY SENT INTEROFFICE from Department for contract processing: 6/28/12





Christine Eggers  
City Clerk  
P.O. Box 1307  
Issaquah, WA 98027-1307  
Phone: (425) 837-3000  
Fax: (425) 837-3009

NOA 12-22

**NOTICE OF ACTION  
ISSAQUAH CITY COUNCIL**

June 26, 2012

TO: Cascade Water Alliance  
520 112th Ave. NE Suite 400  
Bellevue, WA 98004

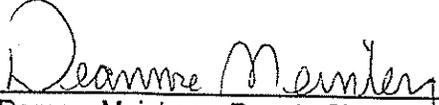
RE: Ratification of Cascade Water Alliance Joint Municipal Utility Service Agreement

AGENDA BILL NO: AB 6396

DATE OF ACTION: June 4, 2012

ACTION TAKEN: Council ratified the March 28, 2012 Cascade Water Alliance Joint Municipal Utility Services Agreement and authorized the Mayor to execute the agreement.

ATTACHMENTS: Agreement

  
Deanne Meinberg  
Deanne Meinberg, Deputy City Clerk

cc: Sheldon Lynne, Public Works Director  
File



After recording, return to:

Van Ness Feldman GordonDerr  
2025 First Avenue, Suite 500  
Seattle, Washington 98121  
(206) 382-9540

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

<b>DOCUMENT TITLE(S)</b> (or transactions contained therein):  <b>CASCADE WATER ALLIANCE JOINT MUNICIPAL UTILITY SERVICES AGREEMENT</b>
<b>REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:</b>  N/A  <input type="checkbox"/> Additional reference #s on page _____ of document(s)
<b>GRANTOR(S)</b> (Last name first, then first name and initials)  <b>CASCADE WATER ALLIANCE/MEMBERS OF CASCADE WATER ALLIANCE</b>  <input type="checkbox"/> Additional names on page _____ of document
<b>GRANTEE(S)</b> (Last name first, then first name and initials)  <b>CASCADE WATER ALLIANCE/MEMBERS OF CASCADE WATER ALLIANCE</b>  <input type="checkbox"/> Additional names on page _____ of document
<b>LEGAL DESCRIPTION</b> (abbreviated: i.e., lot, block, plat or section, township, range)  N/A  <input type="checkbox"/> Additional legal is on page _____ of document
<b>ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER</b>  N/A  <input type="checkbox"/> Assessor Tax # not yet assigned

**Cascade Water Alliance**  
**Joint Municipal Utility Services Agreement**  
**March 28, 2012**

## TABLE OF CONTENTS

ARTICLE 1.	AGREEMENT.....	2
ARTICLE 2.	DEFINITIONS.....	2
ARTICLE 3.	FORMATION OF ENTITY; PURPOSE AND POWERS .....	5
Section 3.1	Formation .....	5
Section 3.2	Membership .....	6
Section 3.3	Purposes .....	6
Section 3.4	Powers.....	7
ARTICLE 4.	ORGANIZATION STRUCTURE; BOARD.....	8
Section 4.1	Composition, ByLaws and Meetings .....	8
Section 4.2	Powers of the Board.....	9
Section 4.3	Voting.....	9
Section 4.4	Officers and Committees .....	9
Section 4.5	Executive Committee.....	9
Section 4.6	Staff, Consultants and Contractors.....	10
Section 4.7	Budget; Dues; Financial Management .....	10
ARTICLE 5.	ASSET DEVELOPMENT AND SUPPLY COMMITMENT .....	10
Section 5.1	Property Acquisition, Ownership and Disposition .....	10
Section 5.2	Supply Commitment.....	11
Section 5.2.1	Commitment to Members .....	11
Section 5.2.2	Additional Rules for Members Retaining Independent Supply .....	12
Section 5.3	Financing of Assets .....	12
Section 5.3.1	Issuance of Bonds .....	13
Section 5.3.2	Pledge of Revenues .....	13
Section 5.3.3	Continuing Disclosure .....	14
Section 5.3.4	Preservation of Tax Exemption for Interest on the Bonds.....	14
Section 5.3.5	Additional Certificates .....	14
Section 5.4	Supply Expansions and System Extensions .....	14
Section 5.5	Regional Capital Facilities Charges .....	15
Section 5.6	Transfer Upon Mergers, Consolidations and Assumptions.....	16
ARTICLE 6.	NEW INDEPENDENT SUPPLY .....	16

<b>ARTICLE 7.</b>	<b>ASSET MANAGEMENT .....</b>	<b>16</b>
Section 7.1	Supply System Management .....	16
Section 7.2	Conservation .....	16
Section 7.3	Shortages and Emergency .....	17
Section 7.3.1	Shortages.....	17
Section 7.3.2.	Emergency .....	17
Section 7.4	Water Quality .....	18
Section 7.5	Water Supply Rates and Charges .....	18
Section 7.6	Franchises and Easements.....	19
Section 7.7	Sales of Water to Non-Members .....	19
Section 7.8	Payment Procedures; Default; Step-Up Provisions .....	19
Section 7.8.1	Invoice and Payment .....	19
Section 7.8.2	Default and Step-Up .....	20
<b>ARTICLE 8.</b>	<b>PLANNING .....</b>	<b>20</b>
Section 8.1	Water Supply Plan.....	20
Section 8.2	Watershed Management Plan .....	21
Section 8.3	System Reliability Methodology.....	21
<b>ARTICLE 9.</b>	<b>DURATION AND DISSOLUTION; WITHDRAWAL.....</b>	<b>21</b>
Section 9.1	Duration .....	21
Section 9.2	Withdrawals.....	21
Section 9.3	Disincorporation .....	22
Section 9.4	Successor Entity.....	23
<b>ARTICLE 10.</b>	<b>AMENDMENTS.....</b>	<b>23</b>
<b>ARTICLE 11.</b>	<b>APPLICABLE LAW AND VENUE.....</b>	<b>23</b>
<b>ARTICLE 12.</b>	<b>NO THIRD PARTY BENEFICIARIES .....</b>	<b>23</b>
<b>ARTICLE 13.</b>	<b>SEVERABILITY.....</b>	<b>23</b>
<b>ARTICLE 14.</b>	<b>ENTIRE AGREEMENT .....</b>	<b>23</b>
<b>ARTICLE 15.</b>	<b>EXECUTION.....</b>	<b>25</b>

**CASCADE WATER ALLIANCE**  
**JOINT MUNICIPAL UTILITY SERVICES AGREEMENT**

**RECITALS**

A. WHEREAS, the Members of Cascade Water Alliance ("Cascade") entered into an Interlocal Contract ("Interlocal Contract"), effective April 1, 1999, and amended and restated on December 15, 2004, and on October 26, 2011. Under the Interlocal Contract, Cascade was created as a public body and an instrumentality of its Members, which exercised essential governmental functions on its Members' behalf as authorized by the Interlocal Cooperation Act (Chapter 39.34 RCW), and has been functioning as a watershed management partnership, as authorized by RCW 39.34.200. Cascade was incorporated as a public nonprofit corporation in the manner set forth in the Nonprofit Miscellaneous and Mutual Corporations Act (Chapter 24.06 RCW).

B. WHEREAS, Section 3.3 of the Interlocal Contract provides that Cascade may be converted into a separate municipal corporation if and as permitted by law, and that upon the creation of such a separate municipal corporation, all Cascade rights and obligations and all Member rights and obligations shall transfer to that new municipal corporation. Section 10.4 of the Interlocal Contract provides that "upon a 65 percent Dual Majority Vote (ratified within 120 days by 65 percent), as measured by Dual Majority Vote of the Members' legislative authorities, all assets, liabilities, and obligations of Cascade may be transferred to any successor entity (including, without limitation, a joint operating agency or other municipal corporation, as permitted under state law), and all obligations of Members and parties contracting with Cascade become obligations to the successor entity." Cascade's Board resolutions also reserved Cascade's right to convert into a municipal corporation.

C. WHEREAS, the Washington Legislature enacted the Joint Municipal Utilities Services Act, (Chapter 258, Laws of 2011), codified as Chapter 39.106 RCW ("the Act"), which provides in RCW 39.106.080 for the conversion of existing an intergovernmental entity formed under the Interlocal Cooperation Act (Chapter 39.34 RCW) into a joint municipal utility services authority under the Act, if:

- The public agencies that are parties to an existing interlocal agreement would otherwise be eligible to form an authority to provide the relevant utility services;
- Those public agencies amend, restate, or replace that interlocal agreement so that it materially complies with the requirements of RCW 39.106.050;
- The amended, restated, or replacement agreement is filed with the Washington state secretary of state consistent with RCW 39.106.030; and
- The amended, restated, or replacement agreement expressly provides that all rights and obligations of the entity formerly existing under Chapter 39.34 RCW or other applicable law will thereafter be the obligations of the new authority created under Chapter 39.106 RCW.

D. WHEREAS, under the Act, upon compliance with the requirements set forth in Recital C above, the new joint municipal utility services authority shall be a successor of the former intergovernmental entity for all purposes, and all rights and obligations of the former entity shall transfer to the new joint municipal utility services authority. Those obligations shall be treated as having been incurred, entered into, or issued by the new joint municipal utility services authority, and those obligations shall remain in full force and effect and shall continue to be enforceable in accordance with their terms.

E. WHEREAS, in accordance with Sections 3.3 and 10.4 of the Interlocal Contract, Cascade's Members (who are all public agencies that are parties to an existing interlocal agreement ) are otherwise eligible to form a joint municipal utility services authority under the Act to provide the relevant utility services.

F. WHEREAS, Cascade's Members intend to amend and restate the Interlocal Contract in compliance with the Act in order to convert Cascade into a joint municipal utility services authority.

G. WHEREAS, Cascade's Members intend to transfer all Cascade rights, assets, liabilities, and obligations to the joint municipal utility services authority, to be created as provided herein.

H. WHEREAS, Cascade's Members intend that, as a joint municipal utility services authority, it will constitute a municipal corporation and will no longer function as a watershed management partnership.

**NOW, THEREFORE, it is agreed by Cascade Members as follows:**

**ARTICLE 1. Agreement.**

Effective upon approval by 65 % Dual Majority Vote of the Board (as ratified within one hundred and twenty (120) days of such Dual Majority Vote by 65% Dual Majority of the Members' legislative authorities) the Interlocal Contract is hereby amended and restated as provided herein under the authority of the Act and shall be known as the Cascade Water Alliance Joint Municipal Utility Services Agreement.

**ARTICLE 2. Definitions.**

"Act" means the Joint Municipal Utilities Services Act, codified as Chapter 39.106 RCW, or as hereafter amended.

"Agreement" means this Joint Municipal Utilities Services Agreement.

"Asset Transfer Agreement" means an agreement between Cascade and a Member by which the Member transfers title to Water Supply Assets to Cascade, with or without monetary consideration, to be operated and maintained as part of the Cascade Water Supply System.

"Authority" means a joint municipal utility services authority formed under the Act and the successor in interest to Cascade as an interlocal agency.

**"Authorized Issuer"** means either: (a) Cascade (or a successor entity); or (b) a Member or other entity authorized to issue Bonds for the benefit of Cascade approved by Resolution of the Board.

**"Board"** means the Board of Directors of Cascade.

**"Bonds"** means short-term or long-term bonds, notes, warrants, certificates of indebtedness, or other obligations issued by, or on behalf of Cascade.

**"ByLaws"** means the ByLaws of Cascade, as adopted and amended by the Board.

**"Cascade"** means Cascade Water Alliance, a joint municipal utilities services authority.

**"Cascade ERUs" ("CERUs")** means equivalent residential units, calculated according to the Regional Capital Facilities Charge Methodology.

**"Cascade Supply Date"** means the date, established by a Resolution of the Board for each Member upon which Cascade undertakes a Supply Commitment.

**"Demand Share"** means either a Member's current share of water provided through the Supply System, or estimated share of water to be provided through the Supply System, whether Full Supply or Interruptible Supply, expressed in millions of gallons per day. Demand Share is calculated according to the Rate Calculation Methodology.

**"Dual Majority Vote"** means Board approval of a proposal on the basis of a simple majority of all Members, allowing one vote per Member, together with a simple majority of all Members on the basis of each Member's Weighted Vote. A "simple majority" means a majority of all Members of Cascade, not just the Members present and voting.

**"65% Dual Majority Vote"** means Board approval of a proposal on the basis of a 65% supermajority of all Members, allowing one vote per Member, together with 65% supermajority of all Members on the basis of each Member's Weighted Vote. A "supermajority" means 65% of all Members of Cascade, not just the Members present and voting.

**"Gross Cascade Revenue"** means all of the earnings and revenues received by Cascade from any source whatsoever including but not limited to: (a) Member Charges; (b) revenues from the sale, lease or furnishing of commodities, services, properties or facilities; (c) the receipt of earnings from the investment of money in any maintenance fund or similar fund; and (d) withdrawals from any rate reserve or rate stabilization fund or account.

However, Gross Cascade Revenue shall not include: (a) principal proceeds of Bonds or any other borrowings, or earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund obligations relating to the Water Supply System (until commingled with other earnings and revenues included in Gross Cascade Revenue) or held in a special account for the purpose of paying a rebate to the United States Government under the Code; (b) taxes and other income and revenue which may not legally be pledged for revenue bond debt service; (c) improvement district assessments; (d) federal or state grants allocated to capital projects; (e) payments under Bond Insurance or other credit enhancement policy or device; (f) insurance or condemnation proceeds used for the replacement of capital

projects or equipment; (g) earnings in any construction fund or bond redemption fund; (h) deposits to any rate reserve or rate stabilization fund or account; or (i) any revenues generated by any Independent Supply except those amounts that are payable to Cascade pursuant to this Agreement or another agreement.

**“Independent Supply” or “Independent Supplies”** means a Member’s Water Supply Assets that are not part of the Supply System.

**“Joint Municipal Utilities Services Act” or “Act”** means Chapter 39.106 RCW, or as hereafter amended.

**“Member” or “Members”** means one or more member agencies of Cascade.

**“Member Charges”** means all payments that Cascade Members are required by this Agreement to make to Cascade, including but not limited to all Rates and Charges, RCFCs, dues, assessments and other payments from Members.

**“Net Cascade Revenue”** means Gross Cascade Revenue less Operations and Maintenance Costs.

**“Non-Member”** means any person or agency that is not a party to this Agreement.

**“Operations and Maintenance Costs” or “O&M Costs”** means all expenses incurred by Cascade to operate and maintain the Supply System in good repair, working order and condition, including without limitation, payments made to any other public or private entity for water or other utility service. Except as approved by the Board, Operations and Maintenance Costs shall not include any depreciation, capital additions or capital replacements to the Supply System.

**“Rates and Charges”** means the rates and charges (not including RCFCs) chargeable to each Member using the Rate Calculation Methodology plus any late payment or other charge that may be due.

**“Rate Calculation Methodology”** means the method of setting Rates and Charges adopted by the Board in accordance with Section 7.5

**“Regional Capital Facilities Charges” (“RCFCs”)** means the charges to each Member for new CERUs connected to that Member’s water distribution system.

**“Regional Capital Facilities Charge Methodology” (“RCFC Methodology”)** means the method of determining the RCFCs adopted by the Board in accordance with Section 5.5.

**“Satellite Systems”** means water supply facilities identified as such by the Board, including but not limited to facilities that serve a portion of a Member’s customers but that are not part of the Member’s main water system.

**“Shortage Management Plan”** means the plan adopted by the Board in accordance with Section 7.3.1.

**“Supply Commitment”** means the obligation undertaken by Cascade, established by Resolution of the Board to supply water to a Member. With respect to Members, that obligation shall be characterized as **“Full Supply Commitment,”** or an **“Interruption Supply Commitment”** defined as follows:

**“Full Supply Commitment”** or **“Full Supply”** for any or all of a Member’s water needs means that those needs, as projected in the Cascade Water Supply Plan and as agreed to by that Member, shall be met from the Supply System, net of Independent Supply and subject to the other limitations established in this Agreement, on an equal parity with all other Full Supply Commitments, and with a guaranteed priority no lower than for any other Supply Commitment made by Cascade; provided that no Member is guaranteed any given amount of supply or capacity.

**“Interruptible Supply Commitment”** or **“Interruptible Supply”** means a supply of all or part of a Member’s water needs from the Supply System on an as-available basis on a lower priority than any Full Supply Commitment.

The Supply Commitment for a Member shall be defined by this Agreement, the terms and conditions of membership, and the Supply Commitment resolution.

**“Supply System”** or **“Water Supply System”** means the Water Supply Assets owned or controlled by Cascade.

**“Water Supply Assets”** means tangible and intangible assets usable in connection with the provision of water supply, including without limitation, real property, physical facilities (e.g., dams, wells, treatment plants, pump stations, reservoirs, and transmission lines), water rights, capacity and/or contractual rights in facilities or resources owned by other entities, and investments in conservation programs and facilities.

**“Watershed Management Plan”** means any Watershed Management Plan that existed on the effective date of the Authority which shall be considered a plan of the Authority.

**“Water Supply Plan”** or **“Cascade’s Water Supply Plan”** means the Cascade’s Regional Water Supply Plan adopted by the Board as provided in Section 8.1.

**“Weighted Vote”** means a vote in which each Member’s vote is counted according to the Member’s Demand Share, but no Member shall have a Weighted Vote of less than one.

### **ARTICLE 3. Formation of Entity; Purpose and Powers.**

**Section 3.1 Formation.** Effective on the date of filing of this Agreement with the Washington state secretary of state, Cascade shall be a joint municipal utility services authority formed under the Act; and is the successor for all purposes to the former Cascade created under the Interlocal Contract as an intergovernmental entity existing under the laws of Chapter 39.34 RCW; and is no longer functioning as a watershed management partnership. All rights and obligations of the former intergovernmental entity are transferred to Cascade, the new Authority, which obligations shall be treated as having been incurred, entered into, or issued by Cascade, the successor, and those obligations (including without limitation, outstanding Bonds issued by the former Cascade) shall remain in full force and effect and shall continue to be enforceable in accordance with their terms.

Cascade Water Alliance, as a joint municipal utility services authority, is a municipal corporation.

**Section 3.2 Membership.** Subject to restrictions on future Cascade water rights, or to limitations upon place of use of water supply imposed by contract or permit, any city, town, county, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state that provides utility services, and any Indian tribe recognized as such by the United States government (or as may be allowed by amendments to the Act) may be admitted as a member of Cascade. The decision to admit new Members rests with the sole discretion of the Board, which shall determine whether to extend a membership offer taking into consideration the audit findings (as described in this Section 3.2), Cascade water resources, and any other factors the Board deems advisable.

When an entity that is eligible for membership under the Act, applies for membership, Cascade shall conduct a water supply audit according to the methodology and within the period determined by the Board. Audit results shall be provided to the Board and to the applicant.

If a membership offer is extended, it shall address the nature of the Water Supply Assets being transferred or retained and the "value" of those assets in terms of the calculation of an applicant's Demand Share, RCFCs and other matters relating to the rights and obligations of the applicant and Cascade, which must be recorded in the form that the Board determines and which will constitute, along with this Agreement, the conditions under which an applicant becomes a Member of Cascade. An applicant for membership shall be admitted by adoption of a Resolution of the Board accepting the application for membership and incorporating the terms and conditions of membership.

Each membership application must be accompanied by a nonrefundable application fee based on the estimated cost of the audit and other costs related to the admission of a new Member or a request for new supply. The Board shall set the application fee for each applicant based on the estimated cost of processing the application, including the cost of the audit.

As a condition of membership, each new Member admitted to Cascade shall, in addition to any other applicable fees, rates, charges or assessments, pay to Cascade the membership fee, as established by the Board.

If an applicant's planning process or plans are materially out of compliance with the requirements of applicable state law, the Board may condition an offer of membership upon the applicant's compliance with that state law.

**Section 3.3 Purposes.** Cascade's purposes include those related to water resources, or any other utility service as allowed under the Act, as authorized by a unanimous vote of the Board, and do not include the provision of other general services to the public, and are to:

- a. provide a safe, reliable and high quality drinking water supply to meet the current and projected demands of Cascade Members, and for non-Members as determined by Cascade, and to carry out this task in a coordinated, cost-effective, and environmentally sensitive manner;

- b. develop, contract for, manage, acquire, own, maintain and operate Water Supply Assets, including without limitation, surface water supplies, groundwater supplies, reclaimed water supplies, and other water supply resources as determined by the Board;
- c. purchase and provide water supply, transmission services, treatment facilities and other related services;
- d. provide conservation programs to promote the wise and efficient use of resources;
- e. carry out emergency water supply and shortage management programs for its Members when demands exceed available supply;
- f. coordinate and plan cooperatively with other regional or local water utilities and other entities to maximize supply availability and to minimize system costs;
- g. develop a Water Supply Plan addressing the needs of Cascade and its Members and Cascade itself and develop a regional water supply plan with other water providers as Cascade may find convenient or necessary to meet regional, state and federal planning requirements, and to take a leadership role in developing and coordinating those supply plans;
- h. share costs and risks among Members commensurate with benefits received; and
- i. carry out, or to further other water supply purposes that the Members determine, consistent with the provisions of this Agreement.

**Section 3.4 Powers.** To further its purposes, Cascade has the full power and authority to exercise all powers authorized or permitted under the Act and any other laws that are now, or in the future may be, applicable or available to Cascade and to engage in all activities incidental or conducive to fulfill the purposes set forth in Section 3.3 of this Agreement, including but not limited to the authority to:

- a. acquire, construct, receive, own, manage, lease and sell real property, personal property, intangible property and other Water Supply Assets;
- b. operate and maintain facilities;
- c. enter into contracts;
- d. administer personnel matters in a manner generally consistent with the laws applicable to a code city (population over 20,000), to the extent applicable and with discretion left to the Authority, to the fullest extent otherwise permitted by law, related to the appointment, removal and/or compensation of officers, the establishment and/or administration of employee health and welfare benefit programs, and/or the establishment and/or administration of civil service/merit systems, retirement benefits/systems, and/or pension benefits/systems;
- e. sue and be sued;
- f. exercise all powers of eminent domain granted under Chapter 8.12 RCW and other applicable statutes (e.g. Chapter 8.25), now or as hereafter amended;

- g. impose, alter, regulate, control and collect rates, charges, and assessments;
- h. purchase and sell water and services within and outside the geographical boundaries of its Members;
- i. borrow money (through its Members or other entities at their individual discretion or as authorized by the Act and this Agreement now or as hereafter amended), or enter into other financing arrangements;
- j. lend money or provide services or facilities to any Member, other governmental water utilities, or governmental service providers;
- k. invest its funds;
- l. establish policies, guidelines, rules or regulations by either ByLaws or resolution to carry out its powers and responsibilities;
- m. purchase insurance, including participation in pooled insurance and self-insurance programs, and indemnify its Members, its Board of Directors and Alternate Board Members, officers and employees in accordance with law;
- n. exercise all other powers within the authority of, and that may be exercised individually by all of its Members with respect to water supply, conservation, reuse, treatment and transmission, or any of the other purposes set forth in Section 3.3;
- o. exercise, without limitation, all other corporate powers that Cascade may exercise under the law relating to its formation and that are not inconsistent with this Agreement or the Act or other applicable law;
- p. for the purposes of contracting and public works, exercise all powers of a code city (population over 20,000) under RCW 35A.40.200 - 35A.40.210, now or as hereafter amended;
- q. for disposal of surplus property, exercise all powers granted under RCW 35A.11.010, now or as hereafter amended, to code cities;
- r. in the event Cascade charges connection charges or Rates and Charges for services supplied or available to its customers' property on a retail basis, exercise all powers granted under RCW 57.08.081, now or as hereafter amended, for the establishment of liens; and
- s. for purposes of a Cascade code of ethics, exercise all powers of a municipal corporation and observe the requirements under Chapter 42.23 RCW, now or as hereafter amended.

**ARTICLE 4. Organization Structure; Board.**

**Section 4.1 Composition, ByLaws and Meetings.** Cascade is governed by a Board of Directors consisting of one individual representative appointed by Resolution by each of the Member's legislative authority. Members may similarly appoint Alternate Board Members. Each Board Member and each Alternate Board Member must be an elected official of the Member.

The Board shall adopt ByLaws consistent with this Agreement that specify, among other matters, the month of Cascade's Annual Meeting, Board powers and duties and those of the Executive Committee, Standing Committees, Officers and employees.

The Board shall meet as required by the ByLaws, but not less than quarterly.

**Section 4.2 Powers of the Board.** The Board has the power to take all actions on Cascade's behalf in accordance with voting provisions set forth in Section 4.3. The Board may delegate or assign to the Executive Committee or to specific Cascade Officers or employees any action that is not expressly reserved to the Board under this Agreement.

**Section 4.3 Voting.** All Board actions must be approved by Dual Majority Vote of all Members, except where this Agreement requires either a 65% Dual Majority Vote, as provided in Sections 4.7, 5.5, 7.3, and 7.5; or ratification by the Members' legislative authority, as provided in Sections 9.3 and 9.4 and Article 10. The Board may act by voice votes, as set forth in the ByLaws. Any Member may require a recorded tabulation of votes either before or immediately after a voice vote is taken. Although voting is, in part, based on Weighted Vote, the Members expressly agree that there is only one class of voting membership, and voting occurs within that single class.

Any Member that has been declared to be in default of its obligations under this Agreement by the Board shall lose its right to vote until the Board has declared the default to be cured.

**Section 4.4 Officers and Committees.** Cascade Officers shall include a Chair, a Vice Chair, a Secretary, and a Treasurer. The Chair serves as the chair of the Board (and may be known as the "President", if the ByLaws so designate) and performs those duties set forth in the ByLaws.

The Vice Chair shall perform the duties of the Chair in the Chair's absence and shall perform other duties as set forth in the ByLaws. The Secretary shall be responsible for Cascade records and perform other duties as set forth in the ByLaws. The Treasurer shall be responsible for Cascade accounts and financial records and perform other duties as set forth in the ByLaws.

Consistent with the provisions of this Agreement, the Board may, in the ByLaws, establish additional Officers and set forth their duties.

The Board may create and appoint Members to Standing Committees and special committees as it deems appropriate. Committee Members need not be elected officials or employees of Members, but Standing Committee Chairs must be Board Members or Alternate Board Members.

**Section 4.5 Executive Committee.** The Chair, Vice Chair, Secretary, and Treasurer shall constitute Cascade's Executive Committee. The Chair (or acting Chair) shall vote on matters before the Executive Committee only if necessary to break a tie. The Executive Committee's duties and responsibilities are set forth in the ByLaws. The Executive Committee shall not have the power to:

- a. approve any contract for a term longer than three (3) years;

- b. approve any contract involving expenditure by, or revenue to Cascade in excess of such amounts and under such circumstances as set forth in the ByLaws;
- c. retain or dismiss the chief executive officer or determine the chief executive officer's compensation; or
- d. take any actions expressly reserved to the Board by this Agreement or the ByLaws.

The Executive Committee shall have the authority, if necessary, to avoid default on any Bond, to withdraw from any capital reserve fund or rate stabilization fund, an amount equal to the amount necessary to avoid a default and to authorize payment of that amount to avoid default.

**Section 4.6 Staff, Consultants and Contractors.** Cascade staff shall consist of a chief executive officer and other positions established by resolution of the Board. The Board shall appoint, designate the title of, and establish the compensation range of the chief executive officer. The Board shall hire auditors for Cascade. The chief executive officer may hire all other staff and consultants, and those appointments may be subject to ratification by the Board or the Executive Committee if the ByLaws so provide. The Board may also provide that administrative, professional or technical services be performed by contract.

**Section 4.7 Budget; Dues; Financial Management.** The Board shall approve a budget for each fiscal year, determining Cascade's revenues and expenditures no later than sixty (60) days before the beginning of the fiscal year in which that budget will be in effect. The budget shall be developed and approved according to a schedule established by the ByLaws. The budget must identify the levels of Member Charges on which revenue projections are based. The Board may amend the budget.

Each Member shall pay dues to defray part or all of Cascade's administrative costs based on the number of CERUs served by its water system, regardless of water usage or capacity, and regardless of whether those units are served by the Supply System or by Independent Supply. Total administrative dues collected from all Members may not exceed nine percent (9%) of Cascade's revenue requirement. This limit may be amended in the budget by a 65% Dual Majority Vote of the Board. The Board may establish minimum dues per Member and may provide that less than all of a Member's CERUs be taken into account in establishing dues.

All Cascade books and records shall be open to inspection by the Washington State Auditor.

The Board shall approve, by Resolution, the treasurer of Cascade, which may be the treasurer or chief finance officer of any Member, or the treasurer of any Washington county in which any Member is located; or, if the total number of utility customers of all of the Members of Cascade is greater than two thousand five hundred (2,500), the treasurer may be an officer or employee of Cascade (or as may be allowed by amendments to the Act).

## **ARTICLE 5. Asset Development and Supply Commitment.**

**Section 5.1 Property Acquisition, Ownership and Disposition.** Cascade may construct, purchase, rent, lease, manage, contract for, or otherwise acquire and dispose of Water Supply Assets and

other assets. Cascade may control and manage both the assets it owns and the assets that are owned by Members that have transferred control and management of those assets to Cascade. This Agreement does not vest in Cascade any authority with respect to Members' other facilities or assets, such as Water Supply Assets retained by Members as Independent Supply.

Subject to Cascade's agreement, a Member may transfer to Cascade its title to, or operational control and management of Water Supply Assets. Water Supply Assets may also be fully retained by Members as Independent Supply, subject to the provisions of Article 6. At the discretion of the Board, Cascade may accept title to, or operational control and management of Water Supply Assets offered by Members or accept supply assets that constitute all or part of a Member's Satellite System(s). The Board may accept supply assets subject to the terms and conditions arranged between Cascade and the Member, based on the result of the audit process and mutual needs.

Cascade may enter into Asset Transfer Agreements which shall provide for the terms and conditions of: (a) Cascade's operation of the transferred Water Supply Asset with respect to the Member transferring the asset; (b) Cascade's operation, maintenance and replacement of the Water Supply Asset as part of the Supply System; (c) return or disposition of the Water Supply Asset if Cascade terminates its existence or the Member withdraws; (d) continuation of service (if appropriate) to Members or former Members by the Member receiving the Water Supply Asset at reasonable rates and charges or payment to Cascade of the cost of replacing the Water Supply Asset; and (e) such other conditions as the Board and the Member agree upon.

Subject to Cascade's agreement, a Member that transfers title or operation, control and/or management to Cascade of any Water Supply Asset shall be deemed to also transfer, assign and/or convey the franchises, if any, associated with that Water Supply Asset.

Members shall not be deemed to hold legal ownership rights in any Water Supply Assets owned by Cascade whether those Water Supply Assets have been developed by, purchased by, or transferred to Cascade, and regardless of the accounting treatment of RCFC payments and other payments made to Cascade.

## **Section 5.2 Supply Commitment**

**Section 5.2.1 Commitment to Members..** Beginning on the Cascade Supply Date, Cascade shall provide a Supply Commitment to each Member. Cascade shall provide a Full Supply Commitment to a Member that joins with Water Supply Assets sufficient to provide for its needs during the following fifteen (15) years (whether or not those Water Supply Assets are transferred to Cascade or retained as Independent Supply.)

Any Full Supply Commitment shall be subject to water shortages, to Cascade's ability to implement the Water Supply Plan, and to the portion of the Member's needs that can be served by the audited capacity of its Independent Supply. If the needed supply is not available, the shortage shall be shared by all the Members in accordance with Cascade's Shortage Management Plan, except as otherwise provided in Section 5.5. Cascade shall be obligated to provide water supply to the entire service area of each Member (as that service area is defined in terms under which the Member is admitted or as in the

Member's adopted and approved Water System Plan as of the Effective Date of this Agreement), whether or not some of that service area is within the Member's current jurisdictional boundaries and/or within the current urban growth boundary. Cascade is not obligated to provide water supply to service area expansions in or outside the urban growth boundary, unless Cascade agrees to such expanded service area. Cascade is not obligated to provide increased water supply to any Member if it is determined that the Member's planning process or plans are materially out of compliance with the requirements of applicable state law.

A Member that joins with Water Supply Assets insufficient to provide for its needs for fifteen (15) years receives the Full Supply if it desires only if, when, and to the extent it is available within reliability standards determined by Cascade's system reliability methodology. If sufficient Full Supply is not available within reliability standards determined by Cascade's system reliability methodology, the Member receives partial Full or Interruptible Supply, and Full Supply must be provided within fifteen (15) years. Cascade shall then undertake to include in Cascade's Water Supply Plan, and to acquire the facilities or other assets necessary in the Board's determination to provide for the identified deficit. If Cascade fails to develop sufficient assets to timely provide the increased Full Supply, the commitment becomes a Full Supply Commitment at the end of that fifteen-(15) year period, and any shortage shall be shared by all Members in accordance with Cascade's Shortage Management Plan.

If multiple Members request new Full Supply, requests must be honored in the order received (i.e., in the order in which application is made accompanied by the application fee). With respect to new Members, requests for Full Supply "vest" no earlier than the date that membership is effective. In cases of conflict or ambiguity, the Board may determine the order of requests.

**Section 5.2.2 Additional Rules for Members Retaining Independent Supply.** Members are not required to share shortages resulting from the loss of all or part of Independent Supply, although Cascade may make Interruptible Supply available to a Member that loses Independent Supply at prices that are consistent with the price of Interruptible Supply being made available to others at that time. Cascade may at any time and at its cost and expense carry out audits of a Member's Independent Supply.

A Member requesting an additional Full Supply Commitment due to loss of Independent Supply shall make that request by Resolution of the requesting Member's legislative authority. When and as determined by the Board, the Member shall pay an amount equal to the RCFCs allocable to the number of CERUs that can be served by the replacement supply provided or to be provided by Cascade. Cascade shall then include the supply in its Water Supply Plan, and provide the supply when it becomes available, but in any event within fifteen (15) years. If, within fifteen (15) years the supply is not available, Cascade's commitment becomes a Full Supply Commitment and any shortage with respect to that supply must be shared by all the Members in accordance with the Shortage Management Plan, except as otherwise provided in Section 7.3.

**Section 5.3 Financing of Assets.** The acquisition of new capital facilities and other Water Supply Assets may be financed using RCFCs, transfers or Water Supply Assets, Rates and Charges, the issuance of revenue Bonds and such other sources as the Board may deem appropriate.

**Section 5.3.1 Issuance of Bonds.** An Authorized Issuer may issue Bonds payable from and secured solely by all or a portion of Net Cascade Revenue, evidencing indebtedness up to an amount approved by Resolution for the Board in order to provide financing or refinancing to acquire, construct, receive, own, manage, lease or sell real property, personal property, intangible property and other Water Supply Assets, to establish debt service reserves, to provide for capitalized interest and to pay the costs of issuance of, and other costs related to the issuance of the Bonds. Such Bonds shall be payable solely from all or a portion of the Net Cascade Revenue or (if the Authorized Issuer is other than Cascade) from payments to be made by Cascade out of all or a portion of Net Cascade Revenue, and such Bonds shall not pledge the full faith and credit or taxing power or, except as expressly provided by contract, the revenue, assets or funds of any Member.

Members serving as Authorized Issuers may conduct the financing through "separate systems" permitted by their applicable bond resolutions, or in some other appropriate manner, and Cascade may compensate those Members for all costs associated with the financing. Bond-related documents of Authorized Issuers other than Cascade must expressly permit the Bonds to be refunded or prepaid without penalty prior to their stated maturity, on and after such dates as are approved by the Authorized Issuer and the Board, to allow for a transfer of the obligation to Cascade or to Cascade's successor entity, including without limitation, a joint operating agency or similar entity, as may be permitted by law.

**Section 5.3.2 Pledge of Revenues.** For as long as any Bonds payable from Net Cascade Revenue (or any portion thereof) are outstanding, Cascade irrevocably pledges to establish, maintain and collect all Member Charges in amounts sufficient to pay when due the principal of and interest on the Bonds (and, if the Authorized Issuer is other than Cascade, in addition to the foregoing pledge, to pledge to make timely payments to that Authorized Issuer for the payment of principal of and interest on the Bonds), together with amounts sufficient to satisfy all debt service reserve requirements, debt service coverage requirements, and other covenants with respect to the Bonds.

Each Member hereby irrevocably covenants that it shall establish, maintain and collect rates, fees or other charges for water and other services, facilities and commodities related to the water supply it receives from Cascade and/or its water utility at levels adequate to provide revenues sufficient to enable the Member to: (a) make the payment required to be made under this Agreement; and (b) pay or provide for payment of all other charges and obligations payable from or constituting a charge or lien upon such revenues. Each Member hereby acknowledges that this covenant and its covenant in Section 7.9 of this Agreement may be relied upon by Bond owners, consistent with this Agreement.

Each Member shall pay the Member Charges imposed on it whether or not the Water Supply Assets to be financed through the issuance of Bonds are completed, operable or operating, and notwithstanding the suspension, interruption, interference, reduction or curtailment in the operation of any Water Supply Assets for any reason whatsoever, in whole or in part. Member Charges shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of any Member, or of any entity under this or any other agreement or instrument. However, credits against future RCFCs and Rates and Charges described in Sections 5.5 and 7.5, respectively, for development or addition of excess capacity that is either transferred to Cascade or

retained as Independent Supply, shall not be considered “offsets” or “reductions” for the purposes of this Section.

If, in connection with the issuance of obligations, any Member establishes a new lien position on revenues relating to its water utility, that Member shall covenant in the relevant documents that the amounts to be paid to Cascade as Member Charges shall be treated either: (a) as part of that Member’s internal operation and maintenance costs payable prior to debt service on those obligations; and/or (b) for any portion of those Member Charges that is allocable to capital costs, as a contract resource obligation payable prior to debt service on those obligations. If any Member has existing outstanding revenue obligations relating to its water utility, it shall include substantially similar “springing covenants” in the documents relating to any new parity obligations.

**Section 5.3.3 Continuing Disclosure.** To meet the requirements of United States Securities and Exchange Commission (“SEC”) Rule 15c2-12(b)(5) (the “Rule”) as applicable to a participating underwriter for any Bonds and any obligation of each Member as an “Obligated Person” under the Rule, Cascade and each Member agree to make an appropriate written undertaking, respectively, for the benefit of holders of the Bonds consistent with the requirements of the Rule.

**Section 5.3.4 Preservation of Tax Exemption for Interest on the Bonds.** Each Member covenants that it will take all actions necessary to prevent interest on tax-exempt Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of tax-exempt Bonds or other funds treated as proceeds of those Bonds at any time during the term of those Bonds that will cause interest on those Bonds to be included in gross income for federal income tax purposes.

**Section 5.3.5 Additional Certificates.** Each Member further agrees to provide such certificates or verifications as are reasonably requested by an Authorized Issuer in connection with the issuance of Bonds under this Section.

**Section 5.4 Supply System-Development.** Cascade must provide for Supply System development to meet the needs of additional water customers of Members, subject to consistency with applicable state law, Cascade’s Water Supply Plan, orderly asset development, reasonable cost and financing capacity. The Board shall establish a water supply development process, including criteria governing the evaluation of new projects, and that process must promote equality of costs and services (other than direct local services), regardless of geographic location. The results of the water supply planning process must be reflected in Cascade’s Water Supply Plan. The Board shall have the authority to undertake new projects identified in Cascade’s Water Supply Plan for the expansion of Water Supply Assets and regional transmission system extensions to meet Members’ projected needs. To reduce costs, Cascade may, to the extent that the Board deems advisable, enter into agreements with Members to wheel water through their existing systems. When facilities are constructed that are used partially by Cascade for wheeling water and partially by Members or other entities for their purposes, the Board may determine an appropriate Cascade contribution to the cost of those facilities. Existing arrangements

among Members (and between Members and Non-Members), in place when a Member joins Cascade, remain unaffected except as otherwise agreed between Cascade and the other entities concerned.

**Section 5.5 Regional Capital Facilities Charges.** To allocate growth costs to those Members that require capacity increases, each Member shall pay to Cascade an RCFC for each new CERU connected to its water distribution system. Growth in water usage by existing CERUs is not subject to RCFCs unless that growth constitutes a CERU increase as provided in the RCFC Methodology. Members with a supply deficit must pay an RCFC commensurate with that deficit. To the extent that a Member transfers to Cascade or retains an Independent Supply water supply in excess of its needs, it receives a corresponding credit against future RCFCs.

A new Member with adequate supply shall commence paying RCFCs fifteen (15) years prior to the date that its Water Supply Assets are projected to be insufficient to provide for its needs as determined by the Board (taking into consideration the results of the Water Supply Audit).

A Member that joins with Water Supply Assets that are projected to be insufficient to provide for its needs for fifteen (15) years shall immediately pay RCFCs for the number of CERUs representing the deficit as determined by the Board.

RCFCs shall be calculated according to the RCFC Methodology, which shall define the analytical steps required to calculate the RCFCs according to the average unit cost of past construction of the existing system plus the Supply System improvements planned at the time of the calculation. The methodology shall provide for an annual escalator, recalculation and update not less frequently than every fifth year, and a methodology for determining CERUs. The RCFCs shall be imposed on the Member for each new CERU of that Member in accordance with the terms of this Agreement. Amendments to the RCFC Methodology shall require a 65% Dual Majority Vote.

If a Member owns Water Supply Assets or transfers Water Supply Assets to Cascade under Section 5.1, to the extent the audited capacity of those assets exceeds the Member's needs, that Member shall receive a credit against future RCFCs. If a Member seeks to transfer assets substantially in excess of its foreseeable needs, Cascade may negotiate appropriate compensation arrangements for the transfer.

Members that develop new Independent Supply that is approved by the Board in accordance with Article 6, similarly receive a credit effective when the Independent Supply is placed in service as determined by the Board.

A Member that accepts ownership of a Satellite System that Cascade agrees to serve shall pay an RCFC for the amount of supply needed to serve that system in excess of its rated capacity.

Members that experience a net reduction in the number of CERUs served shall receive a CERU-for-CERU credit against future RCFCs.

RCFC credits may not be transferred among Members without Board approval.

Members shall not be required to pass RCFCs to their customers as capital facilities charges, but may provide for the payment of RCFCs in whatever manner they deem appropriate.

For Members joining with an unmet net supply need, Cascade may, under circumstances determined by the Board, require the prepayment of RCFCs allocable to the full amount of the requested supply, e.g., when funds are needed to begin the construction of facilities immediately.

**Section 5.6 Transfer Upon Mergers, Consolidations and Assumptions.** If: (a) two or more Members merge or consolidate; (b) a Member or a Non-Member assumes jurisdiction of part or all of a Member; or (c) a Member assumes jurisdiction of part or all of a Non-Member, the jurisdictions' water supply rights from and obligations to Cascade shall be transferred or assumed under applicable law and consistent with the requirements of this Agreement and the obligations of Cascade.

**ARTICLE 6. New Independent Supply.**

Members may not bring new Water Supply Assets on-line as Independent Supply without Board approval. That approval may be granted or denied following an evaluation process, based on whether the Board determines that development of the proposed Independent Supply will benefit or be adverse to the interests of the Members as a whole. Recognizing that in certain circumstances the acquisition of additional Independent Supply might benefit (or cause no material harm to) the Members, new supplies under one (1) MGD may be approved by the Board regardless of the provisions of the Water Supply Plan and without a formal evaluation process. New supplies in amounts greater than one (1) MGD must be described in and be consistent with the Water Supply Plan.

Members that have invested in the development of new Independent Supply assets may offer to sell their interest in such assets to Cascade. Cascade may, in its sole discretion and subject to mutually agreeable terms and conditions, purchase the Member's interest in such Independent Supply asset by reimbursing or otherwise compensating the Member for its investment in the project to the extent that investment has been capitalized. Once Cascade has purchased a Member's interest in a project, the project will be considered a Water Supply Asset of Cascade and will be incorporated into the Water Supply Plan.

**ARTICLE 7. Asset Management.**

**Section 7.1 Supply System Management.** Cascade is responsible for managing, on behalf of all Members, the Supply System. Cascade is not responsible for managing Independent Supply unless it has expressly agreed to do so. Supply System management responsibilities shall be governed by Cascade's system management plan adopted by the Board. Cascade's system management plan concerns, without limitation, matters such as daily system operations and maintenance, interface with other supply providers, contractual obligations, water quality, billing, management and administration. Cascade may delegate and/or contract out its Supply System responsibilities.

Cascade must manage the Supply System in compliance with applicable laws, regulation, and Cascade's minimum service standards.

**Section 7.2 Conservation.** Cascade shall develop and carry out, and Members must participate in, water conservation programs that are uniform among Members. The Board shall develop

and implement a Cascade conservation management plan that provides a mandatory base conservation program that functions to reduce both average and peak demands and may establish a charge or assessment to fund development and implementation of the program. Members may implement additional conservation programs. The Board may adopt wholesale charges in addition to normal Demand Share charges to encourage resource conservation. The Board may also provide or contribute to additional local conservation programs that are not offered to all Members, and these local programs may be locally funded or funded by Cascade. Members that fail to comply with base programs as set forth in Cascade's conservation management plan may be required to assume a disproportionate reduction in water supply or to pay penalty charges, or both.

### **Section 7.3 Shortages and Emergency.**

**Section 7.3.1 Shortages.** Members must respond to water shortages in a collective, shared fashion under a Cascade Shortage Management Plan adopted by the Board. Resources must be shared in a manner that reduces the risk of severe shortages to each Member. Cascade's Shortage Management Plan may include without limitation, a definition and classification of shortages, a shortage contingency plan including mandatory programmatic actions among all Members in the event of shortages, allocation of authority for determining and responding to shortages, and a communications and outreach program for the public. Members shall not be required to implement Cascade's Shortage Management Plan in areas not served by the Supply System.

In the event of shortages, Cascade shall reduce or halt Interruptible Supply before invoking the Shortage Management Plan with respect to all Members with a Full Supply Commitment. However, the Board may, by 65% Dual Majority Vote, continue service in the amounts it deems appropriate to one or more Members receiving Interruptible Supply.

The Board may require that Members failing to comply with mandatory shortage management programs implemented under Cascade's Shortage Management Plan assume a disproportionate reduction in supply or pay penalty charges, or both.

In the event of a Cascade-wide water shortage, Members with Independent Supply may, without penalty, decline to participate in the shortage management program for that shortage by foregoing all supply from Cascade for the duration of the emergency or shortage.

To avoid shortages resulting from emergencies or the inability to develop sufficient supplies, the Board may, by 65% Dual Majority Vote, establish moratoria on connections or additional commitments for future water services by the Members. A moratorium may be discontinued by a Dual Majority Vote of the Board.

**Section 7.3.2. Emergency.** The Board shall include in Cascade's Shortage Management Plan policies and procedures for addressing short-term disruptions of water supply, transmission or water quality, and it may delegate to the chief executive officer authority to address such disruptions according to such policies and procedures.

#### **Section 7.4 Water Quality.**

In addition to agreements under 5.1 of this Agreement, Cascade shall be responsible for water quality that meets or exceeds all federal or state requirements at the point of delivery from Cascade to the Member, consistent with applicable laws and regulations. Cascade assumes source water quality responsibility and liability with respect to Water Supply Assets under its ownership or control (including water wheeled to a Member through another Member's facilities). Cascade is also responsible for preparing and carrying out water quality activities compatible with the water quality requirements of regional water suppliers integrated with Cascade's system (e.g., Tacoma, Everett, and Seattle).

Cascade may, in its sole discretion, determine and adjust the appropriate method and level of treatment of water that it supplies, so long as that water meets applicable state and federal requirements. If water that it supplies meets those requirements, Cascade shall not be obligated to adjust the method or level of treatment so that the water can be more readily blended with a Member's Independent Supply or more readily transmitted through a Member's internal system. Each Member shall remain responsible for water quality within its respective distribution system, assuming that adequate water supply quality is provided by Cascade at the point of delivery from Cascade.

Each Member shall be responsible for all costs related to making water supplied by Cascade compatible with that Member's internal system, including but not limited to, costs of additional treatment.

**Section 7.5 Water Supply Rates and Charges.** The Board shall set Rates and Charges according to a Rate Calculation Methodology adopted from time to time by the Board. The Rate Calculation Methodology for Members' Supply Commitment shall provide for the definition and calculation of Demand Shares and for a uniform pricing structure with a commodity charge and fixed charges allocated by Demand Share.

Cascade may sell water to a Non-Member under terms and conditions established by a 65% Dual Majority Vote of the Board. Revenue received from the sale of water to Non-Members shall be used to offset or reduce Rates and Charges to Members to the extent practicable, except that such revenue need not be treated as reducing or offsetting those amounts that are necessary for the payment of debt service on Bonds and for the provision of reserve and coverage requirements for the Bonds.

A Member shall be assigned a Demand Share based on the Board's best estimate of capacity to be used by that Member. The Demand Share shall be established based on an audit of that Member's past three (3) years of water use. After three (3) years as a Member, the baseline demand and capacity obligation for that Member shall be fixed based on actual experience as a Member. A specific Demand Share may be set by the Board to account for circumstances, such as (by way of example and not by limitation) costs of extending the Supply System to a Member, or when Independent Supplies affect regional demand patterns. When water supply from Cascade is wheeled through a Member to another Member, Cascade may presume that the first Member receiving the water is the "User" for calculation of Demand Shares unless the Members concerned instruct Cascade to use a different allocation. Rate credits for Water Supply Asset transfers are not deducted in the calculation of Demand Shares but are applied to reduce what a Member would otherwise pay.

The Board must set Member Charges at levels it determines to be sufficient, together with other available revenue sources, to provide adequately for Operation and Maintenance Costs, Bond debt service, coverage and other covenants, replacement and renewal of facilities, reserve, and other costs that the Board deems appropriate. The Board may provide that a Member's failure to participate in the planning process may result in penalty charges.

A Member that has transferred Water Supply Assets shall receive a credit, determined when those assets are audited and transferred, based on the useful life of those facilities and on the Member's use of the water produced by those assets or an amount of water equivalent to the amount of supply from them.

The Board may implement wholesale charges (additional to Demand Share-based charges and variable commodity charges) to reduce extreme peak use (e.g., "peaking-off of the pipe").

Water Rates and Charges must be the same for all Members receiving the same class of service (subject to credits, surcharges and penalty charges).

**Section 7.6 Franchises and Easements.** Except to the extent otherwise required by state law, each Member shall provide franchises and rights of way on, under or across that Member's streets or other property, to Cascade and to other Members for Water Supply Assets, without charging any fees, rent or charges other than the customary and usual right-of-way permit and inspection fees.

**Section 7.7 Sales of Water to Non-Members.** Unless approved by the Board, a Member shall not sell water supplied by Cascade, nor shall a Member sell Independent Supply offset by water supplied by Cascade to a Non-Member. Notwithstanding the foregoing, any Member may sell water supplied by Cascade to a Non-Member to the extent required by a contract in effect as of the date the Member joins Cascade.

**Section 7.8 Payment Procedures; Default; Step-Up Provisions.**

**Section 7.8.1 Invoice and Payment.**

(a) Cascade shall provide each Member with periodic invoices showing the Member Charges payable by that Member for the billing period and the due date. Invoices shall be provided monthly or on other such periodic schedule as determined by the Board, but no more frequently than monthly nor less frequently than once every six months. The Board will determine a due date for all invoices.

(b) Payment of any and all invoices shall be due and payable on or before the due date, and shall be made by wire transfer or such other means as are agreed to by Cascade and the Member. If a treasurer, trustee, fiscal agent or escrow agent is appointed in connection with the issuance of Bonds, Cascade may require, and specify on the invoice, that certain amounts be provided directly to that person or entity, and the Member shall pay those amounts in the manner and to the person so specified.

(c) If full payment of any invoice is not received on or before the due date, such payment shall be considered past due and a late payment charge shall accrue for each day that the invoice remains unpaid. The late payment charge shall equal the product of the unpaid amount and an interest rate

established by the Board. Late payment charges shall continue to accumulate until the unpaid amount of the invoice and all late payment charges are paid in full. Further, if an invoice or any portion thereof remains unpaid for more than sixty (60) days after the due date, Cascade may pursue any legally available remedy at law or equity for the unpaid amount, including without limitation, specific performance and collection of the late payment charge. Cascade's right to enforce payments in this regard may be assigned to a treasurer, trustee, credit enhancement provider or other entity. Furthermore, upon written notice, Cascade may reduce or suspend delivery of water until the invoice and late payment charges are paid.

(d) If any Member disputes all or any portion of an invoice, it shall notify Cascade immediately upon receipt. If Cascade does not concur, the Member shall remit payment of the invoice in full, accompanied by written notice to Cascade indicating the portions of the invoice that the Member disputes and the reasons for the dispute. The Member and Cascade shall make a good faith effort to resolve such dispute. If the Member fails to remit payment of the invoice in full pending resolution of the dispute, the prevailing party in an action relating to the collection of that invoice shall be entitled to reasonable attorney fees and costs.

#### **Section 7.8.2 Default and Step-Up.**

(a) If any Member fails to make any payment in full for more than fifty (50) days past the due date, Cascade shall make written demand upon that Member to make payment in full within ten (10) days of the date that the written demand is sent by Cascade. If the failure to pay is not cured within the ten (10) day period, the Member shall be deemed to be in default.

(b) Upon an event of default as described in subsection 7.8.2(a), the other Members shall pay Cascade (in addition to Member Charges otherwise due) the defaulting Member's Member Charges in proportion to each remaining Members' Demand Share in accordance with a schedule established by Resolution of the Board.

(c) The payment of a proportionate share of the existing defaulted Member's Member Charges by Members shall not relieve the defaulting Member of its liability for those payments. Cascade shall have a right of recovery from the defaulting Member on behalf of each Member. Cascade may commence such suits, actions or proceedings at law or in equity, including but not limited to, suits for specific performance, as may be necessary or appropriate to enforce the obligations of this Agreement against any defaulting Member. Cascade's right to enforce payments in this regard may be assigned to a treasurer, trustee, credit enhancement provider or other entity. Amounts recovered by Cascade as payment of amounts due shall be passed through to each Member in proportion to the share that each assumed, in cash or in credit, against future Member Charges as the Board shall determine.

(d) The prevailing party in any such suit, action or proceeding, shall be entitled to recover its reasonable attorney fees and costs.

### **ARTICLE 8. Planning.**

**Section 8.1 Water Supply Plan.** Cascade must plan for its Members' water supply needs. That planning shall be compatible with the equivalent planning responsibilities of other wholesale water

providers and with state, county and city planning responsibilities under state law. The Board must adopt, and may from time to time amend, a Water Supply Plan that must be based on no less than a twenty- (20) year planning horizon. Cascade shall coordinate its planning effort with local and regional utilities and other appropriate agencies and work to encourage cooperative region-wide planning and coordination.

Each Member shall actively participate in Cascade's water supply planning and shall provide to Cascade accurate data regarding its facilities and operations together with good faith estimates of future needs and a description of any involvement in the development of new Independent Supplies. Each Member's water comprehensive or system plan shall be consistent with any plans adopted by Cascade, and shall be consistent with applicable requirements of state law and comprehensive plans.

**Section 8.2 Watershed Management Plan.** Upon the effective date of formation of the Authority under Article 3 of this Agreement, Cascade will no longer be a Watershed Partnership under RCW 39.34; and any Watershed Management Plans existing on the effective date shall become the plans of the Authority. Nothing herein shall limit Cascade's powers to adopt Watershed Management Plans or to enter into interlocal agreements thereafter.

**Section 8.3 System Reliability Methodology.** Cascade shall develop and adopt a system reliability methodology for planning, operation, and management purposes.

**ARTICLE 9. Duration and Dissolution; Withdrawal.**

**Section 9.1 Duration.** Except as provided in Section 9.3, Cascade shall remain in existence for the longer of the following: (a) the period it holds any assets; (b) the period during which Bonds are outstanding; or (c) the period it continues to include Members.

**Section 9.2 Withdrawals.** A Member may notify Cascade of its intent to withdraw by delivery to Cascade of a Resolution of its legislative authority expressing such intent. Upon receipt of such Resolution, the Member shall lose its right to vote and the Board shall determine (a) the withdrawing Member's allocable share of the cost of the then-existing obligations of Cascade; and (b) the withdrawing Member's obligations to Cascade. "Then-existing obligations of Cascade" means obligations or costs incurred by Cascade as of the date the Member's withdrawal notice is received, including but not limited to, Bond obligations, contract obligations, and cash financed capital projects; provided that a withdrawing Member's allocable share shall in no event include an obligation for future expenses for which Cascade has not incurred a legal obligation; and provided further, that to the extent the Member's obligation (with respect to such costs) is re-paid over time, the Member shall be entitled to a credit for supply abandoned by the Member and is otherwise used by Cascade. A "withdrawing Member's obligation to Cascade" includes but is not limited to, the Member's share of fixed operating costs, any other expenses contained in Cascade's adopted budget for that year, and any assessments or other similar charges lawfully imposed by Cascade. For purposes of the preceding sentence, "fixed operating costs" shall be determined in the year of withdrawal, and the Member's obligation with respect to such costs shall be limited only to that amount required to pay for supply abandoned by the Member and not otherwise used by Cascade.

The allocable share of cost or obligations shall be determined by the Board, taking into consideration as deemed applicable by the Board: (a) the ratio of the Member's Demand Share to total Member demand; (b) the ratio of the Member's contribution to Cascade revenue to total Cascade revenue including RCFCs; (c) the cost or a portion of the cost of capital projects or facilities specially benefiting the Member; and (d) and any other factor the Board deems appropriate to consider. The Member's withdrawal shall be effective on payment of such allocable share or provision for arrangements to pay such allocable share that are satisfactory to the Board. Until the effective date of withdrawal, the Member shall continue to comply with all applicable provisions of this Agreement.

Upon withdrawal, except as provided in an Asset Transfer Agreement, the withdrawing Member shall have no right to, or interest in any Water Supply Assets owned by Cascade. The withdrawing Member shall be deemed to have abandoned any and all rights to service, to the use of Cascade Water Supply Assets or other rights with respect to Cascade (except as otherwise expressly provided in this Agreement).

Notwithstanding the provisions of this Section 9.2, Cascade will, upon the withdrawal of a Member that has transferred operational control and management of (but not title to) an Independent Supply Asset to Cascade under Section 5.1, return operational control of such asset to the withdrawing Member. Return of operational control and management will be subject to: (a) continued use by Cascade, to the extent and for such time as the Board deems such use necessary for Cascade to continue providing service to its Members; and (b) payment or provision for payment of any Cascade costs, including but not limited to, those associated with the withdrawing Member's Independent Supply Asset.

The Board may establish additional generally applicable conditions and requirements for withdrawal.

**Section 9.3 Disincorporation.** Cascade may vote by a 65% Dual Majority Vote (as ratified within one hundred and twenty (120) days of such Dual Majority Vote by 65% Dual Majority of the Members' legislative authorities), to disincorporate. Upon disincorporation except as provided in an Asset Transfer Agreement, Cascade's assets initially shall be held by its then current Members as tenants in common. Each Member's ownership interest must be based on that Member's Demand Share as of the time of the dissolution. Cascade's liabilities (including Bonds and other contractual obligations) initially shall be distributed based on Members Demand Shares as of the time of the disincorporation. Assets and liabilities must be distributed in accordance with agreement or contract, under a voluntary mediation process, or by a court of law. A court may appoint an arbitrator or special master. Distribution shall be based on the best interests of efficient and economic water supply in the entire area served by the Members, subject to a rebuttable presumption that Water Supply Assets will be returned to the Member that originally transferred them to Cascade. That presumption may be overcome by a showing that another asset distribution is in the best interests of efficient and economic water supply. The proceeds of any sale of assets must be distributed among the then current Members based on the Demand Shares at the time of disincorporation.

**Section 9.4 Successor Entity.** Notwithstanding the provisions of Section 9.3, upon a 65% Dual Majority Vote of the Board (as ratified within one hundred and twenty (120) days of such Dual Majority Vote by 65% Dual Majority of the Members' legislative authorities), all assets, liabilities, and obligations of Cascade may be transferred to any successor entity (including without limitation, a joint operating agency or other municipal corporation, as permitted under state law), and all obligations of Members and parties contracting with Cascade become obligations to the successor entity.

**ARTICLE 10. Amendments.**

Amendments to this Agreement shall be effective upon approval by 65% Dual Majority Vote of the Board (as ratified within one hundred and twenty (120) days by 65% Dual Majority of the Members' legislative authorities).

**ARTICLE 11. Applicable Law and Venue.**

This Agreement is governed by the laws of the state of Washington. The venue for any legal action arising from a dispute under this Agreement is the Superior Court for King County.

**ARTICLE 12. No Third Party Beneficiaries.**

There are no third party beneficiaries to this Agreement except for the rights of Bond owners as provided in Section 5.3.2, no person or entity other than an agency signatory to this Agreement shall have any rights hereunder or any authority to enforce its provisions, and any such rights or enforcement must be consistent with and subject to the terms of this Agreement.

**ARTICLE 13. Severability.**

If any provision of this Agreement or its application is held by a court of competent jurisdiction to be illegal, invalid, or void, the validity of the remaining provisions of this Agreement or its application to other entities or circumstances shall not be affected. The remaining provisions continue in full force and effect, and the parties' rights and obligations must be construed and enforced as if the Agreement did not contain the particular invalid provision. But if the invalid provision or its application is found by a court of competent jurisdiction to be substantive and to render performance of the remaining provisions unworkable and infeasible, is found to seriously affect the consideration, and is inseparably connected to the remainder of the Agreement, the entire Agreement is deemed void.

**ARTICLE 14. Entire Agreement.**

This Agreement constitutes the entire and exclusive agreement between the parties relating to the specific matters covered in this Agreement. All prior or contemporaneous verbal or written agreements, understandings, representations or practices relative to the foregoing are superseded, revoked and rendered ineffective for any purpose. This Agreement may be altered, amended or revoked only as set forth in Article 10. No verbal agreement or implied covenant may be held to vary the terms of this Agreement, any statute, law, or custom to the contrary notwithstanding.

CASCADE WATER ALLIANCE

By: John Marchione  
John Marchione  
Title: Chair Date: April 10, 2012.  
Attest: Chuck Clarke  
Chuck Clarke  
Title: Chief Executive Officer Date: April 10, 2012  
Authorized by: Resolution No. 2012-06  
Date: 3-28-2012

**ARTICLE 15. Execution**

This Agreement may be executed in one or more counterparts.

**SIGNATORY AGENCY**

**CITY OF BELLEVUE**

By: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Attest: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Authorized by (Resolution or Ordinance): \_\_\_\_\_

Date: \_\_\_\_\_, 2012

SIGNATORY AGENCY

CITY OF ISSAQUAH

By: Ara Frisinger  
Title Mayor Date: 7-3, 2012  
Attest: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012  
Authorized by (Resolution or Ordinance): AO 6390  
Date: June 4, \_\_\_\_\_, 2012

SIGNATORY AGENCY

CITY OF KIRKLAND

By: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Attest: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Authorized by (Resolution or Ordinance): \_\_\_\_\_

Date: \_\_\_\_\_, 2012

**SIGNATORY AGENCY**

**CITY OF REDMOND**

By: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Attest: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Authorized by (Resolution or Ordinance): \_\_\_\_\_

Date: \_\_\_\_\_, 2012

SIGNATORY AGENCY

CITY OF TUKWILA

By: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Attest: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Authorized by (Resolution or Ordinance): \_\_\_\_\_

Date: \_\_\_\_\_, 2012

**SIGNATORY AGENCY**

**COVINGTON WATER DISTRICT**

By: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Attest: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Authorized by (Resolution or Ordinance): \_\_\_\_\_

Date: \_\_\_\_\_, 2012

**SIGNATORY AGENCY**

**SAMMAMISH PLATEAU WATER & SEWER DISTRICT**

By: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Attest: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Authorized by (Resolution or Ordinance): \_\_\_\_\_

Date: \_\_\_\_\_, 2012

**SIGNATORY AGENCY**

**SKYWAY W&S DISTRICT**

By: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Attest: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2012

Authorized by (Resolution or Ordinance): \_\_\_\_\_

Date: \_\_\_\_\_, 2012

**RATIFICATION OF CASCADE WATER ALLIANCE JOINT MUNICIPAL UTILITY SERVICE AGREEMENT**

**Proposed Council Action:**  
Ratify Agreement; Authorize Execution

<b>DEPARTMENT OF</b>	Public Works Engineering, (Sheldon Lynne)
<b>COUNCIL COMMITTEE LIAISON</b>	n/a
<b>OTHER COUNCIL MEETINGS</b>	May 7, 2012
<b>EXHIBITS</b>	A. Joint Municipality Service Agreement (JMUSA) B. Table Showing Changes to Current Agreement C. Table of Policy Changes D. History of JMUSA Legislation E. Cascade Resolution 2012-16
<i>(Exhibits A-E were previously distributed.)</i>	

Comp Plan Policy Nos.	
Consistent	n/a
Explanation Provided	
Other Policies	

<b>Expenditure Required</b>
\$
<b>Amount Budgeted</b>
\$

**SUMMARY STATEMENT**

This agenda bill requests Council consideration to ratify and authorize the Mayor to execute the Cascade Water Alliance Joint Municipal Utility Services Agreement with Cascade Water Alliance (Cascade). Cascade is a nonprofit corporation composed of 8 municipal corporations and special purpose districts for the purpose of providing water supply to meet the growing demands of its members. On March 28, 2012, Cascade Board unanimously passed Resolution 2012-06 (Exhibit E) adopting the Cascade March 28, 2012 Amended and Restated Interlocal Contract in the form known as "Cascade Water Alliance Joint Municipal Utility Services Agreement" (Exhibit A). The Interlocal Contract requires any changes to it to be voted on and passed by a 65% Dual Majority vote at the Cascade Board and ratified by 65% of the member legislative bodies.

In 2010 and 2011 Cascade worked with the Legislature, Departments of Health and Ecology, and more than 30 other local government organizations to develop the Joint Municipal Utility Service Act. The State was trying to solve challenges faced by local utility agencies desiring to organize into regional organizations including, but not limited to, certainty related to their ability to jointly exercise authority and/or the ambiguous status of intergovernmental entities created under the Interlocal Cooperation Act (Chapter 39.34 RCW). Having formed under the Interlocal Cooperation Act, Cascade has had difficulty with both of these issues that has presented challenges related to issuing debt and getting regulatory agencies to recognize how to regulate Cascade. Exhibit D presents information related to the history and reasons for the legislative action that created the opportunity for utility service providers to come together as a municipality to provide regional services. To effect becoming a Joint Municipal Utility Service Agency, Cascade had to modify its Interlocal Agreement which required some policy changes. These policy changes are described on Exhibit C.

**CONSISTENCY WITH COMPREHENSIVE PLAN: N/A**



**ADMINISTRATION'S RECOMMENDATION:**

Ratify the March 28, 2012 Cascade Water Alliance Joint Municipal Utility Services Agreement.

**UPDATE:**

Council Utilities, Technology, and Environment Committee discussed this agenda item at their May 17, 2012 committee meeting. The modifications to the Cascade agreement are necessary to change the form of government that Cascade operates under which is a benefit to Cascade and its members. The committee recommends ratifying the March 28, 2012 Cascade Water Alliance Joint Municipal Utility Services Agreement.

**ALTERNATIVE(s):**

1. Authorize the Mayor to enter into and execute the Amended Contract without referral to Committee.

**RECOMMENDATION**

Council Utilities, Technology, and Environment Committee/Chair:

~~MOVE TO: Refer AB-6396 to the May 17, 2012 Council Utilities, Technology, and Environment Committee for review and recommendation, returning to the full Council on June 4, 2012.~~

MOVE TO: Ratify the March 28, 2012 Cascade Water Alliance Joint Municipal Utility Services Agreement and authorize the Mayor to execute the Agreement.



Language of Proposed Policy Change (green font as shown on Table version of Amendments)		Notes
	provide that administrative, professional or technical services be performed by contract.	
Page 18	<b>Section 5.2.1 Commitment to Members.</b>  Beginning on the Cascade Supply Date, Cascade shall provide a <del>Full</del> Supply Commitment to each Founding Member. Thereafter, Cascade shall provide a Full Supply Commitment to meet all current and future water supply needs of a Member that joins with Water Supply Assets sufficient to provide for its needs during the following fifteen (15) years (whether or not those Water Supply Assets are transferred to Cascade or retained as Independent Supply.)	Deletion of "Full" accurately describes steps with membership supply
Page 24	<b>Section 5.5 Regional Capital Facilities Charges.</b>  RCFCs shall be calculated according to the RCFC Methodology, which shall define the analytical steps required to calculate the RCFCs according to the greater of: (a) the incremental difference between the average unit cost of expanding the system (i.e., the marginal cost of new capacity) and the average unit cost of the existing system; or (b) the average unit cost of past construction of the existing system plus <del>then planned the</del> Supply System improvements <u>planned at the time of the calculation.</u>	In practice, (a) has not been used because it has proven problematic, as it relies heavily on subjective assumptions about timeframe, costs to be included and capacity provided.
Page 26	<b>Section 7.1 Asset Management.</b>  Cascade must manage the Supply System in compliance with applicable laws, regulations and Cascade's minimum service standards. <del>Adoption and amendments to the minimum service standards shall require a 65% Dual Majority Vote.</del>	Removed 65% Dual Majority Vote.
Page 28	<b>Section 7.5 Water Supply Rates and Charges.</b>  Cascade may sell water to a Non-Member under terms and conditions established by the Board. <del>The terms and conditions shall not be more favorable than the terms and conditions under which water is sold to Members.</del> Revenue received from the sale of water to Non-Members shall be used to offset or reduce Rates and Charges to Members to the extent practicable, except that such revenue need not be treated as reducing or offsetting those amounts that are necessary for the payment of debt service on Bonds and for the provision of reserve and coverage requirements for the Bonds.	Removing limitation intended for founding membership; future transactions may be of benefit to Cascade and its members under differing terms and conditions.
Page 32	<b>Section 8.3 System Reliability Methodology.</b>  Cascade shall develop and adopt a system reliability methodology for planning, operation and management purposes. <del>Adoption and amendments to the system reliability methodology shall require a 65% Dual Majority Vote.</del>	Removes 65% Dual Majority Vote requirement.
Page 34	<b>Section 10.3 Disincorporation.</b>  Cascade may be <del>dissolved</del> <u>voted</u> by a 65% Dual Majority Vote <u>(as ratified within one hundred and twenty (120) days of such Dual Majority Vote by 65% Dual Majority of the Members' legislative authorities), to disincorporate.</u> Upon <del>dissolution, disincorporation</del> except as provided in an Asset Transfer Agreement, Cascade's assets initially shall be held by its then current Members as tenants in common.	Adds ratification requirement.

**Cascade Water Alliance  
Interlocal Agreement Table Proposed Policy Changes**

Language of Proposed Policy Change (green font as shown on Table version of Amendments)		Notes
Page 9	<p><b>Article 2. Definitions.</b></p> <p>"Full Supply Commitment" or "Full Supply" for any or all of a Member's water needs means that those needs, as projected in the <del>Member's lawfully adopted water supply plan</del> <u>Cascade Water Supply Plan and as agreed to by that Member</u>, shall be met from the Supply System, net of <del>independent supply</del> <u>Independent Supply</u> and subject to the other limitations established in this agreement <del>Agreement</del>, on an equal parity with all other Full Supply Commitments, and with a guaranteed priority no lower than for any other Supply Commitment made by Cascade; provided that no Member is guaranteed any given amount of supply or capacity.</p>	Recognizes that Cascade now provides and uses demand projections for its service area
Page 12	<p><b>Section 3.4 Purposes.</b></p> <p>Cascade's purposes include <del>only those related to water resources, or any other utility service as allowed under the Act, as authorized by a unanimous vote of the Board, and do not include the provision of other general services to the public, and are to:</del></p>	Allows the Board to determine purposes - as allowed under RCW 39.106
Pages 14-15	<p><b>Section 3.5 Powers.</b></p> <p><del>t. for purposes of a Cascade code of ethics, exercise all powers of a municipal corporation and observe the requirements under Chapter 42.23 RCW, now or as hereafter amended.</del></p>	Clarifies governing ethics code as RCW 42.23 (Muni) rather than RCW 42.52 (State)
Page 15	<p><b>Section 4.3 Voting.</b> All Board actions must be approved by Dual Majority Vote of all Members, except where this <del>Contract Agreement</del> requires either a 65% Dual Majority Vote, as provided in Sections <del>4.7, 5.2, 5.5, 7.4, 7.3, 8.3, 10.3, 10.4</del>, and Article 11; or ratification by the Members' legislative authority, as provided in <del>Section Sections 10.3 and 10.4 and Article 11.</del></p>	Encompasses committee discussion on changes to requirement for 65% Dual Majority Vote
Page 16	<p><b>Section 4.5 Executive Committee.</b></p> <p>The Chair, Vice Chair, Secretary, <del>and Treasurer and chairpersons of Standing Committees together</del> shall constitute Cascade's Executive Committee. The Chair (or acting Chair) shall vote on matters before the Executive Committee only if necessary to break a tie. The Executive Committee's duties and responsibilities are set forth in the ByLaws.</p>	Streamlines the Exec Comm membership to facilitate ability to meet
Page 17	<p><b>Section 4.6 Staff, Consultants and Contractors.</b></p> <p>Cascade staff shall consist of a chief executive officer and other positions established by <u>resolution</u> of the Board. The Board shall appoint, designate the title of, and establish the compensation range of the chief executive officer. The Board shall hire or <del>retain legal counsel and independent accountants and auditors for Cascade. The authority to hire other consultants may be delegated to the Executive Committee.</del> The chief executive officer <del>appoints persons to fill other staff positions may hire all other staff and consultants</del>, and those appointments may be subject to ratification by the Board or the Executive Committee if the ByLaws so provide. The Board may also</p>	Streamlines hiring process, except for auditor which will remain Board hiring function

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**CASCADE RESOLUTION 2011-17**





CASCADE WATER ALLIANCE  
RESOLUTION No. 2011-17

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CASCADE WATER ALLIANCE,  
A WASHINGTON NONPROFIT CORPORATION,  
ADOPTING AN AMENDED AND RESTATED INTERLOCAL AGREEMENT,  
ADOPTING MINIMUM DEMAND SHARES FOR SAMMAMISH PLATEAU WATER AND SEWER  
DISTRICT AND THE CITY OF ISSAQUAH,  
ESTABLISHING THE TERMS AND CONDITIONS FOR THE RCFC CREDIT PURCHASE PROGRAM,  
AND  
AMENDING CASCADE WATER ALLIANCE CODE SECTION 5.25.070 (A PORTION OF THE  
REGIONAL CAPITAL FACILITIES CHARGE METHODOLOGY)

WHEREAS, The Cascade Water Alliance (Cascade), is a Washington Nonprofit Corporation composed of municipal corporations and special purpose Municipal Corporations that are parties to an Interlocal Contract entered into under authority of the Interlocal Cooperation Act (Chapter 39.34 RCW) for the purpose of providing water supply to meet the growing demands of its Members; and

WHEREAS, Cascade was formed in April 1999, according to the terms of an Interlocal Contract; the Board of Directors of Cascade (Board) approved amendments to the Interlocal Contract in September 1999, November 2002, and December 2004; the Board now desires to amend the December 2004 Amended and Restated Interlocal Contract to raise the maximum administrative dues that may be collected from the Members to 9% of Cascade's annual revenue requirement and to allow the 9% limit to be amended in the budget by a 65% Dual Majority Vote of the Board; and such amendment to the Interlocal Contract requires a 65% Dual Majority Vote (ratified within 120 days by 65%, as measured by Dual Majority Vote, of the Members' legislative authorities); and

WHEREAS, the Interlocal Contract, Section 7.5 provides that specific Demand Shares may be set by the Board to account for circumstances; the Rate Calculation Methodology, adopted by the Board and codified at Cascade Water Alliance Code (CWAC) 5.20.020, provides for the right to recover costs through additional charges or surcharges to address unique circumstances; and the Board now desires to set specific minimum Demand Shares effective January 1, 2012, to account for unique circumstances for Members Sammamish Plateau Water and Sewer District and the City of Issaquah; and

WHEREAS, Section 5.5 of the Interlocal Contract provides that the Regional Capital Facilities Charge (RCFC) be calculated according to an RCFC Methodology, which defines the analytical steps required to calculate the RCFC; the RCFC Methodology was adopted by the Board in Resolution 2006-02 and, by Resolution 2010-02 codified at CWAC 5.25.010 through

5.25.070; the Board has determined it is reasonable, appropriate, consistent with applicable law, and in the best interest of Cascade to amend CWAC 5.25.070 of the RCFC Methodology to authorize a program whereby Cascade may purchase RCFC credits from one or more Members; and such amendment of the RCFC Methodology requires a 65% Dual Majority Vote of the Board; and

WHEREAS, in accordance with the RCFC Methodology and CWAC 5.25.070 as amended by this Resolution, the Board now desires to establish the terms and conditions for an RCFC Credit Purchase Program whereby Cascade may purchase RCFC credits from one or more Members.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CASCADE WATER ALLIANCE as follows:

**Section 1. Amendment to Interlocal Contract.** The Board approves and adopts the 2011 Amended and Restated Interlocal Contract, with Section 4.7 amended in the form below; and directs the Chair and the Chief Executive Officer to distribute the 2011 Amended and Restated Interlocal Contract for ratification by Members' legislative authorities.

**Section 4.7 Budget; Dues; Financial Management.**

The Board must approve an annual budget, determining Cascade's revenues and expenditures no later than sixty (60) days before the beginning of the fiscal year in which that budget will be in effect. The budget will be developed and approved according to a schedule established by the Bylaws. The budget must identify the levels of member charges on which revenue projections are based. The Board may amend the budget.

Each Member must pay annual dues to defray part or all of Cascade's administrative costs based on the number of CERUs served by its water system, regardless of water usage or capacity, and regardless of whether those units are served by the Supply System or by Independent Supply. Total administrative dues collected from all Members may not exceed ~~the greater of \$1,000,000 or 5~~ 9% of Cascade's annual revenue requirement ~~less debt service~~. This limit may be amended in the budget by a 65% Dual Majority Vote of the Board. The Board may establish minimum annual dues per Member and may provide that less than all of a Member's CERUs be taken into account in establishing dues.

All Cascade books and records shall be open to inspection by the Washington State.

**Section 2. Demand Shares.** Beginning January 1, 2012, the minimum Demand Shares for Sammamish Plateau Water and Sewer District and the City of Issaquah are set as follows:

<u>Minimum Demand Share</u>	
Sammamish Plateau Water and Sewer District	1.0
City of Issaquah	0.75

As long as these minimum Demand Shares are in effect, in accordance with section 6.2.2. of each Member Audit Acceptance Agreement, the Production Requirements for Sammamish Plateau Water and Sewer District and City of Issaquah are waived and no penalties may be assessed to these Members for not meeting the initial or modified (by RCFC credit redemption) Production Requirement, provided that the Members maintain the capacity and availability of audited quantities of Independent Supply, subject to audit and potential imposition of RCFCs in the event of loss of supply.

**Section 3. Amendment of the RCFC Methodology.** The Board approves an amendment to Resolutions 2006-2 and CWAC 5.25.070 (a portion of the Regional Capital Facilities Charge Methodology) and as follows:

5.25.070 RCFC credits.

In recognition of existing or future independent supplies, or as compensation for transfer of such resources, Cascade may issue credits redeemable in lieu of RCFC payments. The number and use of those credits would be defined by the Board and include the following general provisions:

~~A. No RCFC credits may be redeemed for growth occurring prior to January 1, 2008.~~

~~B. The terms and conditions for rate of redemption of RCFC credits shall be set by the Board to allow redemption under a structure that it determines appropriate to protect Cascade's financial performance and equitable cost recovery. is limited to 50 percent of the growth occurring in any reporting period.~~

B. Cascade may develop a program whereby it offers to purchase RCFC Credits of one or more Members, at a price and with other terms and conditions as established by the Board.

These provisions are intended to protect and stabilize the cash flow derived from RCFCs.

**Section 4. RCFC Credit Purchase Program.** Pursuant to the RCFC Methodology, as amended by this Resolution, the Board establishes the terms and conditions for the RCFC Credit Purchase Program whereby Cascade may purchase RCFC credits from one or more Members as follows:

#### Regional Capital Facilities Charge Credit Purchase Program

1. Annual Redemption. Effective with the fiscal year beginning January 1, 2012, and each fiscal year thereafter, RCFC credits held by any Member shall be redeemable

via an annual reimbursement mechanism in accordance with the following redemption rules:

- a. Credits may only be redeemed if Cascade receives reported growth and RCFC payment for at least 1,250 CERUs in a given fiscal year as calculated as a total from all Members.
  - b. All Members shall report and pay for all applicable CERU growth as it occurs in accordance with Cascade reporting requirements and procedures.
  - c. Cascade shall monitor overall growth and revenue to establish whether or when the threshold is reached or exceeded.
  - d. After the end of the fiscal year, Cascade shall determine the degree to which the threshold is exceeded, allocate any and all such excess among Members holding valid credits in proportion to their share of that year's growth, and allow the use of credits for any amount thus allocated to and among Members holding valid credits.
  - e. Cascade will notify each Member with potential reimbursement through credit redemption no later than January 31 of the subsequent fiscal year. The Member will be responsible to confirm whether or to what degree they wish to exercise the resulting use of credits. A failure to respond by the Member within 14 days will be considered notice to redeem the maximum applicable credits and Cascade will by default take this as an affirmative redemption for all applicable credits and issue the corresponding refund.
  - f. As so directed by the Member or by default if the Member has failed to timely respond, Cascade will refund RCFC revenues corresponding to redeemed credits, reducing the remaining quantity of available credits for that Member. The refund will be based on the full RCFC applicable during the fiscal year for which credits are redeemed.
  - g. Credits remain non-transferable among Members except as specifically authorized by the Board.
2. One-Time Redemption Option. In the alternative to the annual reimbursement mechanism set forth in Section 1 above, as a one-time offering, each Member with credits may choose to redeem any or all of its outstanding credits, as expressed as a percentage, by notifying Cascade no later than December 31, 2011 of its selection under this Section 2. Absent such notification, this offer expires and the member will by default retain all applicable credits and redeem then under the annual reimbursement mechanism rules set forth in Section 1 above.

No later than December 31, 2011, a Member may offer up to 100% of its outstanding credits for purchase by Cascade at a price of \$2,500 per CERU. Cascade will make full payment no later than December 31, 2012.

Any Member selecting this alternative may not redeem any of its remaining credits until after December 31, 2025, and would be subject to redemption rules as applicable at that time.

**Section 5.** This Resolution shall be in full force and effect on the date of its adoption; provided that Sections 2, 3 and 4 of this Resolution shall remain in full force and effect after 120 days only if the 2011 Amended and Restated Interlocal Contract has been ratified by Members' legislative authorities.

ADOPTED AND APPROVED by the Board of Directors of the Cascade Water Alliance at a regular meeting thereof, held on the 26th day of October 2011.

CASCADE WATER ALLIANCE

\_\_\_\_\_  
Lloyd Warren, Chair

\_\_\_\_\_  
Attest – Chuck Clarke, Chief Executive Officer

\_\_\_\_\_  
John Marchione, Vice Chair

\_\_\_\_\_  
Jim Haggerton, Secretary/Treasurer

Members  
Yes 7  
No 0

Demand Share  
Yes 100 %  
No 0 %

*10/26/11 Passed*

Include in  
CWAC?

Yes

No



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**CASCADE WATER ALLIANCE INTERLOCAL CONTRACT (2004)**



2005-96

City of Issaquah  
AGREEMENT/CONTRACT/DEED/EASEMENT/LIABILITY REVIEW PROCESSING FORM  
(Please Print)

Note: All information above dotted line must be completed, otherwise all documents will be returned to the originator. Original contract should include the City's hold harmless clause, Certificate of Insurance requirement, and the entity must hold a current City Business License (wording for such items can be found in the All City email dated 1/13/98 from Mary Lorna Meade). At least two originals should be attached if the Contracting Entity wants to receive an original signed copy for their files.

PWE Contract # N/A This is an agreement to: Receive Funds Disburse Funds  Other  
PWE Project Number (s) /Name(s) with Amounts: CWA Interlocal Agreement

Contracting Entity: Cascade Water Alliance Date Original Contract Signed By 12/15/04  
Contracting Party Michael Gagliardo,  
Number of Original Document(s) provided: 2 Contact Person and Title at Above General Manager  
Entity: Interlocal Agreement

Phone: 425-453-0930 Official Title of Document Attached Amended and Restated

Summary Purpose of the Document to be Processed: Following Council approval this interlocal agreement sets the guidelines for providing Regional water to the city

Effective Date(s) of Document: From: 12-15-04 To:                      Change Order Number: n/a

Originating Department: Public Works Engineering Staff Person: Sheldon Lynne

Total City Funding for this Contract (even if zero): 0

Total Non-City Funding for this Contract (even if zero): 0

Total Overall Project Budget (for entire project - not just City portion or this single contract total): 0

List Agenda Bill Number and Date Approved (if City Council Authorization Needed) AB 5266 (3-21-05)

Cost Acctg. Approval gah Date 3/25/05 Forward to Mayor/City Administrator Yes  No

Originating Department Manager Approval: (Signature) [Signature]  
(Print Manager Name) Bob Brock, PWE Director

Note: Documents usually must be signed by the Contracting Party before the Mayor signs (except for State or County items).

(FOR CITY CLERK'S OFFICE USE & REVIEW PROCESS ONLY BELOW THIS LINE)

- Review by City Clerk's Office for All Documents:**
- Business License Needed? Yes  (Current #                     ) or No  [Signature] (Initial & Date)
  - Bond Needed? Yes  or No  [Signature] (Initial & Date)
  - Hold Harmless Agreement Needed? Yes  (verify acceptable) or No  3/28/05 (Initial & Date)
  - Certificate of Insurance Needed? Yes  (verify acceptable) or No  [Signature] (Initial & Date)

**Process for Legal/Financial Approval & Document Signature - - Please Initial and Date (then return to the City Clerk's Office):**

- City Attorney Approval (all documents): [Signature] 3/28/05 (Initial & Date)
- Finance Director Approval (all documents involving funds): [Signature] 4/1/05 (Initial & Date)
- Mayor Approval (all documents needing City signature): [Signature] 4/1/05 (Initial & Date)
- City Clerk's Review/Attest (document signature) [Signature] 4/5/05 (Initial & Date)

**Recording:**  
1. Does Document Need to be Record with King County? Yes  or No   
2. Fee(s) paid by: a) City  or b) Contracting Party   
3. Date Sent for Recording: 4-6-05 to Sheldon Date Received Back from County:                     

**Distribution of executed document(s) - original(s) and copies:**  
                     ORIGINAL for City Clerk File  
                     ORIGINAL for Contracting Party via Originating Department Staff Person for Staff Person to Send Out to Entity (if only one original was provided - only a copy will be available for the Entity)  
                     COPY/ORIGINAL to Originating Department Staff Person for Department File (original if third set was provided)  
                     COPY of Processing Form only to Finance Department (only when funds are involved)  
Other(s) needing copies: [Signature] 2-17-06

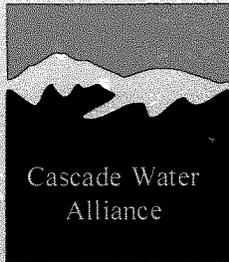
City of Issaquah

**AGREEMENT/CONTRACT/DEED/EASEMENT/LIABILITY REVIEW PROCESSING FORM**

(Please Print)

**Note:** All information above dotted line must be completed, otherwise all documents will be returned to the originator. Original contract should include the City's hold harmless clause, Certificate of Insurance requirement, and the entity must hold a current City Business License (wording for such items can be found in the All City email dated 1/13/98 from Mary Lorna Meade). At least two originals should be attached if the Contracting Entity wants to receive an original signed copy for their files.

Documents Distributed By (signature): \_\_\_\_\_ On Date: \_\_\_\_\_



206-96

## MEMORANDUM

RECEIVED  
JUN 14 2005  
PUBLIC WORKS ENG.

---

DATE: June 13, 2005  
TO: Member Staff  
FROM:  Pam Higbee  
SUBJECT: Recording of Interlocal Contract

---

Enclosed for your records is a copy of the recording document for Cascade's Interlocal Contract.

AFTER RECORDING RETURN TO:

Michael P. Ruark  
Inslee, Best, Doezie & Ryder  
Rainier Plaza, Suite 1900  
777 108th Avenue N.E.  
P.O. Box C-90016  
Bellevue, WA 98009-9016

CONFORMED COPY

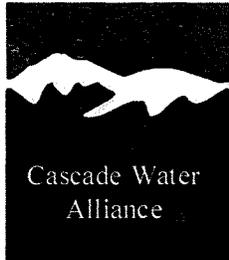
**20050504001084**  
INSLEE BEST DO CONT 72.00  
PAGE001 OF 053  
05/04/2005 12:32  
KING COUNTY, WA

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INTERLOCAL CONTRACT

Grantor(s): Cascade Water Alliance/Members of Cascade Water Alliance  
Grantee(s): Cascade Water Alliance/Members of Cascade Water Alliance  
Short Legal Description: N/A  
Assessor's Property Tax Parcel/Account Number(s): N/A  
Reference Number(s) of Documents Assigned or Released: N/A

RECEIVED  
MAY 06 2005  
BY: \_\_\_\_\_



## MEMORANDUM

---

DATE: January 20, 2005

TO: Sheldon Lynne

FROM: Michael Gagliardo, General Manager *MG*

SUBJECT: Amended and Restated Interlocal Contract

---

Enclosed are two (2) originals of the Amended and Restated Interlocal Contract adopted by the Board of Directors on December 15, 2004 (see enclosed Resolution No. 2004-18). Once adopted by a 65% Dual Majority Vote of the Board, amendments to the Interlocal Contract must be ratified by 65%, as measured by Dual Majority Vote of the Members' legislative authorities, within one hundred and twenty (120) days.

Please arrange for your legislative body to ratify the Amended Interlocal Contract. Once ratified, please have both original contracts executed by an authorized representative and return one to Cascade.

In addition, please provide Cascade with a copy of the resolution, ordinance or other action taken by your legislative body ratifying the Interlocal.

I am available to attend Council or Commissioner Meetings to discuss the amendments and can arrange for participation by Mike Ruark and/or Hugh Spitzer if necessary.

If you have any questions, please contact me.

# CASCADE WATER ALLIANCE

## INTERLOCAL CONTRACT

### Recitals

WHEREAS, the Cascade Water Alliance, an intergovernmental organization created by Interlocal Contract effective April 1, 1999 (as amended July 2000 and November 2002) to further the interests of its Members with respect to water supply and to work cooperatively with other water supply entities in the region; and

WHEREAS, Members of the Cascade Water Alliance have determined to amend the Cascade Water Alliance's Interlocal Contract to better facilitate the purposes of the Cascade Water Alliance;

NOW, THEREFORE, it is agreed as follows:

### ARTICLE 1. Agreement

The Cascade Interlocal Contract, effective April 1, 1999, and entered into under authority of the Interlocal Cooperation Act, Chapter 39.34 RCW is amended and re-stated as provided herein.

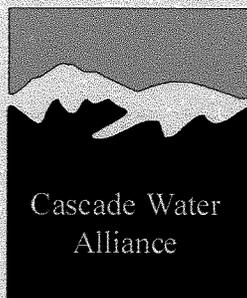
### ARTICLE 2. Definitions

**"Asset Transfer Agreement"** means an agreement between Cascade and a Member by which the Member transfers title to Water Supply Assets to Cascade, with or without monetary consideration, to be operated and maintained as part of the Cascade Water System.

**"Authorized Issuer"** means either: (a) Cascade (or a successor entity); or (b) a Member or other entity authorized to issue Bonds for the benefit of Cascade and approved by Resolution of the Board.

**"Board"** means the Board of Directors of Cascade.

0005-96



## **INTERLOCAL CONTRACT**

Amended and Restated

December 15, 2004

## TABLE OF CONTENTS

ARTICLE 1.	Agreement.....	1
ARTICLE 2.	Definitions.....	1
ARTICLE 3.	Formation of Entity; Purpose and Powers.....	7
	Section 3.1    Formation.....	7
	Section 3.2    Membership.....	7
	Section 3.3    Conversion to Municipal Corporation Status.....	8
	Section 3.4    Purposes.....	9
	Section 3.5    Powers.....	10
ARTICLE 4.	Organization Structure; Board.....	11
	Section 4.1    Composition, ByLaws, and Meetings.....	11
	Section 4.2    Powers of the Board.....	11
	Section 4.3    Voting.....	11
	Section 4.4    Officers and Committees.....	12
	Section 4.5    Executive Committee.....	13
	Section 4.6    Staff, Consultants and Contractors.....	13
	Section 4.7    Budget; Dues; Financial Management.....	14
ARTICLE 5.	Asset Development and Supply Commitment.....	14
	Section 5.1    Property Acquisition, Ownership, and Disposition.....	14
	Section 5.2    Supply Commitment.....	15
	Section 5.2.1    Commitment to Members.....	16
	Section 5.2.2    Additional Rules for Members Retaining Independent Supply.....	17
	Section 5.2.3    Additional Rules for Source Exchange.....	18
	Section 5.3.    Financing of Assets.....	19
	Section 5.4    Supply Expansions and System Extensions.....	22
	Section 5.5    Regional Capital Facilities Charges.....	23
	Section 5.6    Transfer Upon Mergers, Consolidations and Assumptions.....	25
ARTICLE 6.	New Independent Supply.....	25
ARTICLE 7.	Asset Management.....	26
	Section 7.1    Supply System Management.....	26
	Section 7.2    Conservation.....	27
	Section 7.3    Shortages -- Emergency.....	27
	Section 7.3.1    Shortages.....	27
	Section 7.3.2.    Emergency.....	28
	Section 7.4    Water Quality.....	28
	Section 7.5    Water Supply Rates and Charges.....	29
	Section 7.6    New Water Surcharge.....	31

Section 7.7	Franchises and Easements.....	31
Section 7.8	Sales of Water to Non-Members.....	32
ARTICLE 8.	Planning.....	34
Section 8.1	Water Supply Plan.....	34
Section 8.2	System Reliability Methodology.....	35
ARTICLE 9.	Filings.....	35
ARTICLE 10.	Duration and Dissolution; Withdrawal .....	36
Section 10.1	Duration.....	36
Section 10.2	Withdrawals .....	36
Section 10.3	Dissolution .....	38
Section 10.4	Successor Entity.....	38
ARTICLE 11.	Amendments.....	39
ARTICLE 12.	Applicable Law and Venue. ....	39
ARTICLE 13.	No Third Party Beneficiaries.....	39
ARTICLE 14.	Severability.....	39
ARTICLE 15.	Entire Agreement.....	40
ARTICLE 16.	Execution.....	41

# CASCADE WATER ALLIANCE

## INTERLOCAL CONTRACT

### Recitals

WHEREAS, the Cascade Water Alliance, an intergovernmental organization created by Interlocal Contract effective April 1, 1999 (as amended July 2000 and November 2002) to further the interests of its Members with respect to water supply and to work cooperatively with other water supply entities in the region; and

WHEREAS, Members of the Cascade Water Alliance have determined to amend the Cascade Water Alliance's Interlocal Contract to better facilitate the purposes of the Cascade Water Alliance;

NOW, THEREFORE, it is agreed as follows:

### ARTICLE 1. Agreement

The Cascade Interlocal Contract, effective April 1, 1999, and entered into under authority of the Interlocal Cooperation Act, Chapter 39.34 RCW is amended and re-stated as provided herein.

### ARTICLE 2. Definitions

**"Asset Transfer Agreement"** means an agreement between Cascade and a Member by which the Member transfers title to Water Supply Assets to Cascade, with or without monetary consideration, to be operated and maintained as part of the Cascade Water System.

**"Authorized Issuer"** means either: (a) Cascade (or a successor entity); or (b) a Member or other entity authorized to issue Bonds for the benefit of Cascade and approved by Resolution of the Board.

**"Board"** means the Board of Directors of Cascade.

**“Bonds”** means short-term or long-term bonds, notes, warrants, certificates of indebtedness, or other obligations issued by, or on behalf of Cascade.

**“ByLaws”** means the ByLaws of Cascade, as adopted and amended by the Board.

**“Cascade”** means the Cascade Water Alliance.

**“Cascade ERUs” (“CERUs”)** means equivalent residential units, calculated according to the Regional Capital Facilities Charge Methodology.

**“Cascade Source Exchange Program”** means a program adopted by Resolution of the Board for the replacement of all or a portion of a public water systems existing water supply to benefit stream flow and fish without serving growth or increasing that system’s water supply. A program utilizing Lake Tapps Water Supply shall include the terms and conditions for source exchange contained in the Lake Tapps’ Water Right Report of Examination.

**“Cascade Source Exchange Program Agreement”** means an agreement between Cascade and a Member or another public water supplier to implement the Cascade Source Exchange Program.

**“Cascade Supply Date”** means the date for the Founding Members and each new Member, established by Resolution of the Board, upon which Cascade undertakes a Supply Commitment.

**“Contract”** means this Cascade Water Alliance Interlocal Contract.

**“Demand Share”** means either a Member’s current share of water provided through the Supply System, or estimated share of water to be provided through the Supply System, whether Full Supply or Interruptible Supply, expressed in millions of gallons per day. Demand Share is calculated according to the Rate Calculation Methodology.

**“Dual Majority Vote”** means Board approval of a proposal on the basis of a simple majority of all Members, allowing one vote per Member, together with a simple majority of all Members on the basis of each Member’s Weighted Vote. A “simple majority” means a majority of all Members of Cascade, not just the Members present and voting.

**“65% Dual Majority Vote”** means Board approval of a proposal on the basis of a 65% supermajority of all Members, allowing one vote per Member, together with 65% supermajority of all Members on the basis of each Member’s Weighted Vote. A “supermajority” means 65% of all Members of Cascade, not just the Members present and voting.

**“Founding Member”** means the City of Bellevue, Covington Water District, the City of Issaquah, the City of Kirkland, the City of Redmond, Sammamish Plateau Water and Sewer District, Skyway Water and Sewer District, and the City of Tukwila.

**“Gross Cascade Revenue”** means all of the earnings and revenues received by Cascade from any source whatsoever including but not limited to: (a) Member Charges; (b) revenues from the sale, lease or furnishing of other commodities, services, properties or facilities; (c) the receipt of earnings from the investment of money in any maintenance fund or similar fund; (d) and withdrawals from any rate reserve or rate stabilization fund or account.

However, Gross Cascade Revenue shall not include: (a) principal proceeds of Bonds or any other borrowings, or earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund obligations relating to the Water Supply System (until commingled with other earnings and revenues included in Gross Cascade Revenue) or held in a special account for the purpose of paying a rebate to the United States Government under the Code; (b) taxes and other income and revenue which may not legally be pledged for revenue bond

debt service; (c) improvement district assessments; (d) federal or state grants allocated to capital projects; (e) payments under Bond Insurance or other credit enhancement policy or device; (f) insurance or condemnation proceeds used for the replacement of capital projects or equipment; (g) earnings in any construction fund or bond redemption fund; (h) deposits to any rate reserve or rate stabilization fund or account; or (i) any revenues generated by any Independent Supply except those amounts that are payable to Cascade pursuant to this Contract or another interlocal agreement.

**“Independent Supply” or “Independent Supplies”** means a Member’s Water Supply Assets that are not part of the Supply System.

**“Member” or “Members”** means one or more member agencies of Cascade.

**“Member Charges”** means all payments that Cascade Members are required by this Contract to make to Cascade, including but not limited to all Rates and Charges, RCFCs, dues, assessments and other payments from Members.

**“Net Cascade Revenue”** means Gross Cascade Revenue less Operations and Maintenance Costs.

**“Non-Member”** means any person or agency that is not a party to this Contract.

**“Operations and Maintenance Costs” or “O&M Costs”** means all expenses incurred by Cascade to operate and maintain the Supply System in good repair, working order and condition, including without limitation, payments made to any other public or private entity for water or other utility service. Except as approved by the Board, Operations and Maintenance Costs shall not include any depreciation, capital additions or capital replacements to the Supply System.

**“Rates and Charges”** means the rates and charges (not including RCFCs) chargeable to each Member using the Rate Calculation Methodology plus any late payment or other charge that may be due.

**“Rate Calculation Methodology”** means the method of setting Rates and Charges adopted by the Board in accordance with Section 7.5.

**“Regional Capital Facilities Charges” (“RCFCs”)** means the charges to each Member for new CERUs connected to that Member’s water distribution system.

**“Regional Capital Facilities Charge Methodology” (“RCFC Methodology”)** means the method of determining the RCFCs adopted by the Board in accordance with Section 5.5.

**“Satellite Systems”** means water supply facilities identified as such by the Board, including but not limited to facilities that serve a portion of a Member’s customers but that are not part of the Member’s main water system.

**“Seattle Contract Purveyor”** or **“Seattle Contract Purveyors”** means a Member that is or was a party to The City of Seattle Water Purveyor Contracts, Version A or Version B, dated November 1981 (as amended) executed prior to July 1, 1998.

**“Supply Commitment”** means the obligation undertaken by Cascade, established by Resolution of the Board to supply water to a Member. With respect to Members, that obligation shall be characterized as **“Full Supply Commitment,”** or an **“Interruptible Supply Commitment”** defined as follows:

**“Full Supply Commitment”** for any or all of a Member’s water needs means that those needs, as projected in the Member’s lawfully adopted water supply plan, shall be met from the Supply System, net of independent supply and subject to the other limitations established in this

agreement, on an equal parity with all other Full Supply Commitments, and with a guaranteed priority no lower than for any other Supply Commitment made by Cascade; provided that no Member is guaranteed any given amount of supply or capacity.

**“Interruptible Supply Commitment”** means a supply of all or part of a Member’s water needs from the Supply System on an as-available basis on a lower priority than any Full Supply Commitment.

The Supply Commitment for a Member shall be defined by this Interlocal Contact, the terms and conditions of membership, and the Supply Commitment resolution.

**“Supply System”** means the Water Supply Assets owned or controlled by Cascade.

**“Water Supply Assets”** means tangible and intangible assets usable in connection with the provision of water supply, including without limitation, real property, physical facilities (e.g., dams, wells, treatment plants, pump stations, reservoirs, and transmission lines), water rights, capacity and/or contractual rights in facilities or resources owned by other entities, and investments in conservation programs and facilities.

**“Watershed Management Plan”** means a plan adopted by Cascade for purposes of regional water supply, water transmission, water quality or protection, or any other water-related purpose, including but not limited to the plans identified in RCW 39.34.190 (3).

**“Water Supply Plan”** means the Cascade Regional Water Supply Plan (which may include the Cascade Watershed Management Plan) adopted by the Board as provided in Section 8.1 and 8.2.

**“Weighted Vote”** means a vote in which each Member’s vote is counted according to the Member’s Demand Share, but no Member shall have a Weighted Vote of less than one.

### **ARTICLE 3. Formation of Entity; Purpose and Powers**

**Section 3.1 Formation.** The Cascade Water Alliance was created on April 1, 1999 as a public body and an instrumentality of its Members, which exercises essential governmental functions on its Members' behalf as authorized by the Interlocal Cooperation Act (RCW 39.34). Cascade is incorporated under RCW 39.34.040(3) as a public nonprofit corporation in the manner set forth in RCW 24.03 or 24.06 and it may, with Board approval, be incorporated as a partnership in the manner set forth in RCW 25.04, or the Board may organize the form of Cascade in any other manner permitted by law. In addition to its status under any other applicable law, Cascade shall constitute a "watershed management partnership" as provided in Chapter 39.34 RCW. The Board may approve the filing of Articles of Incorporation or similar documents in connection with incorporating Cascade or organizing it in some other manner.

**Section 3.2 Membership.** Subject to restrictions on future Cascade water rights, or to limitations upon water's place of use imposed by contract or permit, any municipal water utility serving within the Central Puget Sound Region may be admitted to Cascade. The decision to admit new Members rests with the sole discretion of the Board, which shall determine whether to extend a membership offer taking into consideration the audit findings, Cascade water resources, and any other factors the Board deems advisable.

When a municipality applies for membership, Cascade shall conduct a water supply audit according to the methodology and within the period determined by the Board. Audit results shall be provided to the Board and to the applicant.

If a membership offer is extended, it shall address the nature of the Water Supply Assets being transferred or retained and the "value" of those assets in terms of the calculation of an

applicant's Demand Share, RCFCs and other matters relating to the rights and obligations of the applicant and Cascade, which must be recorded in the form that the Board determines and which will constitute, along with this Contract, the conditions under which an applicant becomes a Member of Cascade. An applicant for membership shall be admitted by adoption of a Resolution of the Board accepting the application for membership and incorporating the terms and conditions of membership.

Each membership application must be accompanied by a nonrefundable application fee based on the cost of the audit and other costs related to the admission of a new Member or a request for new supply. The Board shall set the application fee for each applicant based on the estimated cost of processing the application, including the cost of the audit.

As a condition of membership, each new Member admitted to Cascade shall, in addition to any other applicable fees, rates, charges or assessments, pay to Cascade the membership fee, as established by the Board.

If an applicant's planning process or plans are materially out of compliance with the requirements of the Growth Management Act, the Board may condition an offer of membership upon the applicant's compliance with that act.

**Section 3.3 Conversion to Municipal Corporation Status.** In accordance with Section 10.4, Cascade may be converted into a separate municipal corporation if, and as permitted by law. Upon the creation of such a separate municipal corporation, all Cascade rights and obligations and all Member rights and obligations under this Contract shall transfer to that new municipal corporation.

**Section 3.4 Purposes.** Cascade's purposes include only those related to water resources, and do not include the provision of other general services to the public, and are to:

- a. provide a safe, reliable and high quality drinking water supply to meet the current and projected demands of Cascade Members serving the Central Puget Sound Region, and for Non-Members as determined by Cascade, and to carry out this task in a coordinated, cost-effective, and environmentally sensitive manner;
- b. develop, contract for, manage, acquire, own, maintain and operate Water Supply Assets, including without limitation, surface water supplies, groundwater supplies, reclaimed water supplies, and other water supply resources as determined by the Board;
- c. contract with Seattle to transfer to Cascade and to modify Seattle's rights and duties with respect to Seattle Contract Purveyors;
- d. contract for, or assume certain contractual rights and duties related to the Tacoma Second Supply Pipeline project;
- e. purchase and provide water supply, transmission services, treatment facilities and other related services;
- f. provide conservation programs to promote the wise and efficient use of resources;
- g. carry out emergency water supply and shortage management programs for its Members when demands exceed available supply;
- h. coordinate and plan cooperatively with other regional or local water utilities and other entities to maximize supply availability and to minimize system costs;
- i. develop a Water Supply Plan addressing the needs of its Members and develop a Watershed Management Plan serving the needs of its Members and Cascade itself and develop a regional water supply plan with other water providers as Cascade may find convenient or necessary to meet regional, state and federal planning requirements, and to take a leadership role in developing and coordinating those supply plans;
- j. share costs and risks among Members commensurate with benefits received; and
- k. carry out, or to further other water supply purposes that the Members determine, consistent with the provisions of this Contract.

**Section 3.5 Powers.** To further its purposes, Cascade has the full power and authority to exercise all powers authorized or permitted under RCW 39.34 and any other laws that are now, or in the future may be, applicable or available to Cascade and to engage in all activities incidental or conducive to the attainment of the purposes set forth in Section 3.4 of this Contract, including but not limited to the authority to:

- a. acquire, construct, receive, own, manage, lease and sell real property, personal property, intangible property and other Water Supply Assets;
- b. operate and maintain facilities;
- c. enter into contracts;
- d. hire and fire personnel;
- e. sue and be sued,
- f. exercise the power of eminent domain (through its Members at their individual discretion, unless and until Cascade has that power under applicable law);
- g. impose, alter, regulate, control and collect rates, charges, and assessments,
- h. purchase and sell water and services within and outside the geographical boundaries of its Members;
- i. borrow money (through its Members or other entities at their individual discretion or as authorized by Chapter 39.34 RCW now or in the future), or enter into other financing arrangements;
- j. lend money or provide services or facilities to any Member, other governmental water utilities, or governmental service providers;
- k. invest its funds;
- l. establish policies, guidelines, or regulations to carry out its powers and responsibilities;
- m. purchase insurance, including participation in pooled insurance and self-insurance programs, and indemnify its Members, officers and employees in accordance with law;
- n. exercise all other powers within the authority of, and that may be exercised

individually by all of its Members with respect to water supply, conservation, reuse, treatment and transmission, or any of the other purposes set forth in Section 3.4;

- o. exercise all other powers within the authority of, and that may be exercised individually by all its Members with respect to watershed planning and management; and
- p. exercise all other corporate powers that Cascade may exercise under the law relating to its formation and that are not inconsistent with this Interlocal Contract or with Chapter 39.34 RCW or other applicable law.

#### **ARTICLE 4. Organization Structure; Board**

**Section 4.1 Composition, ByLaws and Meetings.** Cascade is governed by a Board of Directors consisting of one individual representative appointed by Resolution of the Member's legislative authority. Members may similarly appoint Alternate Board Members. Each Board Member and each Alternate Board Member must be an elected official of the Member.

The Board shall adopt ByLaws consistent with this Interlocal Contract that specify, among other matters, the month of Cascade's Annual Meeting, Board powers and duties and those of the Executive Committee, Standing Committees, Officers and employees.

The Board shall meet as required by the ByLaws, but no less than quarterly.

**Section 4.2 Powers of the Board.** The Board has the power to take all actions on Cascade's behalf in accordance with voting provisions set forth in Section 4.3. The Board may delegate to the Executive Committee or to specific Cascade Officers or employees any action that does not require Board approval under this Contract.

**Section 4.3 Voting.** All Board actions must be approved by Dual Majority Vote of all Members, except where this Contract requires either a 65% Dual Majority Vote, as provided in Sections 5.2, 5.5, 7.1, 7.3, 8.3, 10.3, 10.4, and Article 11; or ratification by the Members'

legislative authority, as provided in Section 10.4 and Article 11. The Board may act by voice votes, as set forth in the ByLaws. Any Member may require a recorded tabulation of votes either before or immediately after a voice vote is taken. Although voting is, in part, based on Weighted Vote, the Members expressly agree that there is only one class of voting membership, and voting occurs within that single class.

Any Member that has been declared to be in default of its obligations under this Interlocal Contract by the Board shall lose its right to vote until the Board has declared the default to be cured.

**Section 4.4 Officers and Committees.** Cascade Officers shall include a Chair, a Vice Chair, a Secretary and a Treasurer. The Chair serves as the chair of the Board (and may be known as the "President", if the ByLaws so designate) and performs those duties set forth in the ByLaws.

The Vice Chair shall perform the duties of the Chair in the Chair's absence and shall perform other duties as set forth in the ByLaws. The Secretary shall be responsible for Cascade records and performs other duties as set forth in the ByLaws. The Treasurer shall be responsible for Cascade accounts and financial records and performs other duties as set forth in the ByLaws.

Consistent with the provisions of this Contract, the Board may, in the ByLaws, establish additional Officers and set forth their duties.

The Board may create and appoint Members to Standing Committees and special committees as it deems appropriate. Committee Members need not be elected officials or employees of Members, but Standing Committee Chairs must be Board Members or Alternate Board Members.

**Section 4.5 Executive Committee.** The Chair, Vice Chair, Secretary, Treasurer and chairpersons of Standing Committees together constitute Cascade's Executive Committee. The Chair (or acting Chair) shall vote on matters before the Executive Committee only if necessary to break a tie. The Executive Committee's duties and responsibilities are set forth in the ByLaws.

The Executive Committee shall not have the power to:

- a. approve any contract for a term longer than three years;
- b. approve any contract involving expenditure by, or revenue to Cascade in excess of such amounts and under such circumstances as set forth in the ByLaws;
- c. retain or dismiss the chief executive officer or determine the chief executive officer's compensation; or
- d. take any actions expressly reserved to the Board by this Contract or the ByLaws.

The Executive Committee shall have the authority, if necessary, to avoid default on any Bond, to withdraw from any capital reserve fund or rate stabilization fund, an amount equal to the amount necessary to avoid a default and to authorize payment of that amount to avoid default.

**Section 4.6 Staff, Consultants and Contractors.** Cascade staff shall consist of a chief executive officer and other positions established by the Board. The Board shall appoint, designate the title of, and establish the compensation range of the chief executive officer. The Board shall hire or retain legal counsel and independent accountants and auditors for Cascade. The authority to hire other consultants may be delegated to the Executive Committee. The chief executive officer appoints persons to fill other staff positions, and those appointments may be subject to ratification by the Board or the Executive Committee if the ByLaws so provide. The Board may also provide that administrative, professional or technical services be performed by contract.

**Section 4.7 Budget; Dues; Financial Management.** The Board must approve an annual budget determining Cascade's revenues and expenditures no later than sixty (60) days before the beginning of the fiscal year in which that budget will be in effect. The budget will be developed and approved according to a schedule established by the ByLaws. The budget must identify the levels of Member Charges on which revenue projections are based. The Board may amend the budget.

Each Member must pay annual dues to defray part of Cascade's administrative costs based on the number of CERUs served by its water system, regardless of water usage or capacity, and regardless of whether those units are served by the Supply System or by Independent Supply. Total dues collected from all Members may not exceed the greater of \$1,000,000.00 or 5% of Cascade's annual revenue requirement, less debt service. The Board may establish minimum annual dues per Member and may provide that less than all of a Member's CERUs be taken into account in establishing dues.

All Cascade books and records shall be open to inspection by the Washington State Auditor.

## **ARTICLE 5. Asset Development and Supply Commitment**

**Section 5.1 Property Acquisition, Ownership and Disposition.** Cascade may construct, purchase, rent, lease, manage, contract for, or otherwise acquire and dispose of Water Supply Assets and other assets. Cascade may control and manage both the assets it owns and the assets that are owned by Members that have transferred control and management of those assets to Cascade. This Contract does not vest in Cascade any authority with respect to Members' other facilities or assets, such as Water Supply Assets retained by Members as Independent Supply.

Subject to Cascade's agreement, a Member may transfer to Cascade its title to, or operational control and management of Water Supply Assets. Water Supply Assets may also be fully retained by Members as Independent Supply, subject to the provisions of Article 6. At the discretion of the Board, Cascade may accept title to, or operational control and management of Water Supply Assets offered by Members or accept supply assets that constitute all or part of a Member's Satellite System(s). The Board may accept supply assets subject to the terms and conditions arranged between Cascade and the Member, based on the result of the audit process and mutual needs.

Cascade may enter into Asset Transfer Agreements which shall provide for the terms and conditions of: (a) Cascade's operation of the transferred Water Supply Asset with respect to the Member transferring the asset; (b) Cascade's operation, maintenance and replacement of the Water Supply Asset as part of the Supply System; (c) return or disposition of the Water Supply Asset if Cascade terminates its existence or the Member withdraws; (d) continuation of service (if appropriate) to Members or former Members by the Member receiving the Water Supply Asset at reasonable rates and charges or payment to Cascade of the cost of replacing the Water Supply Asset; and (e) such other conditions as the Board and the Member agree upon.

Members shall not be deemed to hold legal ownership rights in any Water Supply Assets owned by Cascade, whether those Water Supply Assets have been developed by, purchased by, or transferred to Cascade, and regardless of the accounting treatment of RCFC payments and other payments made to Cascade.

## **Section 5.2 Supply Commitment**

**Section 5.2.1 Commitment to Members.** Beginning on the Cascade Supply Date, Cascade shall provide a Full Supply Commitment to each Founding Member. Thereafter, Cascade shall provide a Full Supply Commitment to meet all current and future water supply needs of a Member that joins with Water Supply Assets sufficient to provide for its needs during the following fifteen (15) years (whether or not those Water Supply Assets are transferred to Cascade or retained as Independent Supply) commencing on the Member's Cascade Supply Date. When a supply contract is negotiated with Seattle, any Member that is a Seattle Contract Purveyor shall relinquish its rights under its Seattle Water Purveyor Contract to Cascade and execute such documents as may be necessary to transfer those rights to Cascade. Cascade shall accept those rights and a corresponding obligation to provide a Full Supply Commitment (net of Independent Supply). The approval of a contract with the City of Seattle providing for the initial acquisition of rights to substantial Water Supply Assets, and any material amendment to that contract, shall be effective upon a 65% Dual Majority Vote.

Any Full Supply Commitment shall be subject to water shortages, to Cascade's ability to implement the Water Supply Plan, and to the portion of the Member's needs that can be served by the audited capacity of its Independent Supply. If the needed supply is not available, the shortage shall be shared by all the Members in accordance with Cascade's shortage management plan, except as otherwise provided in Section 5.5. Cascade is not obligated to provide water supply to service area expansions in or outside the urban growth boundary, unless Cascade agrees to such expanded service area. However, Cascade shall be obligated to provide water supply to the entire service area of each Member (as that service area is defined in terms under which the Member was admitted), whether or not some of that service area is within the Member's current

jurisdictional boundaries and/or within the current urban growth boundary. Cascade is not obligated to provide increased water supply to any Member if it is determined that the Member's planning process or plans are materially out of compliance with the requirements of the Growth Management Act.

A Member that joins with Water Supply Assets insufficient to provide for its needs for fifteen (15) years receives the Full Supply it desires only if, when, and to the extent it is available within reliability standards determined by Cascade's system reliability methodology. If sufficient Full Supply is not available within reliability standards determined by Cascade's system reliability methodology, the Member receives partial Full or Interruptible Supply, and Full Supply must be provided within fifteen (15) years. Cascade shall then undertake to include in Cascade's Water Supply Plan, and to acquire the facilities or other assets necessary in the Board's determination to provide for that deficit. If Cascade fails to develop sufficient assets to timely provide the increased Full Supply, the commitment becomes a Full Supply Commitment at the end of that fifteen- (15) year period, and any shortage shall be shared by all Members in accordance with Cascade's shortage management plan.

If multiple Members request new Full Supply, requests must be honored in the order received (i.e., in the order in which application is made accompanied by the application fee). With respect to new Members, requests for Full Supply "vest" no earlier than the date that membership is effective. In cases of conflict or ambiguity, the Board may determine the order of requests.

#### **Section 5.2.2 Additional Rules for Members Retaining Independent Supply.**

Whenever Cascade has a Supply Commitment to a Member that retains Independent Supply, Cascade shall provide Full Supply for all of that Member's water supply needs minus the amount

of water that an audit determines may be provided by that Member's Independent Supply. Members are not required to share shortages resulting from the loss of all or part of Independent Supply, although Cascade may make Interruptible Supply available to a Member that loses Independent Supply at prices that are consistent with the price of Interruptible Supply being made available to others at that time. Cascade may at any time and at its cost and expense carry out audits of a Member's Independent Supply.

A Member requesting an additional Full Supply Commitment due to loss of Independent Supply shall make that request by Resolution of the requesting Member's legislative authority. When and as determined by the Board, the Member shall pay an amount equal to the RCFCs allocable to the number of CERUs that can be served by the replacement supply provided or to be provided by Cascade. Cascade shall then include the supply in its Water Supply Plan, and provide the supply when it becomes available, but in any event within fifteen (15) years. If, within fifteen (15) years the supply is not available, Cascade's commitment becomes a Full Supply Commitment and any shortage with respect to that supply must be shared by all the Members in accordance with the Shortage Management Plan, except as otherwise provided in Section 7.3.

**Section 5.2.3 Additional Rules for Source Exchange.** The Board may, at its sole discretion, authorize a Cascade Source Exchange Program Agreement with a Member or Non-Member. The terms and conditions of a Cascade Source Exchange Program Agreement shall be developed from a source exchange proposal submitted to the Board. The agreement shall identify: (a) the water right (instantaneous and annual) to be augmented or replaced; (b) the Water Supply Assets to be utilized; (c) mechanisms and arrangements for delivery of regional water; (d) characteristics of supply obligation (for example, peak and average quantities, seasonal or annual

delivery, duration, interruptibility and shortage management); (e) reporting requirements; (f) changes in operation needed to benefit stream flow and fish; (g) rates and charges; and (h) such other conditions as the Board and the Member or public water supplier agree upon. The agreement may or may not provide for adjustments to a Member's RCFC payments or credits and whether or not the source exchange is a loss of a Member's Independent Supply that would be subject to the provisions of Section 5.2.2.

**Section 5.3 Financing of Assets.** The acquisition of new capital facilities and other Water Supply Assets may be financed using RCFCs, transfers of Water Supply Assets, Rates and Charges, the issuance of revenue Bonds and such other sources as the Board may deem appropriate.

**Section 5.3.1 Issuance of Bonds.** An Authorized Issuer may issue Bonds payable from and secured solely by all or a portion of Net Cascade Revenue, evidencing indebtedness up to an amount approved by Resolution of the Board in order to provide financing or refinancing to acquire, construct, receive, own, manage, lease or sell real property, personal property, intangible property and other Water Supply Assets, to establish debt service reserves, to provide for capitalized interest and to pay the costs of issuance of, and other costs related to the issuance of the Bonds. Such Bonds shall be payable solely from all or a portion of the Net Cascade Revenue or (if the Authorized Issuer is other than Cascade) from payments to be made by Cascade out of all or a portion of Net Cascade Revenue, and such Bonds shall not pledge the full faith and credit or taxing power or, except as expressly provided by contract, the revenue, assets or funds of any Member.

Members serving as Authorized Issuers may conduct the financing through "separate

systems” permitted by their applicable bond resolutions, or in some other appropriate manner, and Cascade may compensate those Members for all costs associated with the financing. Bond-related documents of Authorized Issuers other than Cascade must expressly permit the Bonds to be refunded or prepaid without penalty prior to their stated maturity, on and after such dates as are approved by the Authorized Issuer and the Board, to allow for a transfer of the obligation to Cascade or to Cascade’s successor entity, including without limitation a joint operating agency or similar entity, as may be permitted by law.

**Section 5.3.2 Pledge of Revenues.** For as long as any Bonds payable from Net Cascade Revenue (or any portion thereof) are outstanding, Cascade irrevocably pledges to establish, maintain and collect all Member Charges in amounts sufficient to pay when due the principal of and interest on the Bonds (and, if the Authorized Issuer is other than Cascade, in addition to the foregoing pledge, to pledge to make timely payments to that Authorized Issuer for the payment of principal of and interest on the Bonds), together with amounts sufficient to satisfy all debt service reserve requirements, debt service coverage requirements, and other covenants with respect to the Bonds.

Each Member hereby irrevocably covenants that it shall establish, maintain and collect rates, fees or other charges for water and other services, facilities and commodities related to the water supply it receives from Cascade and/or its water utility at levels adequate to provide revenues sufficient to enable the Member to: (a) make the payments required to be made under this Contract; and (b) pay or provide for payment of all other charges and obligations payable from or constituting a charge or lien upon such revenues. Each Member hereby acknowledges that this covenant and its covenant in Section 7.9 of this Contract may be relied upon by Bond

owners, consistent with this Contract.

Each Member shall pay the Member Charges imposed on it whether or not the Water Supply Assets to be financed through the issuance of Bonds are completed, operable or operating, and notwithstanding the suspension, interruption, interference, reduction or curtailment in the operation of any Water Supply Assets for any reason whatsoever, in whole or in part. Member Charges shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of any Member, or of any entity under this or any other agreement or instrument. However, credits against future RCFCs and Rates and Charges described in Sections 5.5 and 7.5, respectively, for development or addition of excess capacity that is either transferred to Cascade or retained as Independent Supply, shall not be considered "offsets" or "reductions" for the purposes of this Section.

If, in connection with the issuance of obligations, any Member establishes a new lien position on revenues relating to its water utility, that Member shall covenant in the relevant documents that the amounts to be paid to Cascade as Member Charges shall be treated either: (a) as part of that Member's internal operation and maintenance costs payable prior to debt service on those obligations; and/or (b) for any portion of those Member Charges that is allocable to capital costs, as a contract resource obligation payable prior to debt service on those obligations. If any Member has existing outstanding revenue obligations relating to its water utility, it shall include substantially similar "springing covenants" in the documents relating to any new parity obligations.

**Section 5.3.3 Continuing Disclosure.** To meet the requirements of United States Securities and Exchange Commission ("SEC") Rule 15c2-12(b)(5) (the "Rule") as applicable to a

participating underwriter for any Bonds and any obligation of each Member as an "Obligated Person" under the Rule, Cascade and each Member agree to make an appropriate written undertaking, respectively, for the benefit of holders of the Bonds consistent with the requirements of the Rule.

**Section 5.3.4 Preservation of Tax Exemption for Interest on the Bonds.** Each Member covenants that it will take all actions necessary to prevent interest on tax-exempt Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of tax-exempt Bonds or other funds treated as proceeds of those Bonds at any time during the term of those Bonds that will cause interest on those Bonds to be included in gross income for federal income tax purposes.

**Section 5.3.5 Additional Certificates.** Each Member further agrees to provide such certificates or verifications as are reasonably requested by an Authorized Issuer in connection with the issuance of Bonds under this Section.

**Section 5.4 Supply Expansions and System Extensions.** Cascade must provide for Supply System expansions and extensions to meet the needs of additional water customers of Members, subject to consistency with applicable growth management plans and comprehensive plans, Cascade's water supply plan, orderly asset development, reasonable cost and financing capacity. The Board shall establish a water supply development process, including criteria governing the evaluation of new projects, and that process must promote equality of costs and services (other than direct local services), regardless of geographic location. The results of the water supply planning process must be reflected in Cascade's Water Supply Plan. The Board shall have the authority to undertake new projects identified in Cascade's Water Supply Plan for the

expansion of Water Supply Assets and regional transmission system extensions to meet Members' projected needs. To reduce costs, Cascade may, to the extent that the Board deems advisable, enter into agreements with Members to wheel water through their existing systems. When facilities are constructed that are used partially by Cascade for wheeling water and partially by Members or other entities for their purposes, the Board may determine an appropriate Cascade contribution to the cost of those facilities. Existing arrangements among Members (and between Members and Non-Members), in place when a Member joins Cascade, remain unaffected except as otherwise agreed between Cascade and the other entities concerned.

**Section 5.5 Regional Capital Facilities Charges.** To allocate growth costs to those Members that require capacity increases, each Member shall pay to Cascade an RCFC for each new CERU connected to its water distribution system. Growth in water usage by existing CERUs is not subject to RCFCs unless that growth constitutes a CERU increase as provided in the RCFC Methodology. Members with a supply deficit must pay an RCFC commensurate with that deficit. To the extent that a Member transfers to Cascade or retains as Independent Supply water supply in excess of its needs, it receives a corresponding credit against future RCFCs.

Subject to the provisions of Section 5.2.2, a Founding Member pays no RCFCs with respect to the number of CERUs served as of January 31, 2003, or other such later date as determined by Resolution of the Board.

A new Member with adequate supply shall commence paying RCFCs fifteen (15) years prior to the date that its Water Supply Assets are projected to be insufficient to provide for its needs as determined by the Board (taking into consideration the results of the Water Supply Audit).

A Member that joins with Water Supply Assets that are projected to be insufficient to provide for its needs for fifteen (15) years shall immediately pay RCFCs for the number of CERUs representing the deficit as determined by the Board.

RCFCs shall be calculated according to the RCFC Methodology, which shall define the analytical steps required to calculate the RCFCs according to the greater of: (a) the incremental difference between the average unit cost of expanding the system (i.e., the marginal cost of new capacity) and the average unit cost of the existing system; or (b) the average unit cost of past construction of the existing system plus then-planned Supply System improvements. The methodology shall provide for an annual escalator, recalculation and update not less frequently than every fifth year, and a methodology for determining CERUs. The RCFCs shall be imposed on the Member for each new CERU of that Member in accordance with the terms of this Contract. Amendments to the RCFC Methodology shall require a 65% Dual Majority Vote.

If a Founding Member owns Water Supply Assets or transfers Water Supply Assets to Cascade under Section 5.1, to the extent the audited capacity of those assets (including Seattle Contract Purveyor rights) exceeds the Member's needs, that Member shall receive a credit against future RCFCs. If a Member seeks to transfer assets substantially in excess of its foreseeable needs, Cascade may negotiate appropriate compensation arrangements for the transfer.

Members that develop new Independent Supply that is approved by the Board in accordance with Article 6, similarly receive a credit effective when the Independent Supply is placed in service as determined by the Board.

A Member that accepts ownership of a Satellite System that Cascade agrees to serve shall pay an RCFC for the amount of supply needed to serve that system in excess of its rated capacity.

Members that experience a net reduction in the number of CERUs served shall receive a CERU-for-CERU credit against future RCFCs.

RCFC credits may not be transferred among Members without Board approval.

Members shall not be required to pass RCFCs to their customers as capital facilities charges, but may provide for the payment of RCFCs in whatever manner they deem appropriate.

For Members joining with an unmet net supply need, Cascade may, under circumstances determined by the Board, require the prepayment of RCFCs allocable to the full amount of the requested supply, i.e., when funds are needed to begin the construction of facilities immediately.

**Section 5.6 Transfer Upon Mergers, Consolidations and Assumptions.** If: (a) two or more Members merge or consolidate; (b) a Member or a Non-Member assumes jurisdiction of part or all of a Member; or (c) a Member assumes jurisdiction of part or all of a Non-Member, the jurisdictions' water supply rights from and obligations to Cascade must be transferred or assumed under applicable law and consistent with the requirements of this Contract and the obligations of Cascade.

#### **ARTICLE 6. New Independent Supply**

Members may not bring new Water Supply Assets on-line as Independent Supply without Board approval. That approval may be granted or denied following an evaluation process, based on whether the Board determines that development of the proposed Independent Supply will benefit or be adverse to the interests of the Members as a whole. Recognizing that in certain circumstances the acquisition of additional Independent Supply might benefit (or cause no material harm to) the Members, new supplies under one (1) MGD may be approved by the Board regardless of the provisions of the Water Supply Plan and without a formal evaluation process.

New supplies in amounts greater than one (1) MGD must be described in and be consistent with the Water Supply Plan.

Members that have invested in the development of new Independent Supply assets may offer to sell their interest in such assets to Cascade. Cascade may, in its sole discretion and subject to mutually agreeable terms and conditions, purchase the Member's interest in such Independent Supply asset by reimbursing or otherwise compensating the Member for its investment in the project to the extent that investment has been capitalized. Once Cascade has purchased a Member's interest in a project, the project will be considered a Water Supply Asset of Cascade and be incorporated into the Water Supply Plan.

**ARTICLE 7. Asset Management**

**Section 7.1 Supply System Management.** Cascade is responsible for managing, on behalf of all Members, the Supply System. Cascade is not responsible for managing Independent Supply unless it has expressly agreed to do so. Supply System management responsibilities shall be governed by Cascade's system management plan adopted by the Board. Cascade's system management plan concerns, without limitation, matters such as daily system operations and maintenance, interface with other supply providers, contractual obligations, water quality, billing, management and administration. Cascade may delegate and/or contract out its Supply System responsibilities.

Cascade must manage the Supply System in compliance with applicable laws, regulations and Cascade's minimum service standards. Adoption and amendments to the minimum service standards shall require a 65% Dual Majority Vote.

**Section 7.2 Conservation.** Cascade shall develop and carry out, and Members must participate in, water conservation programs that are uniform among Members. The Board shall develop and implement a Cascade conservation management plan that provides a mandatory base conservation program that functions to reduce both average and peak demands and may establish a charge or assessment to fund development and implementation of the program. Members may implement additional conservation programs. The Board may adopt wholesale charges in addition to normal Demand Share charges to encourage resource conservation. The Board may also provide or contribute to additional local conservation programs that are not offered to all Members, and these local programs may be locally funded or funded by Cascade. Members that fail to comply with base programs as set forth in Cascade's conservation management plan may be required to assume a disproportionate reduction in water supply or to pay penalty charges, or both.

**Section 7.3 Shortages and Emergency.**

**Section 7.3.1 Shortages.** Members must respond to water shortages in a collective, shared fashion under a Cascade shortage management plan adopted by the Board. Resources must be shared in a manner that reduces the risk of severe shortages to each Member. Cascade's shortage management plan may include without limitation, a definition and classification of shortages, a shortage contingency plan including mandatory programmatic actions among all Members in the event of shortages, allocation of authority for determining and responding to shortages, and a communications and outreach program for the public. Members shall not be required to implement Cascade's shortage management plan in areas not served by the Supply System.

In the event of shortages, Cascade shall reduce or halt Interruptible Supply before invoking the Shortage Management Plan with respect to all Members with a Full Supply Commitment. However, the Board may, by 65% Dual Majority Vote, continue service in the amounts it deems appropriate to one or more Members receiving Interruptible Supply.

The Board may require that Members failing to comply with mandatory shortage management programs implemented under Cascade's shortage management plan assume a disproportionate reduction in supply or pay penalty charges, or both.

In the event of a Cascade-wide water shortage, Members with Independent Supply may, without penalty, decline to participate in the shortage management program for that shortage by foregoing all supply from Cascade for the duration of the emergency or shortage.

To avoid shortages resulting from emergencies or the inability to develop sufficient supplies, the Board may, by 65% Dual Majority Vote, establish moratoria on connections or additional commitments for future water services by the Members. A moratorium may be discontinued by a Dual Majority Vote of the Board.

**Section 7. 3.2. Emergency.** The Board shall include in Cascade's shortage management plan policies and procedures for addressing short-term disruptions of water supply, transmission or water quality, and it may delegate to the General Manager authority to address such disruptions according to such policies and procedures.

**Section 7.4 Water Quality.** Cascade shall be responsible for water quality that meets or exceeds all federal or state requirements at the point of delivery from Cascade to the Member, consistent with applicable laws and regulations. Cascade assumes source water quality responsibility and liability with respect to Water Supply Assets under its ownership or control

(including water wheeled to a Member through another Member's facilities). Cascade is also responsible for preparing and carrying out water quality activities compatible with the water quality requirements of regional water suppliers integrated with Cascade's system (e.g., Tacoma, Everett and Seattle).

Cascade may, in its sole discretion, determine and adjust the appropriate method and level of treatment of water that it supplies, so long as that water meets applicable state and federal requirements. If water that it supplies meets those requirements, Cascade shall not be obligated to adjust the method or level of treatment so that the water can be more readily blended with a Member's Independent Supply or more readily transmitted through a Member's internal system. Each Member shall remain responsible for water quality within its respective distribution system, assuming that adequate water supply quality is provided by Cascade at the point of delivery from Cascade.

Each Member shall be responsible for all costs related to making water supplied by Cascade compatible with that Member's internal system, including but not limited to, costs of additional treatment.

**Section 7.5 Water Supply Rates and Charges.** The Board shall set Rates and Charges according to a Rate Calculation Methodology adopted from time to time by the Board. The Rate Calculation Methodology for Members' Supply Commitment shall provide for the definition and calculation of Demand Shares and for a uniform pricing structure with a commodity charge and fixed charges allocated by Demand Share.

Cascade may sell water to a Non-Member under terms and conditions established by the Board. The terms and conditions shall not be more favorable than the terms and conditions under

which water is sold to Members. Revenue received from the sale of water to Non-Members shall be used to offset or reduce Rates and Charges to Members to the extent practicable, except that such revenue need not be treated as reducing or offsetting those amounts that are necessary for the payment of debt service on Bonds and for the provision of reserve and coverage requirements for the Bonds.

A Member shall be assigned a Demand Share based on the Board's best estimate of capacity to be used by that Member. Initially, the Board may base its estimate on a Seattle Contract Purveyor's use of water from Seattle. For a Member that joins without a supply history as a Seattle Contract Purveyor, or for a Member that has received only part of its water from Seattle, the Demand Share shall be established based on an audit of that Member's past three (3) years of water use. After three (3) years as a Member, the baseline demand and capacity obligation for that Member shall be fixed based on actual experience as a Member. Specific Demand Shares may be set by the Board to account for circumstances, such as (by way of example and not by limitation) costs of extending the Supply System to a Member, or when Independent Supplies affect regional demand patterns. When water supply from Cascade is wheeled through a Member to another Member, Cascade may presume that the first Member receiving the water is the "User" for calculation of Demand Shares unless the Members concerned instruct Cascade to use a different allocation. Rate credits for Water Supply Asset transfers are not deducted in the calculation of Demand Shares but are applied to reduce what a Member would otherwise pay.

The Board must set Member Charges at levels it determines to be sufficient, together with other available revenue sources, to provide adequately for Operation and Maintenance Costs,

Bond debt service, coverage and other covenants, replacement and renewal of facilities, reserves and other costs that the Board deems appropriate. The Board may provide that a Member's failure to participate in the planning process may result in penalty charges.

A Member that has transferred Water Supply Assets shall receive a credit, determined when those assets are audited and transferred, based on the useful life of those facilities and on the Member's use of the water produced by those assets or an amount of water equivalent to the amount of supply from them.

The Board may implement wholesale charges (additional to Demand Share-based charges and variable commodity charges) to reduce extreme peak use (e.g., "peaking-off of the pipe").

Water Rates and Charges must be the same for all Members receiving the same class of service (subject to credits, surcharges and penalty charges).

**Section 7.6 New Water Surcharge.**

A new water surcharge of \$0.75 per 100 cubic feet (ccf) shall be imposed, effective on the Cascade Supply Date, and continue through December 31, 2011. It shall be applicable to all water purchased by Members over and above each Member's Old Water Allowance in the Seattle Purveyor Contract, if applicable, or to all water purchased by non-Seattle Purveyor Members. New water surcharge revenues shall be used to offset or reduce Rates and Charges to Members to the extent practicable, except that such revenue need not be treated as reducing or offsetting those amounts that are necessary for payment of debt service on Bonds and for the provision of reserve and coverage requirements for the Bonds.

**Section 7.7 Franchises and Easements.** Except to the extent otherwise required by state law, each Member shall provide franchises and rights of way on, under or across that

Member's streets or other property, to Cascade and to other Members for Water Supply Assets, without charging any fees, rent or charges other than the customary and usual right-of-way permit and inspection fees.

**Section 7.8 Sales of Water to Non-Members.** Unless approved by the Board, a Member shall not sell water, including source exchange water, supplied by Cascade, nor shall a Member sell Independent Supply offset by water supplied by Cascade, to a Non-Member. Notwithstanding the foregoing, any Member may sell water supplied by Cascade to a Non-Member to the extent required by a contract in effect as of the date the Member joins Cascade.

**Section 7.9 Payment Procedures; Default; Step-Up Provisions.**

**Section 7.9.1 Invoice and Payment.**

(a) Cascade shall provide each Member with periodic invoices showing the Member Charges payable by that Member for the billing period and the due date. Invoices shall be provided monthly or on other such periodic schedule as determined by the Board, but no more frequently than monthly nor less frequently than once every six months. The Board will determine a due date for all invoices.

(b) Payment of any and all invoices shall be due and payable on or before the due date, and shall be made by wire transfer or such other means as are agreed to by Cascade and the Member. If a treasurer, trustee, fiscal agent or escrow agent is appointed in connection with the issuance of Bonds, Cascade may require, and specify on the invoice, that certain amounts be provided directly to that person or entity, and the Member shall pay those amounts in the manner and to the person so specified.

(c) If full payment of any invoice is not received on or before the due date, such payment shall be considered past due and a late payment charge shall accrue for each day that the invoice remains unpaid. The late payment charge shall equal the product of the unpaid amount and an interest rate established by the Board. Late payment charges shall continue to accumulate until the unpaid amount of the invoice and all late payment charges are paid in full. Further, if an invoice or any portion thereof remains unpaid for more than sixty (60) days after the due date, Cascade may pursue any legally available remedy at law or equity for the unpaid amount, including without limitation, specific performance and collection of the late payment charge. Cascade's right to enforce payments in this regard may be assigned to a treasurer, trustee, credit enhancement provider or other entity. Furthermore, upon written notice, Cascade may reduce or suspend delivery of water until the invoice and late payment charges are paid.

(d) If any Member disputes all or any portion of an invoice, it shall notify Cascade immediately upon receipt. If Cascade does not concur, the Member shall remit payment of the invoice in full, accompanied by written notice to Cascade indicating the portions of the invoice that the Member disputes and the reasons for the dispute. The Member and Cascade shall make a good faith effort to resolve such dispute. If the Member fails to remit payment of the invoice in full pending resolution of the dispute, the prevailing party in an action relating to the collection of that invoice shall be entitled to reasonable attorney fees and costs.

#### **Section 7.9.2 Default and Step-Up.**

(a) If any Member fails to make any payment in full for more than fifty (50) days past the due date, Cascade shall make written demand upon that Member to make payment in full within ten (10) days of the date that the written demand is sent by Cascade. If the failure to pay is not

cured within the ten (10) day period, the Member shall be deemed to be in default.

(b) Upon an event of default as described in subsection 7.9.2(a), the other Members shall pay Cascade (in addition to Member Charges otherwise due) the defaulting Member's Member Charges in proportion to each remaining Members' Demand Share in accordance with a schedule established by Resolution of the Board.

(c) The payment of a proportionate share of the existing defaulted Member's Member Charges by Members shall not relieve the defaulting Member of its liability for those payments. Cascade shall have a right of recovery from the defaulting Member on behalf of each Member. Cascade may commence such suits, actions or proceedings at law or in equity, including but not limited to suits for specific performance, as may be necessary or appropriate to enforce the obligations of this Contract against any defaulting Member. Cascade's right to enforce payments in this regard may be assigned to a treasurer, trustee, credit enhancement provider or other entity. Amounts recovered by Cascade as payment of amounts due shall be passed through to each Member in proportion to the share that each assumed, in cash or in credit against future Member Charges as the Board shall determine.

(d) The prevailing party in any such suit, action or proceeding, shall be entitled to recover its reasonable attorney fees and costs against the defaulting Member.

## **ARTICLE 8. Planning**

**Section 8.1 Water Supply Plan.** Cascade must plan for its Members' water supply needs. That planning shall be to be compatible with the equivalent planning responsibilities of other wholesale water providers and with state, county and city planning responsibilities under the Growth Management Act. The Board must adopt, and may from time to time amend, a Water

Supply Plan that must be based on no less than a twenty- (20) year planning horizon. Cascade shall coordinate its planning effort with local and regional utilities and other appropriate agencies and work to encourage cooperative region-wide planning and coordination.

Each Member shall actively participate in Cascade's water supply planning and shall provide to Cascade accurate data regarding its facilities and operations together with good-faith estimates of future needs and a description of any involvement in the development of new Independent Supplies. Each Member's water comprehensive or system plan shall be consistent with any plans adopted by Cascade, and shall be consistent with applicable requirements of the Growth Management Act and comprehensive plans.

**Section 8.2 Watershed Management Plan.** Cascade may adopt Watershed Management Plans, as appropriate, for the watersheds within its service area provided that a Watershed Management Plan may take the place of, or may be incorporated into a Cascade Water Supply Plan. In fulfilling its responsibilities for watershed management, Cascade may enter into interlocal agreements with Non-Member municipalities to engage in watershed management, including development of Watershed Management Plans and the implementation and financing of such plans.

**Section 8.3 System Reliability Methodology.** Cascade shall develop and adopt a system reliability methodology for planning, operation and management purposes. Adoption and amendments to the system reliability methodology shall require a 65% Dual Majority Vote.

## **ARTICLE 9. Filings**

This Contract must be filed with the King County Office of Records and Elections or with any other applicable county auditor, in accordance with RCW 39.34.040, and must be submitted

for review by the Washington State Department of Health and the Washington State Department of Ecology, in accordance with RCW 39.34.050.

**ARTICLE 10. Duration and Dissolution; Withdrawal**

**Section 10.1 Duration.** Except as provided in Section 10.3, Cascade shall remain in existence for the longer of the following: (a) the period it holds any assets; (b) the period during which Bonds are outstanding; or (c) the period it continues to include Members.

**Section 10.2 Withdrawals.** A Member may notify Cascade of its intent to withdraw by delivery to Cascade of a Resolution of its legislative authority expressing such intent. Upon receipt of such Resolution, the Member shall lose its right to vote and the Board shall determine: (a) the withdrawing Member's allocable share of the cost of the then-existing obligations of Cascade; and (b) the withdrawing Member's obligations to Cascade. "Then-existing obligations of Cascade" means obligations or costs incurred by Cascade as of the date the Member's withdrawal notice is received, including but not limited to Bond obligations, contract obligations and cash financed capital projects; provided that a withdrawing Member's allocable share shall in no event include an obligation for future expenses for which Cascade has not incurred a legal obligation; and provided further, that to the extent the Member's obligation (with respect to such costs) is re-paid over time, the Member shall be entitled to a credit for supply abandoned by the Member and is otherwise used by Cascade. A "withdrawing Member's obligation to Cascade" includes but is not limited to, the Member's share of fixed operating costs, any other expenses contained in Cascade's adopted budget for that year, and any assessments or other similar charges lawfully imposed by Cascade. For purposes of the preceding sentence, "fixed operating costs" shall be determined in the year of withdrawal, and the Member's obligation with respect to such

costs shall be limited only to that amount required to pay for supply abandoned by the Member and not otherwise used by Cascade.

The allocable share of cost or obligations shall be determined by the Board, taking into consideration as deemed applicable by the Board: (a) the ratio of the Member's Demand Share to total Member demand; (b) the ratio of the Member's contribution to Cascade revenue to total Cascade revenue including RCFCs; (c) the cost or a portion of the cost of capital projects or facilities specially benefiting the Member; and (d) and any other factor the Board deems appropriate to consider. The Member's withdrawal shall be effective on payment of such allocable share or provision for arrangements to pay such allocable share that are satisfactory to the Board. Until the effective date of withdrawal, the Member shall continue to comply with all applicable provisions of this Interlocal Contract.

Upon withdrawal, except as provided in an Asset Transfer Agreement, the withdrawing Member shall have no right to, or interest in any Water Supply Assets owned by Cascade. The withdrawing Member shall be deemed to have abandoned any and all rights to service, to the use of Cascade Water Supply Assets or other rights with respect to Cascade (except as otherwise expressly provided in this Contract).

Notwithstanding the provisions of this Section 10.2, Cascade will, upon the withdrawal of a Member that has transferred operational control and management of (but not title to) an Independent Supply Asset to Cascade under Section 5.1, return operational control of such asset to the withdrawing Member. Return of operational control and management will be subject to: (a) continued use by Cascade, to the extent and for such time as the Board deems such use necessary for Cascade to continue providing service to its Members; and (b) payment or provision for

payment of any Cascade costs, including but not limited, to those associated with the withdrawing Member's Independent Supply Asset.

The Board may establish additional generally applicable conditions and requirements for withdrawal.

**Section 10.3 Dissolution.** Cascade may be dissolved by a 65% Dual Majority Vote. Upon dissolution, except as provided in an Asset Transfer Agreement, Cascade's assets initially shall be held by its then current Members as tenants in common. Each Member's ownership interest must be based on that Member's Demand Share as of the time of the dissolution. Cascade's liabilities (including Bonds and other contractual obligations) initially shall be distributed based on Members Demand Shares as of the time of the dissolution. Assets and liabilities must be distributed in accordance with agreement or contract, under a voluntary mediation process, or by a court of law. A court may appoint an arbitrator or special master. Distribution shall be based on the best interests of efficient and economic water supply in the entire area served by the Members, subject to a rebuttable presumption that Water Supply Assets will be returned to the Member that originally transferred them to Cascade. That presumption may be overcome by a showing that another asset distribution is in the best interests of efficient and economic water supply. The proceeds of any sale of assets must be distributed among the then current Members based on the Demand Shares at the time of dissolution.

**Section 10.4 Successor Entity.** Notwithstanding the provisions of Section 10.3, upon a 65% Dual Majority Vote (ratified within one hundred and twenty (120) days by 65%), as measured by Dual Majority Vote of the Members' legislative authorities, all assets, liabilities, and obligations of Cascade may be transferred to any successor entity (including without limitation, a

joint operating agency or other municipal corporation, as permitted under state law), and all obligations of Members and parties contracting with Cascade become obligations to the successor entity.

**ARTICLE 11. Amendments.**

Amendments to this Contract shall be effective upon approval by 65% Dual Majority Vote (ratified within one hundred and twenty (120) days by 65%), as measured by Dual Majority Vote of the Members' legislative authorities.

**ARTICLE 12. Applicable Law and Venue.**

This Contract is governed by the laws of the state of Washington. The venue for any legal action arising from a dispute under this Contract is the Superior Court for King County.

**ARTICLE 13. No Third Party Beneficiaries.**

There are no third-party beneficiaries to this Contract except for the rights of Bond owners as provided in Section 5.3.2, no person or entity other than an agency signatory to this Contract shall have any rights hereunder or any authority to enforce its provisions, and any such rights or enforcement must be consistent with and subject to the terms of this Contract.

**ARTICLE 14. Severability.**

If any provision of this Contract or its application is held by a court of competent jurisdiction to be illegal, invalid, or void, the validity of the remaining provisions of this Contract or its application to other entities or circumstances shall not be affected. The remaining provisions continue in full force and effect, and the parties' rights and obligations must be construed and enforced as if the Contract did not contain the particular invalid provision. But if the invalid provision or its application is found by a court of competent jurisdiction to be substantive and to

render performance of the remaining provisions unworkable and infeasible, is found to seriously affect the consideration, and is inseparably connected to the remainder of the contract, the entire Contract is deemed void.

**ARTICLE 15.       Entire Agreement.**

This Contract constitutes the entire and exclusive agreement between the parties relating to the specific matters covered in this Contract. All prior or contemporaneous verbal or written agreements, understandings, representations or practices relative to the foregoing are superseded, revoked and rendered ineffective for any purpose. This Contract may be altered, amended or revoked only as set forth in Article 11. No verbal agreement or implied covenant may be held to vary the terms of this Contract, any statute, law, or custom to the contrary notwithstanding.

**ARTICLE 16. Execution.**

This Contract may be executed in one or more counterparts.

**Signatory Agency**

By: Ara Trisinger

Title: MAYOR Date: April 4, 2005

Attest: Christine Long

Title: CITY CLERK Date: 4-4-2005

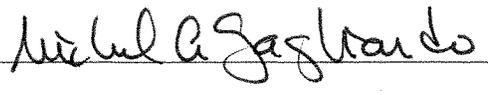
Authorized by: AB 5266 / Motion  
(Resolution or Ordinance)

Date: 3-21-2005

Cascade Water Alliance:

By:  \_\_\_\_\_

Title: Chair Date: DECEMBER 15, 2004

Attest:  \_\_\_\_\_

Title: General Manager Date: DECEMBER 15, 2004

Authorized by: Resolution No. 2004-18

Date: DECEMBER 15, 2004



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**WHOLESALE WATER AGREEMENT BETWEEN  
CITY OF ISSAQUAH AND IHCA (2004)**



# WHOLESALE WATER AGREEMENT

Between the City of Issaquah and  
the Issaquah Highlands Community Associations for:

## WATER SERVICE TO THE GRAND RIDGE DRIVE SUBAREA OF ISSAQUAH HIGHLANDS

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THIS AGREEMENT is entered into effective June 2, 2004, the date of the last signature, between the CITY OF ISSAQUAH, a Washington municipal corporation ("City"), and the ISSAQUAH HIGHLANDS COMMUNITY ASSOCIATION, a nonprofit Washington corporation ("IHCA"), on the terms provided herein. In consideration of the obligations and undertakings herein, the parties agree as follows:

### AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. **Supply Amount.** The City of Issaquah (the "City") shall supply from the water allocation for Issaquah Highlands wholesale water service to the Grand Ridge Drive Water Utility master meter in a quantity of up to 14.34 acre-feet per year (8.9 gpm Annual Average Daily Demand, 22.2 gpm Maximum Daily Demand). Any supply use above this amount is considered interruptible supply which may not be available. Standby emergency supply will be provided in accordance with current City policy.

2. **Cost.** IHCA shall be responsible for reading individual meters bi-monthly for each of its association members and reporting the consumption bi-monthly to the City of Issaquah Finance Department for billing purposes. All costs associated with the operations, maintenance, capital, water purchases, and any other cost associated with the supply of water to the Grand Ridge Drive Water Utility shall be paid for by the property owners being served by the utility.

a. IHCA shall be responsible for payment of all charges for water. IHCA shall advise its association members of the City's rights regarding delinquent accounts.

b. Each property shall have separate metered connections to the main for domestic and irrigation service to meet city standards.

c. Where fire suppression systems are installed in homes, these systems shall be connected directly to the main through an appropriately sized meter that will be read and water use reported to the City but not billed for either consumption or demand in the event of a fire. Service, other than fire suppression, taken from behind the

fire meter is expressly prohibited. If service is taken from behind the fire meter for other than fire service, it will be billed double the rate that is described below.

d. IHCA shall report the size of any new meter installation at the time of installation.

e. **Bi-monthly Charges:** The City will calculate charges owed for demand through each water meter based upon bi-monthly consumption plus the fixed meter charge in accordance with the current retail rates charged by the City to its customers. The City will then sum these amounts and bill IHCA bi-monthly. Payment shall be due 30 days after billing, and thereafter it is delinquent.

f. The IHCA will be responsible for paying a fixed bi-monthly meter charge on the master meter(s) equal to the AWWA capacity flow factor compared to a  $\frac{3}{4}$  X  $\frac{5}{8}$  inch meter times the fixed bi-monthly amount charged for a residential  $\frac{3}{4}$  x  $\frac{5}{8}$  inch meter. (For example: if a 6-inch meter can flow 50 times that of a  $\frac{3}{4}$  x  $\frac{5}{8}$  inch meter, then the multiplier would be 50.)

g. Unaccounted for water (the difference between the volume measured by the master meter(s) and the sum of the volumes measured by all permanent and temporary meters in the system over a period of one year) in excess of 4% of the volume passing through the master meter(s) will be billed to IHCA at a unit cost equal to the highest retail block rate for single family customers

h. In the event that payment becomes delinquent, late charges will be assessed to full amount owed by IHCA at a rate in accordance with the Issaquah Municipal Code. If the IHCA account is delinquent, the City after 30-day written notice to IHCA may shut-off all wholesale water service at the master meter(s), and/or the City may, in its sole discretion, require IHCA to deposit up to 4 months estimated water fees in cash with the City Finance Director prior to reconnection. Such deposit shall be constantly maintained until the City, in its sole discretion determines otherwise.

i. IHCA shall pay to Issaquah, the Regional Connection Charges for all meters installed behind the master meter(s) equal to the amount due for that connection in accordance with adopted regional connection charges in effect at the time of hookup.

j. In the event of a condition that requires emergency expenditures to maintain a sufficient water supply, the City may impose an emergency surcharge on all of its retail and wholesale customers, including IHCA in order to pay for such expenditures.

k. Currently the City does not have a water utility tax. In the future, if such a tax is imposed the tax will also apply to IHCA.

**3. Commencement of Water Service.** The City shall not commence water service to the Grand Ride Drive Water Utility until an Operating Permit has been issued by the Washington State Department of Health, management and operations systems are

in place, the Master Meter and Backflow Preventer have been installed, tested, and accepted by the City.

4. **Master Meter(s) and Backflow Preventer(s).** IHCA shall install master meter(s) of appropriate size(s) to ensure accurate volume measurement at high and low flows as specified by a licensed professional engineer, a telemetry link and modifications to the City's water operations center, and backflow preventer(s) at the point of connection between the City's system and the Grand Ridge Drive system. The point of connection shall be located off of NE Harrison Street North. The City shall own, operate, and maintain the master meter and the backflow preventer, telemetry, and the contents in the master meter vault. The master meter, telemetry, backflow prevention, master meter vault, and any other appurtenances owned and operated by the City shall be approved by the City's water utility operations manager and engineering department prior to construction by Port Blakely Communities on behalf of IHCA. Modifications, if needed for service, at a later date shall be paid for by IHCA.

5. **Fire Flow.** The City shall supply water from the 1232 operating zone and hence the maximum service elevation from this operating zone (without repumping) is approximately 1142 feet above sea level. Issaquah shall not exceed a maximum fire flow rate of 1,000 gpm measured at the master meter. It is understood that the actual rate of flow at the point of use is dependent upon the hydraulic behavior of the distribution system between the master meter and the point of use, and Issaquah therefore makes no representation with regard thereto.

6. **Water Quality.** Each party will be responsible for complying with applicable state and federal drinking water quality standards as to their respective water systems.

7. **Conservation.** The IHCA shall adopt and administer a water conservation plan for the Grand Ridge Drive lots. The plan will be reviewed and approved administratively by the City, which approval will not be unreasonably withheld and will be consistent with conservation standards for large rural lots.

8. **IHCA Responsibilities:**

a. IHCA shall be responsible for design, construction, and operation of the Grand Ridge Drive Water System.

b. IHCA shall be responsible to plan for water supply and distribution in compliance with the State Department of Health water system planning regulations and coordinate it with the City of Issaquah.

9. **Dispute Resolution.** The parties shall designate representatives for the purposes of administering this Agreement and resolving disputes arising from this Agreement, except as provided below. Each party shall notify the other in writing of its designated representatives. Each party may change its designated representatives by written notice to the other.

Disputed that cannot be resolved by the representatives designated herein shall be referred to the chief executive office of each party for mediation and/or settlement. If such dispute is not resolved within sixty (60) days, either party, or both parties, may file a demand for arbitration, in which event this issue shall be submitted to an arbitrator acceptable to both parties and the matter shall be arbitrated pursuant to the rules and procedures of the American Arbitration Association. The decision of the arbitrator shall be final and binding on both parties.

Water rates, penalties for delinquent payment, fees for shutting off meters for delinquent payment, imposition of taxes, the requiring of a deposit due to delinquency and emergency surcharges shall not be subject to arbitration.

**10. Liability/Hold Harmless.** The City shall indemnify, defend, and hold harmless IHCA, its officers, agents and employees, from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of the City, its officers, agents and employees, in the performance of this Agreement. With respect to the performance of this Agreement and as to claims against IHCA, its officers, agents, and employees, the City expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend, and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of the City. This paragraph shall not apply to any damage resulting from the negligence of IHCA, its agents, and employees. To the extent any of the damages referenced by the paragraph were caused by or resulted from the concurrent negligence of IHCA, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of the City, its officers, agents and employees.

IHCA shall indemnify, defend and hold harmless the City, its officers, agents and employees from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of the City, its officers, agents and employees, in the performance of this amendment and as to claims against the City, its officers, agents, and employees, the City expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of IHCA. This paragraph shall not apply to any damage resulting from the negligence of the City, its agents, and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of the City, its agents and employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of IHCA, its officers, agents and employees.

**11. No third party beneficiaries.** This agreement is intended to benefit the parties hereto only. This agreement and the duties and obligations herein are not intended to benefit any third parties, including without limitation, the association members of IHCA.

12. **Successors and Assigns.** The benefits and burdens of this Agreement shall be binding on the IHCA and the City and their respective successors and assigns.

13. **Termination.** This agreement shall terminate on December 31, 2029. The City and IHCA may choose to renegotiate this agreement prior to the termination date.

14. **Police power not affected.** Nothing herein shall be construed to limit or affect the City's police powers.

15. **General.** This Agreement shall be governed by the laws of the State of Washington. This Agreement shall not be amended without the signatures of the parties. For any other default under this Agreement, the non-defaulting party may seek any remedy authorized at law or in equity. If a suit or action is instituted to enforce or interpret any provisions of this Agreement, then the substantially prevailing party shall be entitled to recover its reasonable attorneys fees and costs of litigation, including fees and costs on appeal. Any notice given under this Agreement shall be in writing and either (a) personally delivered, (b) sent by U.S. certified mail, return receipt requested, postage prepaid, or (c) or sent via verified facsimile transmission to the addressee's mailing address or fax number set forth below.

16. **Effective Date.** The Agreement is effective as of the date of the last signature below.

CITY OF ISSAQUAH, a  
Washington municipal

By   
Ava Frisinger, Mayor

Date: 6-2-2004  
1307 E. Sunset Way  
P. O. Box 1307  
Issaquah, WA 98027-1307

Approved as to form:

  
City Attorney

ISSAQUAH HIGHLANDS COMMUNITY  
ASSOCIATION, a Washington nonprofit corporation

By   
John Adams, President

Date: 5/19/2004  
Issaquah Highlands Community Center  
1401 Park Drive N.E.  
Issaquah, WA 98029  
Fax: 425-427-8050

PORT BLAKELY COMMUNITIES, a Washington corporation

By Judd Kirk  
Judd Kirk, President

Date: 5/24/04  
1775 - 12<sup>th</sup> Ave. N.W., Suite 101  
Issaquah, WA 98027  
Fax: 425-391-9028

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**REGIONAL WATER SUPPLY DESIGN AND  
FACILITY EXTENSION (1999)**



AUGUST 27, 1999 DRAFT

## AGREEMENT

**Between The City Of Issaquah and Port Blakely Communities  
for:  
REGIONAL WATER SUPPLY DESIGN AND FACILITY EXTENSION**

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THIS AGREEMENT is entered into effective \_\_\_\_\_, 1999, between the CITY OF ISSAQUAH, a Washington municipal corporation ("City"), and PORT BLAKELY COMMUNITIES, INC. a Washington corporation ("PBC"), on the terms provided herein. In consideration of the obligations and undertakings herein, the parties agree as follows:

### INTRODUCTION/PURPOSE/RECITALS

- A. PBC previously signed an agreement with the City to fund preliminary planning work for definition of a route and connection point for a regional water supply extension. This Agreement sets forth the further agreement for PBC to design and construct a regional water supply extension and interim supply solutions, subject to the approvals and rights set forth herein. The definitions for capitalized terms used in this Agreement are set forth in Attachment A.
- B. The City needs additional water supply sources to meet population growth. The 2-Party Agreement provides that "The City shall provide water to the UGA Portion of the Project sufficient for the Allowable Development. The City's obligation to provide water is subject to *Force Majeure* events including insufficient water supplies if the City has taken good-faith efforts to increase water supply and/or adopt conservation measures in order to provide adequate water service for the Allowable Development." (§ 3.12 of 2-Party Agreement)
- C. The City has limited personnel and financial resources. As a result, the City might not be able to provide regional water supply facilities to timely meet demand or as inexpensively as a private entity. PBC needs additional municipal water supply so it can continue development of the Issaquah Highlands project.
- D. The parties wish to cooperate through this Agreement. PBC will be entitled to recover, in accordance with the terms of a latecomer agreement or other applicable provisions of law, defined project costs using a latecomer charge or other reimbursement system. This Agreement details the terms and conditions for the design, construction and reimbursement of the regional water supply facilities.

E. It is anticipated that water demand will exceed the existing water supply in year 2001 without a new source. A chart is attached as Attachment B showing the available water based upon the Interim Supply Solution established for this Agreement consisting of the recently adopted State Department of Health reservoir nesting rules (as defined in Attachment A-1). The regional water supply will be a long-term solution to accommodate the City's growth.

F. The City has entered into a wholesale agreement with the City of Bellevue ("Wholesale Agreement") to provide water supplied by Seattle under Bellevue's Water Purveyor Contract.

G. Issaquah Highlands' first phase of development is connected to the City's existing well water system, but will convert to the regional supply source once completed.

H. PBC has, concurrent with this Agreement, entered into a private funding agreement with Intracorp Real Estate LLC ("Intracorp") to share the costs of the Joint Segment of the Regional Facilities for the mutual benefit of and water service to the Issaquah Highlands project and the East Village Project. Subject to the terms of that private funding agreement, PBC will act as the representative for both projects in dealing with the City for construction of the Regional Facilities, any conveyance of Reserved MGD capacity in the Regional Facilities, and reimbursements from New Users who may connect to the Regional Facilities, as provided in this Agreement. PBC may enter into other private funding agreements with other Financial Participants.

## **AGREEMENT**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

### **1. Additional Water Supply Facilities**

PBC will construct, on the terms provided in this Agreement, the Regional Facilities (as defined in Attachment A) for a water supply connection with Bellevue. The City will use the Interim Supply Solution implemented by PBC to provide water supply to the I/H Property and the East Village Property ("EV Property") if needed due to any unexpected delays in the regional supply connection. For the duration of the planning, design and construction of the Regional Facilities by PBC under this Agreement, the City's obligation to also plan, design and construct additional water supply facilities under the 2-Party Agreement shall be waived. If the pursuit of the Regional Facilities is terminated by PBC (by written notice from PBC under Section 5.3), then the City shall resume planning, design and construction of additional water supply systems using a new schedule that recognizes the delay associated with the PBC Regional Facility pursuit.

## **2. Relationship to 2-Party Agreement**

This Agreement is consistent with the 2-Party Agreement, except as modified in the next to last sentence in Section 1 above. All other terms and conditions of the 2-Party Agreement remain in effect.

## **3. Analysis, Permitting and Design Work**

PBC will directly contract with a qualified engineering firm for work involving the alternative analysis, related alignment studies, applications for SEPA (with a 3-party agreement with the City if an environmental impact statement is required) and permits, pre-design, design and construction of Regional Facilities. PBC shall contract directly with and pay the consultant for the work subject to satisfactory agreement between the City and PBC on the latecomer or other reimbursement as provided in this Agreement. If PBC fails to complete any phase of the planning or design or construction, the City will not be responsible for any of PBC's or its consultant's accumulated costs or work-in-process, and PBC shall include a statement in its consultant's contract of such non-liability on the part of the City.

## **4. Construction**

**4.1 Plans and Specifications.** The parties to this agreement commit to work cooperatively to achieve completion of these additional water facilities. Upon completion of the permitting and design work, PBC will undertake the construction of the Regional Facilities pursuant to plans and specifications and at locations and along a route selected by PBC and approved by the City as a developer's extension implementing the 2-Party Agreement, subject to City approval of the plans, specifications, location and route pursuant to the City's adopted standards and the requirements of the Wholesale Agreement with Bellevue. PBC's obligation to construct the Regional Facilities is conditioned on execution of private funding agreements approved by PBC and the Financial Participants, including the owners of the EV Property.

**4.2 Plans Approvals.** Prior to construction, PBC shall submit its construction plans to the State Department of Health (DOH) and to the City for City approval pursuant to its adopted standards and the requirements of the Wholesale Agreement with Bellevue. If the facility is within the SPAR right-of-way, the SPAR team must also approve the plans. The City will inspect construction.

**4.3 Conveyance to City After Construction.** The City Public Works Department (Engineering and Operations and Maintenance Departments) shall accept the Regional Facilities as soon as reasonably possible after PBC's request if (a) they have been constructed at no cost to the City in accordance with the plans and specifications approved by the City, (b) the City has not been subjected to or required to bear any cost of such construction, except as agreed to in writing by the City, and (c) they are lien-free. A performance bond is required prior to construction of the Regional Facilities, unless the parties otherwise agree. A maintenance bond is required for the Regional Facilities. The maintenance bond term shall be one year and for 30% of the facility value. After City acceptance, the City will own and operate

the completed facility. No portion of the Regional Facilities shall be used until ownership is transferred to and accepted by the City, but subject to PBC's reservation of Reserved Capacity as described in Section 5.6.

## **5. Cost Reimbursement; Eligible Costs.**

**5.1 Planning, Permitting and Design.** Reimbursement to PBC of all eligible "Design Eligible Costs" for the Regional Facilities shall be through the mechanisms described in Section 5.2 below.

**5.2 Engineering and Construction.** PBC will pay all costs necessary to complete the engineering, construction and transfer of ownership to the City of the Regional Facilities, but subject to PBC's right to terminate under Section 5.3. PBC may not include the following costs or expenses in the "Design Eligible Costs" or "Construction Eligible Costs": legal fees to interpret or enforce this Agreement or the 2-Party Agreement, and contractor incentives for early completion. PBC shall be entitled to recover all of the Design Eligible Costs and Construction Eligible Costs of the Regional Facilities through the following mechanisms: private funding agreement(s); fair share payments from New Users or other users under Section 5.6; or latecomer or other agreements. PBC may undertake financing, cost-sharing and participation agreements or construction of the facilities under this Agreement through a related entity or through other entities or arrangements with private parties including "Financial Participants," so long as the design and construction are consistent with this Agreement. PBC shall continue to be obligated under this Agreement unless the City otherwise approves.

## **5.3 PBC Right to Terminate.**

**5.3.1 Grounds; Notice.** As provided in Sections 5.1 and 5.2, PBC shall pay for the alternative analysis, related alignment studies, pre-design and SEPA and permitting applications pursuant to the schedule in Section 6. These costs are estimated to exceed \$600,000. PBC also shall complete the permitting, design and construction of the Regional Facilities pursuant to the schedule in Section 6, but PBC shall have the right to terminate this Agreement and thereupon have no further obligation to design, permit and construct the Regional Facilities if (a) permits and approvals for these facilities are not obtainable or can only be obtained under Unreasonable Terms, (b) the total of the permitting, engineering and other soft costs and the construction hard costs for these facilities exceed or are reasonably estimated to exceed \$15 million (*i.e.* 120% of the present estimated cost of \$12.5 million for the Regional Facilities), or (c) PBC and the City mutually determine that the Regional Facilities are not needed for foreseeable demands on water supply for the I/H Property or the EV Property. To the extent provided in the private funding agreement, Intracorp shall have the further right to terminate its financial participation in the Joint Segment if the City and Intracorp do not execute a development agreement for the East Village Project. Any dispute between the City and PBC on the existence of the grounds for termination shall be resolved by using the Dispute Resolution provisions of Section 5.11. The termination shall be effective at the later of (i) forty-five (45) days after PBC delivers a termination notice to the City or (ii) the conclusion of the Dispute Resolution (if invoked). Notwithstanding PBC's termination and the cessation of its obligations,

the City shall allow a Financial Participant to be substituted for and to perform the PBC obligations set out in this Agreement effective upon PBC's termination, except that if Intracorp substitutes for PBC, it shall only be obligated to complete the Joint Segment of the Regional Facilities. The Financial Participant must give the City notice of its agreement to substitute and perform before the effective date of PBC's termination. A Financial Participant that substitutes for PBC following PBC's exercise of its termination right shall receive an assignment of PBC's rights to reserve capacity and other reimbursement to the extent such an assignment is expressly provided for in the private funding agreement between PBC and the Financial Participant(s).

**5.3.2 City Notice on Nonperformance.** If the City in good faith believes PBC is not diligently proceeding under this Agreement to design, permit and construct the Regional Facilities, then the City may give a notice of nonperformance under Section 12 identifying the failure and PBC shall respond during the 60 day cure period in Section 12.1 with a schedule or action(s) addressing the City notice. As provided in the private funding agreement, Intracorp or other Financial Participant may request the City issue the notice of non-performance if it believes PBC is not diligently proceeding under this Agreement. The City's notice also shall be sent to the Financial Participants. If the City does not concur with PBC's response, then the matter shall be resolved by using the Dispute Resolution provisions of Section 5.11. During the period of Dispute Resolution, the City shall not be obligated to allow any new connections which would be using the 2,920 ERUs allocated under Section 7.1(b).

**5.3.3 Procedure for Financial Participant Substitution.** The substitution of a Financial Participant for PBC under this Agreement (due to PBC termination under Section 5.3.1 or after a PBC Default under Section 12.2(a)) shall follow the procedures specified in this Section 5.3.3. A Financial Participant who is funding both segments of the Regional Facilities (*i.e.*, the Joint Segment and the I/H Property segment) shall have the first right to substitute ("PBC-Financial Participant"). If the PBC-Financial Participant gives written notice to the City of its agreement to substitute and perform PBC's obligations at least fifteen (15) days before the effective date of PBC's termination, then this Agreement, including the right to terminate on the grounds provided in Section 5.3.1 above, shall remain in effect and the PBC-Financial Participant shall assume all of the rights and obligations of PBC under this Agreement.

If the PBC-Financial Participant does not elect to substitute by said date, then either Intracorp or a Financial Participant funding the Joint Segment and the EV Spur Line (but not the I/H Property segment) ("EV-Financial Participant") may elect to substitute and perform by delivering written notice to the City before the effective date of PBC's termination. If timely notice is given, then this Agreement, including the right to terminate on the grounds provided in Section 5.3.1 above, shall remain in effect and Intracorp or the EV-Financial Participant shall assume all of the rights and obligations of PBC under this Agreement, except for any portion of the Regional Facilities beyond the Joint Segment (*i.e.*, no obligation for the I/H Property segment).

Upon the substitution of a Financial Participant or Intracorp under this Section 5.3.3 before the end of the 45-day termination period, all engineering reports, studies, plans and specifications and other related documents shall become the property of the substituted party.

**5.4 Regional Facilities Latecomer Reimbursement.** The private funding agreement between PBC and the EV Property will substitute for a latecomer agreement on the EV Property. However, upon the request of (a) the Glacier Ridge Partnership or Grand Ridge Partnership as to the I/H Property or (b) Intracorp or other owner of the EV Property, the City shall establish a latecomer collection system within the I/H Property or the EV Property, as applicable, and for any other benefited properties, by using the City's code provisions for water cost recovery contracts (IMC 13.90 as it may be amended). The reimbursement to the I/H Property and the EV Property from other property owners under this section and Section 5.5 collectively shall never exceed 100% of the reimbursable Design and Construction Eligible Costs (i.e. those exceeding the proportionate cost share for the I/H Property and EV Property), but PBC as to the I/H Property or the owner of the EV Property as to that property may be reimbursed for their proportionate cost share if it elects a latecomer system for its own respective property as provided in the second sentence in this Section.

**5.5 Interim Supply Solution Reimbursement.** Since the Interim Supply Solution adopted for this Agreement is the DOH reservoir nesting rule, no reimbursement shall be due PBC for the existing reservoirs which provide this nesting access. However, if the DOH nesting rule or a substantially equivalent rule is not in effect when interim supply is to be provided by the City (i.e. before completion of the Regional Facilities) and PBC must construct additional facilities as described in Attachment A-1, then PBC shall track the eligible costs for the new facilities comprising the Interim Supply Solution separate from the eligible costs relating to the Regional Facilities. If the City uses any new Interim Supply Solution facility constructed by PBC within fifteen (15) years after completion of the new Interim Supply Solution facility, except for use during the interim until the Regional Facilities are accepted by the City, then the City shall reimburse PBC for the depreciated value of the Interim Supply Solution facility at the time the City begins using the facility as part of its water system. Any dispute involving actual use by the City, the value of the facility or other matters relating to the Interim Supply Solution facility shall be resolved by dispute resolution under Section 5.11.

**5.6 New User Fair Share Payment.** In addition to any latecomer system established under Section 5.4, the City and PBC will cooperate to obtain fair share contributions from any persons or entities located inside or outside the City who propose to connect to or receive water from the Regional Facilities ("New User") as provided in this section. Subject to the terms of the private funding agreement with Intracorp, PBC shall act as the representative with the City for both the I/H Property and the EV Property for purposes of conveyance of the Reserved Capacity and distribution of any reimbursement under this Section.

**5.6.1 Excess Capacity in Regional Facilities.** The parties acknowledge that the Bellevue/Issaquah Wholesale Water Supply Agreement requires that the Regional Facilities be constructed with excess capacity, i.e. the 24" pipeline (or a small pipeline with greater flow velocity) has capacity of approximately 10 MGD (or 20,202 ERUs with conservation based on 495 gal/peak day), but only 4.2 MGD peak day demand (or 8,485 ERUs with conservation based on 495 gal/peak day) currently will be supplied through the Regional Facilities under the Wholesale Agreement. Since the I/H Allowable Development and the EV Property are not expected collectively to require more than the 8,484 water ERUs supplied

by the 4.2 MGD, PBC's construction of the Regional Facilities results in a substantial excess capacity of 5.8 MGD available for New Users ("Reserved Capacity"). The respective ownership and interest of the I/H Property and the EV Property in the 4.2 MGD and the 5.8 MGD Reserved Capacity of the Joint Segment shall be based upon the actual final funding by the I/H Property and the EV Property for the joint segment of the Regional Facilities, unless the private funding agreement expressly provides a different ownership allocation. [For example, if actual funding is pursuant to a cost sharing ratio of 67% for Issaquah Highlands and 33% for East Village, then that funding ratio would constitute the respective ownership and interest both for the 4.2 MGD currently supplied (*i.e.* 2.814 MGD for the I/H Property and 1.386 MGD for the E/V Property) and for the 5.8 MGD Reserved Capacity (*i.e.* 3.886 MGD for the I/H Property and 1.914 MGD for the EV Property).

**5.6.2 Fair Share Contribution.** The City shall not allow a New User to connect to or use the Regional Facilities to convey water unless a satisfactory fair share contribution is made and paid to PBC (as representative for the I/H Property and the EV Property) for use of the Reserved Capacity. The New User's fair share contribution shall be calculated by multiplying the cost of the Regional Facilities (*i.e.* the Design and Construction Eligible Costs incurred by PBC under this Agreement) times the ratio of the New User's MGD of water demand or allocation divided by the total pipeline capacity of 10 MGD (and this denominator shall be 10 MGD even if the pipe's flow capacity and corresponding MGD is changed in the future). [For example, if a New User such as a water purveyor has a water supply demand or authorization to use 5 MGD, then its fair share contribution would be  $5 \text{ MGD} \div 10 \text{ MGD}$ , or 50%, multiplied by the final cost of the Regional Facilities].

**5.6.3 Reservation of Capacity; Mandatory Sale to City.** Unless the City and PBC adopt a latecomer agreement or other mutually agreed reimbursement system covering the New Users, then PBC (as representative for the I/H Property and the EV Property) shall retain and there is hereby reserved to PBC (as representative for the I/H Property and the EV Property) all right, title and interest in the Reserved Capacity in the Regional Facilities. This reservation of capacity is of the pipeline (and not the water itself) and shall be expressly stated in PBC's conveyance (as representative for the I/H Property and the EV Property) of the Regional Facilities to the City under Section 4.3. When a New User seeks to connect to or use water from the Regional Facilities and upon a City request, PBC (as representative for the I/H Property and the EV Property) shall be obligated to sell to the City the pro rata portion of the Reserved Capacity in the Regional Facility for the benefit of New User upon the City's payment to PBC (as representative for the I/H Property and the EV Property) of its fair share amount for the pro rata portion of the Reserved Capacity. The parties anticipate each New User correspondingly will reimburse the City for this fair share cost of this pro rata portion of the Reserved Capacity. PBC (as representative for the I/H Property and the EV Property) shall only sell to the City (and no other party) and its sale is mandatory upon the City's request and payment as provided above.

The City shall pay to PBC (as representative for the I/H Property and the EV Property) the New User's fair share payment, and PBC shall retain the reimbursement or shall distribute the appropriate share thereof to the Financial Participants pursuant to its private funding

agreement. To allow proper repayment for lands within the I/H Property or the EV Property, respectively, which has been sold to third parties at the time of the City's payment in the preceding sentence, the I/H Property and the EV Property shall either (i) include the right to obtain water in the purchase price paid by buyers in each respective project (*i.e.* the buyer paying no separate water connection fee), in which case PBC (as representative for the I/H Property and the EV Property) will retain the payment or distribute it to the Financial Participants pursuant to its private funding agreements, or (ii) enter into written private contracts or other documented arrangements with property owners which expressly direct to whom any water capacity payment should be made (which may include PBC or other owners of the I/H Property or the EV Property if the contract so provides). The City shall not be obligated to pay the fair share to PBC (as representative for the I/H Property and the EV Property) to the extent expressly prohibited by court order or statute. Upon a City request, PBC (as representative for the I/H Property and the EV Property) shall convey the Reserved Capacity to the City (which may then convey to CWA) on the terms provided in Section 5.8.1.

**5.6.4 Additional Users of 4.2 MGD.** In addition to New Users using the Reserved Capacity, the collective water use on the I/H Property and the EV Property may not require the full 4.2 MGD for their collective full developments. As provided in the private funding agreement with Intracorp, if either PBC or Intracorp does not require its full allocable share of the 4.2 MGD for the I/H Property and/or the EV Property, respectively, as mutually determined by the City and PBC or Intracorp for its respective property, then the City may allow additional properties to connect to or use the unused portion of the 4.2 MGD upon a fair share reimbursement to PBC (as representative for the I/H Property and the EV Property). The reimbursement amount to be paid by the new property(ies) shall be (a) the proportionate share of MGD use or other appropriate basis mutually approved by the City and PBC (as representative for the I/H Property and the EV Property), multiplied by (b) the costs of the Regional Facilities (*i.e.* the Design and Construction Eligible Costs incurred by PBC under this Agreement). The City's payment of the reimbursement to PBC (as representative for the I/H Property and the EV Property) is subject to the same provisions in Section 5.6.3 for fair share payments for Reserved Capacity. PBC shall retain or distribute the reimbursement with respect to either the I/H Property or the EV Property or both in proportion to the amount of unused MGD released by those respective properties for the New User.

**5.6.5 Connection to EV Spur Line.** If any New User or additional user proposes to connect to the EV Spur Line, then the reimbursements to be paid under Section 5.6.2 for New Users or Section 5.6.4 for additional users shall include the cost of the EV Spur Line as well as the cost of the Joint Segment of the Regional Facilities.

**5.7 City Water Connection Charge.** If PBC constructs the Regional Facilities with a direct tie to Issaquah Highlands, then PBC or successor owners within the Issaquah Highlands project who connect to the Regional Facilities will not pay the Water General Facility Connection Charges that otherwise would be payable for connections to the City system supplied by well water. Likewise, if the EV Property connects with a direct tie to the Regional Facilities, then the owners within the EV Property would not pay the City's Water General Facility Connection Charges adopted for the City's system supplied by well water.

## **5.8 Regional Water Connection Charge.**

**5.8.1 Cooperation with Cascade Water Alliance.** The parties acknowledge the City intends to become a member of the Cascade Water Alliance (“CWA”), and the City may transfer the Regional Facilities and/or the Reserved Capacity to the CWA (which may be a “Water Supply Asset” under the CWA Interlocal Agreement). The provisions of this Section 5.8.1 are for the purpose of providing reimbursement to PBC (as representative for the I/H Property and the EV Property) for the costs incurred to build the Reserved Capacity. Therefore, if the CWA seeks to acquire the Reserved Capacity and upon a City request, PBC (as representative for the I/H Property and the EV Property) shall be obligated to sell to the City the requested portion of the Reserved Capacity in the Regional Facilities for the benefit of the CWA upon the City’s payment to PBC (as representative for the I/H Property and the EV Property) of the fair share amount for the pro rata portion of the Reserved Capacity or upon the City’s or CWA’s establishment of an alternative mechanism which assures payment, appropriate credits against the RCFCs, or other consideration of equivalent value to I/H Property and the EV Property for their respective fair share amounts. The City and PBC shall cooperate in negotiating a transfer of water supply assets including but not limited to (a) establishing an appropriate cost value for the Regional Facilities or Reserved Capacity consistent with the Design and Construction Eligible Costs, (b) establishing any appropriate payments to or credits for the benefit of the I/H Property and EV Property against any Regional Connection Facility Charges (“RCFC”) by the CWA, (c) recognizing any unpaid or unreimbursed eligible costs owing to PBC for the Regional Facilities, and (d) implementing the terms of this Agreement. These cooperative efforts shall include negotiating in good faith with the CWA at appropriate times, such as the transfer of title to or control of the Regional Facilities and/or Reserved Capacity to the CWA, to accomplish the terms of this section.

**5.8.2 RCFC Obligations for Existing Users.** For any users within the I/H Property or the EV Property which already are connected to the City’s well water system when the Regional Facilities are completed, those users shall convert to the Regional Facilities within a reasonable time after the City’s acceptance of the Regional Facilities (“Converting Users”). If that conversion occurs after the City has joined the CWA, then PBC (as representative for the I/H Property and the EV Property) will be responsible to pay the difference, between the RCFC amount (if due to CWA after application of any credits or other agreements with the CWA as referenced in Section 5.8.1) and the amount those Converting Users previously paid to the City as a connection charge, *i.e.* City’s Water General Facility Connection Charges (for the I/H Property, this is detailed in the “MOU for Grand Ridge General Facility Charges”) for those connections if the RCFC is higher than the amount originally paid to the City for its GFC. The amounts paid by PBC (as representative for the I/H Property and the EV Property), or the amounts reasonably estimated once the RCFC is known, shall be included as eligible costs of the Regional Facilities for latecomer and New User reimbursements. The City shall assign or pay to the CWA (if due CWA) the portion of the RCFC equal to the connection charge those Converting Users previously paid to the City. Nothing herein shall prevent PBC from entering into private contracts or other arrangements with Issaquah Highland properties which require the Converting Users to reimburse PBC for this additional amount due

for the RCFC. Likewise, nothing herein shall prevent the EV Property owners from entering into private contracts or other arrangements with purchasers within the EV Properties which require the Converting Users to reimburse the EV Property owners for this additional amount due for the RCFC. The City will be responsible to pay PBC (as representative for the I/H Property and the EV Property) the difference between the RCFC's and the City's Water General Facility Connection Charges (for the I/H Property, this is detailed in the "MOU for Grand Ridge General Facility Charges") for those Converting Users if the RCFC is lower than the amount paid for the City GFC, but no refund is due PBC (as representative for the I/H Property and the EV Property) if there is no RCFC due (e.g. if users have converted to the Regional Line before the City joins CWA or if the CWA grants credits for existing users who convert).

**5.8.3 RCFC Obligations for Future Users.** All users within the I/H Property and the EV Property whose initial connection is to the Regional Facilities (*i.e.* which never connected to the City's well water system) after formation of the CWA shall pay the RCFC if it is due to the CWA. For properties in the I/H Property and the EV Property sold after the date of this Agreement, the respective owners shall record or otherwise give notice of the potential RCFC payment.

**5.9 Alternative Funding for Regional Facilities.** PBC, the City and the Financial Participants may mutually agree to other funding for the Regional Facilities. The parties agree the design and permitting work under this Agreement will proceed, and be reimbursable to PBC (as representative for the I/H Property and the EV Property) through latecomer payments if the costs qualify as "eligible costs," even if alternative construction funding is approved under this section, so long as the design and permitting work is of benefit in constructing the facilities and the facilities are built.

**5.10 No City Obligation to Pay Construction Costs or Assume Risks.** The facilities under this Agreement are being constructed as developer extensions, and the City shall have no obligation to pay any costs of design, permitting or construction under this Agreement or to assume any risk related thereto.

**5.11 Binding Dispute Resolution.** Any dispute between the City, PBC or the Financial Participants related to any aspect of Section 5.3, 5.5, 5.6, 5.8, Attachment A-1, or any other section which expressly provides for dispute resolution shall be resolved by the binding dispute resolution provisions of Section 5.21 of the 2-Party Agreement, which section is incorporated herein by this reference.

## **6. Schedule**

Design and construction of the Regional Facilities are anticipated in accordance with the following schedule, and the City and PBC shall work to meet the following schedule:

<b>Event Milestone</b>	<b>Approval</b>	<b>Target Completion Date</b>
Regional Facilities Agreement	City/PBC	June 7, 1999
Sign wholesale agreement for regional supply with Bellevue	Respective cities	Completed April 20, 1999
Sign and record latecomer agreement against benefited properties	Public Works/PBC/City Council	June 30, 1999, using estimated amounts for eligible costs
Record against benefited properties final latecomer payment amounts for funding reimbursement	Public Works/PBC	Upon completion of construction after final eligible costs are known
Alternative Analysis	Public Works/PBC	June 30, 1999
Alignment Studies	Public Works/PBC	Aug. 16, 1999
Pre-design and Route Research for key pipeline components	Public Works/PBC	Nov. 3, 1999
SEPA/permitting	Planning Dept./other agencies with jurisdiction	July 28, 2000
Design	Public Works/PBC (per § 4.1)	May 3, 2000
Approve plans and specs	Public Works/DOH	July 30, 2000
Commencement of construction	Public Works/DOH/PBC	August. 1, 2000
Completion of Construction	Public Works/PBC	Mar. 1, 2002
Acceptance of Project and Transfer of Ownership	Public Works/PBC	Sept. 1, 2002
Operation and in-service ( <i>i.e.</i> commencement of water delivery)	Public Works	Sept. 1, 2002

## **7. Water Supply.**

**7.1 Water Supply Assurance.** In consideration of PBC's (as representative for the I/H Property and the EV Property) obligations under this Agreement, the City hereby grants PBC the right to connect the I/H Property, and the owners of the EV Property to connect the EV Property, to the City's water system and commits and allocates water supply for full buildout of the Issaquah Highlands' Allowable Development and the EV Property as follows.

a) The City already has set aside 780 ERUs for Phase 1A of the Issaquah Highlands development, and those 780 ERUs are confirmed hereby and are not subject to any conditions or termination of water assurance provided herein (but these ERUs are subject to conservation and other City-wide regulations, and these ERUs shall be released from the well water supply system effective upon connection to the Regional Facilities).

b) Effective on the date of this Agreement, the City commits and allocates 2920 water ERUs from the City's water system to the respective properties as follows: 1956 for the I/H Property and 964 for the EV Property. Subject to Section 7.1(e), the actual use of these 2920 ERUs shall not commence unless (i) one of the Interim Supply Solutions has been implemented (*i.e.* as of the date of this Agreement, the DOH reservoir nesting rule described in Attachment A-1 has been adopted and constitutes the Interim Supply Solution without the requirement to construct any new facilities), and (ii) PBC has irrevocably waived in writing its right to terminate under Section 5.3 and has posted the performance bond or other financial assurance for construction of the Regional Facilities. The interim ERU allocations for the respective properties under this Section 7.1(b) may be assigned and transferred from the EV Property to the I/H Property or *vis-a-versa*, based upon a party's default or for other reasons, to the extent provided in the private funding agreement with Intracorp or other Financial Participants.

c) Effective on the date that the Regional Facilities are accepted by the City and in service (*i.e.* commencement of water delivery), the City commits and allocates the 4.2 MGD from the Regional Facilities to the respective I/H Property and EV Property based upon the final cost sharing amounts for the joint segment of the Regional Facilities, as described in Section 5.6.1. [For example, if the final funding is 67% by I/H and 33% by EV, then 2.814 MGD is allocated to the I/H Property for its Allowable Development and 1.386 MGD is allocated to the EV Property. Upon allocation from the Regional Facilities, the allocation of water ERUs under this Section 7 from the City's well water supply is released. The parties acknowledge the 2-Party Agreement for Issaquah Highlands or the East Village development agreement may be amended in the future to authorize additional Allowable Development, in which case the parties at that time shall consider a corresponding increase in water allocation.

d) Until the I/H Property and the EV Property is served by the Regional Facilities as provided in Section 7.1(c), the City shall not allocate to any other person or entity or property the 3700 ERUs that the City commits and allocates to the I/H Property and the EV Property pursuant to this Agreement. Relevant City water utility and water system records shall reflect the water supply commitments made in this Agreement.

e) Notwithstanding any other provision of this Agreement, PBC and other owners within the I/H Property, and owners within the EV Property may submit plat, site plan or other development applications consistent with City regulations at any time and shall receive from the City water commitments from the City consistent with City policy in effect at the date of the plat or other permit application. However, such water commitments for on-going applications shall correspondingly reduce the number of ERUs allocated respective to the I/H Property and the EV Property under Sections 7.1(a) and (b). [For example, if a new plat

application within Phase 1 of I/H is filed by PBC requiring 100 water ERUs, then the City's prior Phase 1 reservation of water (see Section 7.1(a)) will be reduced from 780 to 680 ERUs; if a new plat application within Phase 2 is filed requiring 120 ERUs, then the water allocation in Section 7.1(b) for I/H Property will be reduced from 1956 to 1,836 ERUs. If a plat is filed in the EV Property requiring 100 ERUs, then the water allocation in Section 7.1(b) for EV Property will be reduced from 964 to 864 ERUs.

**7.2 Certificates of Water Assurance.** To implement Section 7.1, the City upon the request of PBC for the I/H Property, or by the owners of the EV Property, shall issue certificates of water assurance specifying the ERUs stated above. However, the water supply commitments in Section 7.1 are made without any requirement for a further certificate or other City action, but the certificates may be issued for the purpose of further evidencing the City's water supply commitments for the I/H Property and the EV Property. The City may collect an administrative fee for certificates issued under this section and Section 7.3 to recover its costs of review and issuance. If the certificate is issued before PBC's posting of the bond or other financial assurance in Section 7.1(b) above, then the form of the certificate shall contain the express conditions of the water commitments, including but not limited to the potential termination or reduction of commitments under the circumstances described in Section 7.4.

**7.3 Allocation of Water ERUs Within I/H and EV Property.** For the I/H Property, PBC shall assign the ERUs assured under Section 7.1 to specific parcels within the I/H Property as part of PBC's development under the 2-party Agreement. When PBC makes such assignments, PBC shall notify the City and record the amount of the water ERU assignments for specific parcels within the I/H Property. Likewise, the owners of the EV Property may assign the ERUs assured under Section 7.1 to specific parcels within the EV Property as part of its development under its development agreement. When either party makes such assignments, PBC or the EV Property owner, as appropriate, shall notify the City and record the amount of the water ERU assignments for specific parcels within the I/H Property or EV Property. Upon such recording, the ERUs allocated to such parcels shall run with the land and be binding upon and inure to the benefit of the owners and successors-in-interest of those parcels. After recording and upon the request of PBC or the EV Property owner, or a successor owner, the City will re-issue a certificate of water assurance for the specific parcel in the assigned ERU amount.

**7.4 Termination or Reduction of Assured Water.** The water assurance in Section 7.1(b) (*i.e.* 2920 ERUs) shall terminate if and only if (a) PBC delivers a termination notice as provided in Section 5.3 whereby it will not implement the Regional Facilities and no Financial Participant notifies the City that it will substitute for PBC, (b) the City terminates this Agreement due to a Default by PBC prior to PBC's posting of the bond or other financial assurance under Section 7.2 (b) above and no Financial Participant notifies the City that it will substitute for PBC pursuant to Section 7.5, (c) the I/H Property and the EV Property are served by the Regional Facilities pursuant to Section 7.1(c), or (d) the Buildout Period ends as defined under the 2-Party Agreement for the I/H Property and the development agreement for EV Property. The water assurances in Section 7.1(d) shall remain in effect upon substitution for PBC as follows: if a PBC-Financial Participant substitutes (*i.e.* agrees to complete both the Joint

Segment and the I/H Property segment of the Regional Facilities), then the water allocations to both the I/H Property and the EV Property in Section 7.1(d) shall remain in effect; if Intracorp or an EV-Financial Participant substitutes (*i.e.* agrees only to build the Joint Segment), then the water assurance for the EV Property in Section 7.1(d) will remain in effect (and the water allocation otherwise made to the I/H Property may be assigned to the EV Property under the private funding agreement). The water assurances in this Section 7 are subject to reduction as (i) allocations are made pursuant to Section 7.1(e) for water ERUs for new plat applications or other permits, or (ii) part of City-wide measures in the event of an Uncontrollable Force (defined in Section 9). Further, these water assurances are subject to reduction if the City's wholesale water supply amount of 1.7 MGD (average daily demand) or 4.2 MGD (peak day demand) is permanently reduced pursuant to, or at the end of the term of, the City's wholesale contract with Bellevue. Any permanent reduction in water assurance based on reduced wholesale supply shall be proportionate (*e.g.* if wholesale supply is reduced by 10%, then the assured water ERUs under Section 7.1(b) and 7.1(c) would be reduced by 10%), and the City shall provide alternative water (which for the I/H Property will be in accordance with the terms of Section 3.12 of the 2-Party Agreement, including *Force Majeure*) for the ERUs of Allowable Development which are reduced due to wholesale supply reduction.

**7.5 PBC Obligation.** The obligations to design, finance, and construct the Regional Facilities under this Agreement shall not be assigned or transferred by PBC without the City's written consent, exclusive of a Financial Participant's substitution rights provided herein. The City shall not assign or transfer any of its rights or obligations under this Agreement, or enter into another agreement relating to the Regional Facilities, without PBC's written consent (which may include prior consent by PBC in a written agreement between PBC and a successor in title or a Financial Participant). No successor in title or Financial Participant in title shall have any duty or liability to perform PBC obligations under this Agreement unless that successor or Financial Participant expressly agrees to do so. However, if PBC has committed a Default under this Agreement, then a Financial Participant, by delivering written notice to the City in accordance with the procedures and timing of Section 5.3.3 after PBC's Default, shall have the right to substitute and perform the PBC obligations set out in this Agreement. Intracorp may substitute and perform the PBC obligations with respect to the Joint Segment only. Such Financial Participant shall receive an assignment of PBC's rights to the Reserved Capacity and other reimbursement and the interim water allocations to the extent such an assignment is expressly provided in a written agreement between PBC and the Financial Participant.

## **8. General Provisions**

**8.1 2-Party Agreement; Other Agreements.** The parties incorporate by reference into this Agreement the following "General Provisions" of the 2-Party Agreement: Governing Law (§ 5.1); Interpretation and Severability (§ 5.4); Authority (§ 5.5); Time of Essence (§ 5.9); Integration (§ 5.10); Authorized Agent (§ 5.12); and Notice (§ 5.18). Except as provided in Section 8.2, this Agreement is made solely for the benefit of the City and PBC and no third party shall have any rights under this Agreement except for those provisions benefiting a Financial Participant. This Agreement represents the entire agreement between the parties on the subjects covered herein, and PBC has not entered into any other agreements dealing with the

subjects covered herein, except PBC has entered into a funding agreement with one or more Financial Participants as provided in Section 5.2 (who include East Village and any other party which PBC identifies to the City upon PBC's entering into a contract with such participant) and with contractors, consultants or others to implement the terms of this Agreement.

**8.2 Third Party Beneficiary.** This Agreement is executed concurrent with, and is effective upon such concurrent execution of, a private funding agreement between PBC and Intracorp. In consideration of its financial participation in the Joint Segment of the Regional Facilities, Intracorp is a third party beneficiary of this Agreement. Intracorp has, and may bring an action to enforce, all the rights provided to it as a Financial Participant, including but not limited to, the rights provided in Sections 1, 4, 5.3 through 5.11, 7.1 through 7.5, and 12.2. Any action by Intracorp shall include both the City and PBC. If any matter is subject to Dispute Resolution between the City and PBC, then Intracorp's enforcement likewise shall require Dispute Resolution under Section 5.11. And provided further, that Intracorp may substitute and perform PBC's obligations with respect to the Joint Segment only.

## **9. Uncontrollable Force**

**9.1 Excused Delay.** If a party to this Agreement, by reason of an Uncontrollable Force, is rendered unable, wholly or in part, to perform its obligations under the Agreement, then upon said party giving notice and particulars of such Uncontrollable Force, its obligation to perform shall be suspended or correspondingly reduced during the continuance of any inability so caused, but in no greater amount than required by the Uncontrollable Force and for no longer period, and the effects of such cause shall, so far as possible, be remedied with all reasonable and prompt dispatch. The affected party shall not be responsible for its delay in performance under this Agreement during delays caused by the Uncontrollable Force.

**9.2 Defined.** "Uncontrollable Force" means any cause beyond the control of a party hereto and which by the exercise of due diligence that party is unable to prevent or overcome. Such causes may include, but not be limited to the following: an act of God, fire, flood, volcano, earthquake, explosion, nuclear accident, act of war, insurrection or riot, physical unavailability of the City's ground water source due to depletion of the aquifer, and litigation preventing performance.

**10. No Joint Venture.** Nothing in the Agreement shall create a joint venture or partnership between the parties.

**11. Indemnity.** If any person brings suit or counterclaim against the City challenging the provisions of or the City's authority to enter into this Agreement and/or seeking recovery of any monies paid pursuant to this Agreement, then PBC agrees to indemnify, defend and hold the City harmless from any judgment and shall pay for the City's (and its officers, agents, employees and contractors) costs of suit, pre- or post-judgment interest, consequential damages and reasonable attorneys' fees, expert witness fees, staff time, consultants fees and all other directly related out-of-pocket expenses and reimbursement of any monies paid pursuant to this Agreement. Notwithstanding the preceding sentence, if the basis of the person's claim or cause

of action is the City's negligence, intentional misconduct or breach of this Agreement, then the City shall indemnify PBC to the same extent and for the same costs as specified in the preceding sentence. References to the City and PBC includes their respective officers, agents, and employees. In the event of concurrent negligence, including RCW 4.24.115, each party shall indemnify and hold the other harmless only to the extent of that party's negligence. The indemnifying party shall have the option but not obligation to defend the indemnified party in any such suit, but if the indemnifying party elects not to defend, then it shall reimburse the indemnified party on a monthly basis for the costs described in this section. Notwithstanding any other provision in this Agreement, to the extent a court of competent jurisdiction determines that the City is precluded from collecting any fees, costs, or other monies under this Agreement, then the City shall be under no further obligation to pay said precluded sums to PBC (as representative for the I/H Property and the EV Property). It is further specifically and expressly understood that the indemnification provided herein constitutes each party's waiver of immunity, as between themselves, under Industrial Insurance, Title 51 RCW, solely for the 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. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the construction of the Regional Facilities under this Agreement, except for injuries and damages caused by the sole negligence (or other grounds stated above) of the City.

## **12. Notice and Cure; Default.**

**12.1 Event of Default.** Each of the following shall constitute an "Event of Default":

**a)** A material breach in performance of this Agreement by a party, which breach has continued for a period in excess of sixty (60) days after the defaulting party has been notified in writing by the other party that such breach will, unless corrected within such 60-day period, constitute an Event of Default, except if the cure cannot reasonably be completed within sixty (60) calendar days, then the party shall not be in default so long as it commences the cure within sixty (60) calendar days and promptly and diligently completes the same.. The notice shall specifically identify the alleged breach and the action(s) that would cure it. The City shall deliver its notice to any Financial Participant that has requested notice in writing.

**b)** A filing by a party to seek protection under any applicable bankruptcy, reorganization, insolvency, dissolution or liquidation law, which filing has not been dismissed within 90 days.

**12.2 Remedies.** Upon the occurrence of any Event of Default by a party, the other party may exercise any remedy or combination of available remedies, including but not limited to the following:

**a)** Terminate this agreement by delivering notice to the defaulting party and to any Financial Participant that has requested notice in writing, *provided*, however,

that if PBC is the defaulting party, any Financial Participant may substitute and perform PBC's obligations under this agreement by delivering notice of substitution to the City in accordance with the procedures and timing of Section 5.3.3 and provided further that Intracorp may substitute and perform PBC's obligations with respect to the Joint Segment only.

b) Exercise all rights and remedies provided at law or in equity, and may recover its reasonable attorneys' fees and costs.

**13. Implementing Actions.** The parties shall take actions reasonably required to implement this Agreement, including the City's scheduling for adoption ordinances, if any, determined beneficial to carry out this Agreement.

CITY OF ISSAQUAH, a Washington municipal corporation

By: \_\_\_\_\_  
Ava Frisinger, Mayor

Dated: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
City Attorney

PORT BLAKELY COMMUNITIES, a Washington corporation

By: \_\_\_\_\_  
Judd Kirk, President

Dated: \_\_\_\_\_

Attachments:

- A Definitions
- A-1 Interim Supply Solution Options
- A-2 Issaquah Highlands Water Facility Plan
- B Chart Showing City Water Supply ERUs
- C Maps and Legal Descriptions of I/H Property and EV Property

## ATTACHMENT A

### Definitions

**Allowable Development** for the I/H Property is defined in Sec. 3.2 of the 2-Party Agreement as consisting of 3,250 residential units, 425,000 sq. ft. of retail and 2.95 mill. sq. ft. of commercial, and any ERUs of water to serve school or other public uses within Issaquah Highlands is not part of the 3,400 ERUs (780 previously reserved for Phase 1 plus 2,620 under Section 7.1(b) for Phase 2) allocated for Allowable Development. Allowable Development also shall include any additional development authorized on the I/H Property from time to time by amendment of the 2-Party Agreement or other City approval.

**2-Party Agreement** is the Annexation and Development Agreement for Issaquah Highlands (formerly Grand Ridge) dated June 19, 1996, a memorandum of which is recorded under King County Recording No. 9606251228.

**City** is the City of Issaquah as defined in the 2-Party Agreement.

**Construction Eligible Costs** are all reasonable out-of-pocket costs relating to the construction of the Regional Facilities including but not limited to engineering, permitting (including SEPA and all government approvals), bonding, inspection fee and other City fees, right-of-way or property acquisition, construction, taxes, consultant fees, construction management fees, and any PBC payment of the RCFC differential under Section 5.8.2 to convert existing water users to the Regional Facilities (and any repayment by the City to PBC under Section 5.8.2 would be credited as a reduction of PBC's costs). Construction Eligible Costs shall also include interest on the foregoing amounts at the prime rate of Bank of America NT&SA dba Seafirst (using the prime rate on the date PBC posts the performance bond for the Regional Facilities, unless the Mayor and PBC agree to another date or tracking system for interest rates), plus 1%, from the date the costs were incurred until reimbursement of these costs are made pursuant to Section 5.6 of this Agreement.

**Event of Default** means the failure to cure after notice of non-performance as provided in Section 12.

**Design Eligible Costs** are all reasonable out-of-pocket costs relating to the preliminary planning, permitting (including SEPA and all government approvals) and design of the Regional Facilities incurred since August 18, 1998 (including those items set out in the RH2 Scope of Work and letter dated August 18, 1998). Design Eligible Costs shall also include interest on the foregoing amounts at the prime rate of Bank of America NT&SA dba Seafirst (using the prime rate on the date PBC posts the performance bond for the Regional Facilities, unless the Mayor and PBC agree to another date or tracking system for interest rates), plus 1%, from the date the costs were incurred until reimbursement of these costs are made pursuant to Section 5.6 of this Agreement.

**ERU** is a structure or facility that uses 195 (with conservation; or 228 without conservation) gallons of water per average annual day, and 495 (with conservation; or 570 without conservation) gallons of water per peak day. Peak day is a multiple of 2.5 times the average daily use. A single family detached residence is 1 ERU. A multi-family attached residence is 0.67 ERU. 1,250 square feet of commercial space is 1 ERU.

**EV Property** means the property commonly known as East Village and described in Exhibit C.

**EV Spur Line** means the water line extending from the Regional Facilities at the SR-900 juncture to the EV Property.

**Financial Participant** means Intracorp as owner of an option to acquire and develop the EV Property and any other private party whose name has been given to the City and who has (1) entered into an agreement to participate with PBC in the funding of the Regional Facilities as described in Section 5.3, (2) received (or has a contractual right to receive) from PBC an assignment of ERUs pursuant to Section 7.3, and (3) has adequate financial resources to complete the facilities under this Agreement. **PBC-Financial Participant** means a Financial Participant who is participating in the funding of the full length of the Regional Facilities (*i.e.*, the Joint Segment and the segment needed to reach the I/H Property and Holly Street Pump station). **EV-Financial Participant** means a Financial Participant participating only in the Joint Segment of the Regional Facilities.

**I/H Property** means the total "Partnership Property" as defined in Ex. 1-A of the 2-Party Agreement (which is attached hereto as part of Exhibit C), plus any Expansion Areas or other land subsequently added to the Issaquah Highlands project.

**Intracorp** means Intracorp Real Estate LLC or its affiliated partnership, Cougar Mountain East Village Partnership, a Washington general partnership.

**Interim Supply Solution** is implementation of one of the Interim Supply Solution Options listed on Attachment A-1. If the Interim Supply Solution adopted is any one other than the DOH reservoir nesting rule, then the costs of design, permitting and construction of an Interim Supply Solution shall be included as a "Design Eligible Cost" and a "Construction Eligible Cost."

**Joint Segment** is the segment of the Regional Facilities that extends from Bellevue to SR-900 and benefits both the I/H Property and the EV Property.

**MDRT** is the staff of the Major Development and Review Team as assigned by the Public Works Director.

**New User** means a party which will use some or all of the Reserved Capacity of the Regional Facilities as further described in Section 5.6.

**Phase 1** is the first phase of development on the Issaquah Highlands project and includes 540 ERUs of residential construction, 250,000 square feet of commercial construction and 50,000 square feet of retail construction. Phase 1 has been planned using 780 ERUs from existing City supply.

**Phase 2** is the second phase of development on the Issaquah Highlands project and includes all residential and commercial construction after Phase 1. An ERU in Phase 2 is a structure or facility that uses 198 gallons of water per average annual day, and 495 gallons of water per peak day. The reduction is based on the anticipated results of a conservation program and smaller lots in the Issaquah Highlands project.

**Port Blakely Communities or PBC** is the developer of the Issaquah Highlands (formerly Grand Ridge) project, their heirs, successors or assigns, as defined in the 2-Party Agreement.

**Regional Connection Facility Charges** means all equitable, reasonable and published charges imposed by the Seattle Water Department or the Cascade Water Alliance (or the municipal corporation owning and providing regional water service to the Regional Facilities) to any other municipal corporation for the cost of connecting to the Puget Sound regional water supply system. The RCFC is a charge for the pro rata share of the previous capitalized costs of the water supply and treatment facilities that benefit the Regional Facilities.

**Regional Facilities** means the regional water supply facilities (including, but not limited to pumps, PRV's, valves, meters, transmission mains, storage facilities, and water quality treatment facilities) to be extended using Seattle water as designed, approved, and constructed under this Agreement. It also includes modifications to the existing water supply system to isolate the regional water from the existing system to prevent mixing and blending, and it also includes emergency supply interconnections. As used in this Agreement, the term "Regional Facilities" includes the Joint Segment extending from Bellevue to SR-900, along with the segment needed to reach the I/H Property and the Holly Street pump station. The EV Spur Line is not defined as a Regional Facility under this Agreement.

**Reserved Capacity** means 5.8 MGD, *i.e.* that portion of the pipeline capacity of the Regional Facilities in excess of the 4.2 MGD as described in Section 5.6.

**Unreasonable Terms** as used in Section 5.3.1 means permit or regulatory terms or conditions which would not be undertaken by a prudent private business entity due to one or more of the following: uncertainty of success of mitigating or meeting permit conditions, potential liability, difficulty of financing or obtaining lender approval, substantial delay in obtaining final approvals or compliance, substantial additional studies or analysis, or similar difficulties. Any dispute regarding "Unreasonable Terms" shall be determined through Dispute Resolution under Section 5.11.

**Wholesale Agreement** means the Amendment to Wholesale Water Service Agreement between the City and the City of Bellevue signed April 20, 1999 to supply water to Issaquah under Bellevue's Water Purveyor Contract with Seattle.

## ATTACHMENT A-1

### INTERIM SUPPLY SOLUTION OPTIONS

Based on the State Department of Health's rule changes adopted effective April 9, 1999 (Chap. 246-290), the Interim Supply Solution for purposes of this Agreement is hereby established as follows: Port Blakely will temporarily "nest" the fire flow and standby storage in the 742 reservoirs so long as the Department of Health continues to allow such access in its regulatory requirements. This storage will be used to convert total City demand to a Peak Week supply scenario. However, all storage sizing calculations shall continue to be in accordance with current City policies. The allowance to temporarily "nest" for purposes of peaking capacity in the interim period (*i.e.* before completion of the Regional Facilities) does not constitute a change in City policy regarding reservoir-sizing criteria. The nesting of storage at the 742 reservoir requires that there be 2.1 million gallons of storage on-line in the 1,232 operating area as identified in the Issaquah Highlands Water Facility Plan attached hereto as Attachment A-2. After the Regional Facilities are completed and in service, nesting will not be allowed in the 742 or 1,232 operating areas of Issaquah Highlands, but this does not preclude the City from adopting, subsequent to signing this Agreement, a policy or procedure which allows continued or future nesting for some or all of the City, including at Issaquah Highlands.

If for any reason the DOH rules in the future do not allow this reservoir nesting or do not allow substantially equivalent use of existing facilities, then PBC may elect in its discretion any of the remaining options for the Interim Supply Solution called for in this Agreement, except Option 6 requires mutual approval with the City (and any dispute shall be resolved by using the procedures of Section 5.11 of this Agreement):

- Option 1** – Construct 2.5 million gallons of storage at the 297 grade-line that can be used to convert existing city customers to an interim Peak Week supply scenario.
  
- Option 2** – Build 1.2 million gallons of storage in the 1,232 operating area in excess of the required 2.1 million gallons of storage required for the development. This would create a total of 3.3 million gallons of storage in the 1,232 operating area. The storage would be used as terminal storage to supplement groundwater flows during peak demand conditions. After the regional main is completed, the storage would be used to supply operating, equalizing, fireflow and standby storage for the 1,000 and 1,232 pressure zones. Until the regional main is on-line, no water supply connections may be permitted in the 1,232 operating area. Two million-one hundred thousand (2.1 million) gallons of the 3.3 million gallons would be constructed with an overflow elevation of 1213 and the remaining 1.2 million gallons would be constructed above elevation 1213.

- Option 3** – Build 1.2 million gallons of storage in the 1,232 operating area in excess of the required 2.1 million gallons of storage required for the development. This would create a total of 3.3 million gallons of storage in the 1,232 operating area. Two reservoirs will be constructed in the 1,232 operating area, each sized at 1.65 million gallons. The storage would be used as terminal storage to supplement groundwater flows during peak demand conditions. After the regional main is completed, the storage would be used to supply operating, equalizing, fireflow and standby storage for the 1,000 and 1,232 pressure zones. Until the regional main is on-line, no water supply connections may be permitted in the 1,232 operating area.
- Option 4** – Build 1.2 million gallons of storage in the 1,232 operating area in excess of the required 2.1 million gallons of storage required for the development. This would create a total of 3.3 million gallons of storage in the 1,232 operating area. This would be accomplished by constructing separate reservoirs in both the 1,232 and 1,000 operating areas with a combined total of 3.3 million gallons. Until the regional main is on-line, no water supply connections may be permitted in the 1,232 or 1,000 operating areas.
- Option 5** – [Option selected, *i.e.* DOH rule for reservoir nesting]
- Option 6** – Any other supply solution which limits peak demands on the existing groundwater supply system to 287 gallons per day per ERU during the peak demand week for Issaquah Highlands. The solution must meet DOH criteria and be approved by the City of Issaquah.

**ATTACHMENT B**  
**CHART OF CITY WATER SUPPLY ERUs**

**ATTACHMENT C**  
**MAPS AND LEGAL DESCRIPTIONS FOR**  
**ISSAQUAH HIGHLANDS PROPERTY**  
**AND**  
**EAST VILLAGE PROPERTY**



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**SPWSD LAKESIDE INTERLOCAL AGREEMENT (2013)**



## **AGREEMENT**

This ("Agreement") is made and entered into by and between the Sammamish Plateau Water and Sewer District, a Washington municipal corporation ("District") and the City of Issaquah ("City") (individually a "Party" and collectively the "Parties") for the purposes set forth below.

### **SECTION 1: RECITALS**

1.01 The District is a water-sewer special purpose district authorized and existing pursuant to Title 57 Revised Code of Washington (RCW). The District owns and operates water and sewer utility systems and provides retail utility services to customers located within the District's corporate and approved utility service area boundaries.

1.02 The City is an optional municipal code city authorized and existing pursuant to Title 35A RCW and other statutes. The City owns and operates water and sewer utility systems and provides retail utility services to customers located within the City's corporate and approved utility service area boundaries.

1.03 Portions of the District's and the City's utility service boundaries are adjacent.

1.04 The District's and the City's exclusive water service area boundaries have been established and approved pursuant to chapter 70.116 RCW, the Public Water System Coordination Act of 1977 (Act). In accordance with the East King County Coordinated Water System Plan (CWSP) prepared pursuant to the Act, the District and the City have been designated the exclusive water service purveyors within their respective authorized water service areas. The District's and the City's retail water service area boundaries have also been established and approved pursuant to water system plans approved by the Washington State Department of Health (DOH), King County and other public agencies with jurisdiction. The water system plans designate the District and the City as the exclusive water service purveyors within their respective authorized retail water service areas.

1.05 The District's and the City's retail sewer service area boundaries have been established and approved pursuant to comprehensive sewer system plans approved by the Washington State Department of Ecology, King County and other public agencies with jurisdiction. The comprehensive sewer system plans designate the District and the City as the exclusive sewer service providers within their respective authorized retail sewer service areas.

1.06 Lakeside Industries, Inc., a Washington corporation ("Lakeside" or "Owner"), owns certain undeveloped real property consisting of approximately thirteen (13) acres located adjacent to and partially fronting Highlands Drive NE located in Issaquah, as legally described and depicted on Exhibit A attached hereto and incorporated herein in full by this reference ("Property"). The Property is presently located within the District's corporate boundary and the District's exclusive water service area boundary as established by the CWSP. The Property is

presently located within the District's exclusive sewer service area boundary as established pursuant to the District's approved comprehensive sewer system plan.

1.07 The Parties and Lakeside have undertaken studies to determine if the Property is developed whether the District or the City is the most logical provider of retail water and sewer service to the Property based on the sizing and proximity of the Parties' respective water and sewer systems to the Property. Based on the studies, the Parties and Lakeside have determined, if the Property is developed, that (a) the City is the most logical provider of retail water service to the Property, and (b) the District is the most logical provider of retail sewer service to the Property. Based on these determinations, Lakeside has requested the Parties adjust their respective water service area boundaries to indicate and reflect the Property is within the City's designated exclusive water service area. However, the Parties desire to confirm that the Property shall remain within the District's sewer service area boundary, unless otherwise changed pursuant to law.

1.08 The Parties now desire to adjust the Parties' exclusive retail water service areas relative to the Property and the purpose of this Agreement is to undertake and conclude the adjustment of the Parties' respective exclusive water service area boundaries as agreed relative to the Property.

THEREFORE, in consideration of the terms and conditions set forth herein, the Parties agree as follows:

#### Section 1: Water Service Area Boundary Adjustment

2.01 The Recitals set forth above are incorporated herein in full by this reference.

2.02 The Parties agree the District's water service area boundary is hereby modified and adjusted to delete the Property from the District's exclusive water service area boundary and to add the Property to the City's exclusive water service area boundary on the Effective Date of this Agreement, subject to the City and Lakeside obtaining any approvals of such water service area boundary adjustment required by public agencies with jurisdiction such as the East King County Regional Water Association, DOH and King County. It is the intent of the Parties the City shall be the designated exclusive water service provider for the Property pursuant to the CWSP, and that the District shall cease to be the designated exclusive water service provider for the Property as of the Effective Date of this Agreement.

2.03 The Parties shall amend their respective water systems plans as appropriate to document and formalize the water service area boundary adjustment provided for in this Section 2.

2.04 The Parties agree that there are no other agreements to adjust the Parties' respective existing water service area boundaries other than the agreement to adjust their water service area boundaries relative to the Property provided in this Section 2, including no agreement with respect to adjoining property owned by Lakeside.

### Section 3: No Adjustment to Sewer Service Area Boundary

3.01 The Parties recognize, acknowledge and agree the Parties have not agreed to any modification or adjustment to their respective sewer service area boundaries relative to the Property or any other property, and the Property shall remain within the District's corporate and exclusive sewer service area boundary unless otherwise changed by law.

3.02 The Parties agree the District is and shall remain the designated exclusive sewer service provider for the Property unless and until, by further agreement of the Parties or by law, such designation is modified, amended or changed as provided by law.

3.03 The Parties agree, if Lakeside or its successors in interest or ownership develop the Property, it is anticipated the Property shall connect to and receive water service from the City's water system. In that event, upon the completion of the development, or redevelopment, of the Property, and connection to the City's water system, the City shall bill the owner of the Property for water service provided in accordance with the applicable statutes, and City ordinances, policies and procedures regarding the provision of water service to the Property; provided, the District shall provide sewer service to any such development of the Property and, upon the completion of the development, connection of the development to the City's water system and billing by the City to the owner of the property or owner's agents for water service, the City shall provide District with the data and information regarding water consumption by the development as established by the City's water consumption metering at and by the development on the Property. The City shall provide such water consumption data to the District no less frequently than every two (2) months, and within ten (10) days of the City's reading or receipt of water consumption data from the City's meter(s) serving the Property. The water consumption data shall be measured by cubic feet of water provided to the development and to the Property. The consumption data shall be provided by the City to the District in an electronic format csv file which shall include uniquely identifiable customer information in accordance with applicable utility industry standards. The District agrees that this data and information is subject to the Public Records Act and any public disclosure of such data and/or information shall comply with said Act.

3.04 The Parties agree, with respect to any development of the Property requiring sewer service from the District, the District shall be entitled to receive all sewer fees, rates and charges, including applicable general and local sewer connection charges, from the owner of the Property while the Property is located within the District's corporate or sewer service area boundaries, or due and owing to the District pursuant to any contract or agreement the District may enter into with the owner of the Property while the Property was located within the District's corporate or sewer service area boundary.

### Section 4: General

4.01 This Agreement is made under, and shall be governed by and construed in accordance with the laws of the State of Washington. Venue and jurisdiction of any lawsuit involving this Agreement shall exist exclusively in state and federal courts in King County, Washington. If either Party breaches or threatens to breach this Agreement, the other Party shall be entitled to seek all legal, injunctive or other equitable relief, and the Parties agree that any violation

or breach of this Agreement will cause the other Party irreparable harm for purposes of seeking equitable relief only.

2.07 All notices and/or correspondence hereunder, shall be mailed, faxed or hand-delivered and addressed as follows:

To District:

General Manager  
Sammamish Plateau Water & Sewer District  
1510 228th Avenue SE  
Sammamish, Washington 98075  
Phone: 425-392-6256, Fax: 425-391-5389.

To City:

Public Works Director  
City of Issaquah  
1775 - 12th Avenue NW  
Issaquah, WA 98027  
Phone: 425-837-3426, Fax: 425-837-3439

4.02 This Agreement states the entire agreement between the Parties as to the subject of this Agreement, superseding all prior communications and agreements between the Parties. If any part or provision of this Agreement is held invalid or unenforceable as written, it shall not affect any other part. If any part of this Agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed under applicable law.

4.03 The waiver of any breach of this Agreement or failure to enforce any provision of this Agreement shall not waive any later breach.

4.04 The term "Party" as used in this Agreement shall include, but not be limited to, the Party's employees, staff, agents, contractors, sub-contractors and any other persons, parties or entities providing services to the Party for the purposes set forth herein.

4.05 This Agreement shall be effective on the date by which both Parties have executed this Agreement ("Effective Date").

4.06 This Agreement may be executed in counterparts, each of which shall be deemed an original and with the same effect as if the Parties had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

4.07 The Parties represent and warrant this Agreement has been duly approved and authorized by their respective legislative authorities, that each Party has the full power and authority to enter into this Agreement and to carry out the actions required of them by this Agreement, and all persons signing this Agreement in a representative capacity represent and warrant they have the full power and authority to bind their respective municipal entities.

4.08 In the event of any conflict, claim or dispute between the Parties arising out of or relating to the subject matter of this Agreement, whether or not such conflict, claim or dispute has its basis in law or in equity, the prevailing party shall be entitled to receive from the non-prevailing party all reasonable costs and expenses of every sort whatsoever including, but not limited to, arbitrators' fees, mediation fees, deposition costs, expert witness fees, accounting expenses and actual attorneys' fees incurred or expended, whether or not arbitration or court proceedings are initiated, and including all such costs or expenses incurred or expended in arbitration, in trial, or on appeal.

IN WITNESS WHEREOF, the Parties have executed this Agreement as set forth below.

SAMMAMISH PLATEAU WATER &  
SEWER DISTRICT

CITY OF ISSAQUAH

By 

By 

Name: John C Kravss

Name: Ava Frisinger

Title: General Manager

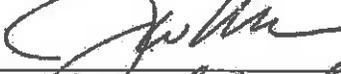
Title: Mayor

Date: 2/28/13

Date: 2/4/13

Approved as to Form  
District Legal Counsel

Approved as to Form  
Office of the City Attorney

By:   
Its: District Legal Counsel  
Dated: 2/5/13

By:   
Its: City Attorney  
Dated: 2/4/13



EXHIBIT A  
LEGAL DESCRIPTION

ALL LOCATED IN THE SE 1/4 OF SECTION 22, TOWNSHIP 24 NORTH, RANGE 06 EAST,  
W.M., KING COUNTY, WASHINGTON AS FOLLOWS:

LOT A KC BLA #L12L0025 & ISSAQUAH LLA #PLN 12-00035 REC #20121003900003 SD  
BLA & LLA BEING POR OF E 1/4 OF N 1/2 LY S OF BLACK NUGGET RD TGW POR S 1/2 LY  
ELY OF NORTH SAMMAMISH PLATEAU ACCESS RD & NLY & WLY OF VISTA PARK 2 & N  
OF ISSAQUAH HIGHLANDS VISTA PARK ALL IN SE 1/4

Mayor Frisinger  
City of Issaquah

John C. Krauss, General Manager  
Sammamish Plateau Water & Sewer District

AM      3/19/13  
Initial      Date

JK      3/22/13  
Initial      Date



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**SPWSD AGREEMENT FOR INTERTIES AND  
297 TANK LEASE (1993)**



## **AGREEMENT FOR INTERTIES AND 297 TANK LEASE**

**THIS AGREEMENT** is made by and between the Sammamish Plateau Water and Sewer District, a municipal corporation, in King County, Washington ("District"), and the City of Issaquah, a municipal corporation, in King County, Washington ("City") for the purposes set forth herein.

### **SECTION I: RECITALS**

1.1 District provides water service to the geographic area known as the Sammamish Plateau, King County, Washington. City provides water service to the City of Issaquah, King County, Washington. A portion of District's southern corporate boundary is located adjacent to City's corporate boundary.

1.2 District and City desire to obtain supplemental water supply for redundancy, fire flow augmentation and other emergency purposes. District and City are willing to allow interties between District and City water systems for such purposes subject to certain terms and conditions. District is further willing to provide City with an additional water by leasing water stored in a District water storage tank subject to certain terms and conditions.

1.3 District and City are authorized by RCW Chapter 39.34 to enter into interlocal agreements for joint action.

In consideration of the terms and conditions contained herein, the parties now agree as follows:

### **SECTION II: 1ST AVENUE N.E. INTERTIE**

2.1 District and City agree to provide each other with an emergency standby source of water through an intertie connection between District and City water systems at the location described and depicted on Exhibit "A" attached hereto, commonly known as District's Corrosion Control Facility. This connection shall be an emergency standby connection, and water shall only be drawn through this point when an emergency occurs. An emergency shall be considered any event that requires District's or City's water supply to be augmented on a temporary emergent basis.

2.2 District or City shall notify the other party in writing at least three (3) business days in advance of the date either party desires to receive water through the intertie. In case of emergency need, District or City shall provide water immediately upon oral notification of such emergency. Follow-up written notice of such emergency request shall be made by District or City to the other party with five (5) days of the commencement of such use.

2.3 The intertie is constructed and owned by District. The intertie is capable of being placed into operation at any time.

2.4 Water supplied by District and City through the intertie will be untreated.

2.5 District and City shall use reasonable efforts to provide an uninterrupted supply of water. Neither party shall be liable for any shortage or interruption in the delivery of water. In addition, neither party shall be liable for any failure, interruption, or shortage of water, or any loss or damage resulting therefrom occasioned by any cause beyond the control of either party. District and City do not guarantee the availability of water through the intertie at all times because of each party's respective needs and water demand. Further, during critical water shortage periods as determined by either party, District or City may close the intertie until sufficient water supply exists to make such available for use by either party. In the event District or City declares and/or imposes water usage restrictions within their boundaries, District and City agree to adopt and impose water usage restrictions no less restrictive than those adopted by the other party as a pre-condition to receiving water through the intertie.

2.6 All water delivered under this agreement may only be resold to members/customers within the parties' respective water service boundary for use therein.

2.7 District shall measure all water delivered through the intertie by metering equipment owned by the District. District and City will monitor the water flow measurements. District shall own, operate, and maintain the intertie up to the City side of the intertie vault. City shall own, operate, and maintain any water line from the City side of the intertie vault to the City water system. District shall be responsible for the flushing of such intertie water line as reasonably necessary to ensure water quality.

2.8 Only District personnel shall operate the intertie valve. City shall notify District when there is a need for emergency intertie water supply; in such event, District's personnel shall operate the valves for opening and closing the intertie.

2.9 In the event that District or City receive water through the intertie, both parties agree to replenish or replace the same volume of water received and delivered from the intertie to the other party within seventy-two (72) hours of the time of receipt. In the event such water delivered is not replaced by the receiving party within such period, the party receiving such water shall pay the other party for such water delivered at the commercial commodity rate charged by the party delivering such water. The party delivering such water shall bill the party receiving such water monthly for the amount of water delivered. The party receiving such water shall pay the other party within sixty days (60) days of the date of such billing. Any billings not paid by the party within such sixty-day period, shall accrue interest at the rate of twelve percent (12%) per annum until paid.

### **SECTION III: S.E. 56TH STREET INTERTIE**

3.1 District agrees to provide City an emergency standby source of water through an intertie connection between District and City water systems to be constructed at the location described and depicted on Exhibit "B" attached hereto. This connection shall be an emergency standby connection, and water shall only be drawn through the intertie when an emergency occurs. An emergency shall be considered any event that causes City's water pressure to drop below thirty (30) psi at the intertie location as a result of fire flow, water line failure, or reduced water supply.

3.2 City agrees to provide District an emergency standby source of water through an intertie connection between District and City water systems to be constructed at the location described and depicted on Exhibit "B" attached hereto. This connection shall be a manual bypass system which will allow City water to flow to District. Water shall only be drawn through the intertie when an emergency occurs. An emergency shall be considered any event that requires water supply to be augmented on a temporary emergent basis.

3.3 District shall notify City in writing at least three business (3) days in advance of the date District desires to receive water through the intertie. In case of emergency need, District or City shall provide water immediately. Follow-up written notice of such emergency need or request shall be made by District or City to the other party within five (5) days of the commencement of such use.

3.4 The intertie will be constructed, installed and owned by City in conjunction with the S.E. 56th Street improvements which are scheduled to be installed in 1993.

3.5 The intertie is primarily a one way intertie with treated water being supplied by District to City. However, in the event that District receives water from City through the intertie, any water provided by City to District will be untreated.

3.6 District and City shall use reasonable efforts to provide an uninterrupted supply of water. Neither party shall be liable for any shortage or interruption in the delivery of water. In addition, neither party shall be liable for any failure, interruption, or shortage of water, or any loss or damage resulting therefrom occasioned by any cause beyond the control of either party. District and City do not guarantee the availability of water through the intertie at all times because of each parties' respective needs and water demand. Further, during critical water shortage periods as determined by either party, District or City may close the intertie until sufficient water supply exists to make such available for use by either party. In the event District or City declares and/or imposes water usage restrictions within their boundaries, District and City agree to adopt and impose water usage restrictions no less restrictive than those adopted by the other party as a pre-condition to receiving water through the intertie.

3.7 All water delivered under this agreement may only be resold to members/customers within the parties' respective water service boundary for use therein.

3.8 City shall measure all water delivered through this intertie by metering equipment owned by City. District and City will monitor the water flow measurements. City shall own, operate, and maintain the intertie up to the District side of the intertie vault. District shall own, operate, and maintain any water line from the District side of the intertie vault to the District water system. City shall be responsible for the flushing of such intertie water line as reasonably necessary to ensure water quality.

3.9 Only City personnel shall operate the intertie valve. District shall notify City when there is a need for emergency intertie water supply; in such event, City personnel shall operate the valves for opening and closing the intertie.

3.10 In the event that District or City receive water through the intertie, both parties agree to replenish or replace the same volume of water received and delivered from the intertie to the other party within seventy-two (72) hours of the time of receipt. In the event such water delivered is not replaced by the receiving party within such period, the party receiving such water shall pay the other party for such water delivered at the commercial commodity rate charged by the party delivering such water. The party delivering such water shall bill the party receiving such water monthly for the amount of water delivered. The party receiving such water shall pay the other party within sixty days (60) days of the date of such billing. Any billings not paid by the party within such sixty-day period, shall accrue interest at the rate of twelve percent (12%) per annum until paid.

#### **SECTION IV: 297 TANK LEASE**

4.1 District agrees to provide City an additional emergency standby source of water by leasing to City water stored in a District water tank, commonly referred to as the 297 Tank, at the location described and depicted on Exhibit "C" attached hereto. This water source shall be an emergency standby reserve, and water shall only be drawn from the 297 Tank when an emergency occurs. An emergency shall be considered any event that causes City's water pressure to drop below thirty (30) psi at the S.E. 56th Street intertie location as a result of fire flow, water line failure, or reduced water supply.

4.2 The total storage capacity of the 297 Tank is 2.25 million gallons. District agrees to lease to City up to one half (1/2) of the total tank storage capacity, or up to 1.125 million gallons of water. If the 297 Tank is filled to capacity at the time City requests water from District, City shall be entitled to receive up to 1.125 million gallons of water. In the event the 297 Tank is not filled to its maximum capacity at the time City requests water from District, City shall only be entitled to receive water in the amount of one half (1/2) of the 297 Tank's capacity at the time of City's request; provided, however, in the event of a fire flow emergency, such limitation shall not apply.

4.3 All water provided by District to City from the 297 Tank will be treated.

4.4 City shall notify District in writing at least three (3) business days in advance of the date City desires to receive water from District's 297 Tank. In case of emergent fire flow need by City, District shall provide water immediately. Follow-up written notice of such emergency use shall be made by City to District within five (5) days of the commencement of such use.

4.5 Because any water delivered by District to City from the 297 Tank shall be transferred to the City through the intertie(s) referenced in Sections II and III herein, City's obligation to replace or pay for such water shall be governed by Paragraphs 2.9 and 3.10 herein.

4.6 In addition to payment for water used pursuant to Paragraph 4.5 above, City shall pay District \$2,047 per month for fire protection use (fire protection use rate) of the 297 Tank, regardless of the amount of water used by City per month. The fire protection use rate, or as such may be adjusted as provided herein, shall be paid by City to District annually, the first such cumulative payment being due and payable one year from the effective date of this agreement. Any lease rate due and owing District not paid by City within 45 days of such date and successive annual payment dates thereafter shall accrue interest at the rate of 12 percent (12%) per annum until paid; further, in addition to all other legal rights and remedies District may have in the event of City's nonpayment, in the event of City's failure to make such payment within forty-five (45) days of notice from District of such nonpayment, District may thereafter terminate the lease immediately upon 45 days written notice of such termination.

The fire protection use rate set forth herein shall be automatically adjusted every three years, such three-year period commencing from the effective date of this agreement based on the "all urban" consumer price index for the Seattle/Tacoma area (CPI rate); provided that such CPI rate shall be compounded annually to determine the CPI rate adjustment every three years. The base CPI for the purposes of this Agreement shall be the CPI index as published by the U.S. Department of Labor for the "all urban" consumer price index for the Seattle/Tacoma area for the month of January 1994. Provided, however, that in the event the CPI rate increases in an amount greater than 10 percent (10%) in any year, the fire protection use rate set forth herein or as such rate may be adjusted as provided herein, shall be automatically adjusted based on such CPI rate effective for the following year. In such case, a new three-year period for the purposes of adjusting the fire protection use rate shall commence upon the effective date of such new CPI rate.

4.7 The term of the 297 Tank lease shall commence upon the effective date of this Agreement and shall continue for a period of 25 years, provided, however, either may cancel and terminate the tank leasehold upon giving two years advance written notice to the other party.

4.8 District shall use reasonable efforts to provide an uninterrupted supply of water from the 297 Tank. District shall not be liable for any shortage or interruption in the delivery of water. In addition, District shall not be liable for any failure, interruption, or shortage of water, or any loss or damage resulting therefrom occasioned by any cause beyond

the control of District. District does not guarantee the availability of water from the 297 Tank at all times because of District's needs and water demand. Further, during critical water shortage periods as determined by District, District may suspend the delivery of water from the 297 Tank until sufficient water supply exists to make such available for use by City.

4.9 All water purchased and delivered to City under this agreement may only be resold to members/customers within City's water service boundary for use therein.

#### **SECTION V: GENERAL PROVISIONS**

5.1 Each party shall approve the terms and conditions herein by appropriate resolution or ordinance and provide the other party with a certified copy of same. Each party represents to the other that it has the full power and authority to enter into this Agreement.

5.2 In the event that either party commences any legal action relating to the provisions of this Agreement, the prevailing party shall be entitled, in addition to all other amounts to which it is otherwise entitled in this Agreement, to all costs of litigation, including but not limited to, costs, expert witness and reasonable attorney's fees, including all such costs and fees incurred on appeal.

5.3 District and City agree to hold harmless and indemnify the other party and its employees and agents from any and all claims, damages, costs, and other liabilities caused by the parties' sole negligence or the parties' concurrent negligence, but only to the extent of the parties concurrent negligence, and arising by reason of participation in connection with, or relating to, the performance of this Agreement. In addition, District and City agree to defend, indemnify, and hold the other party harmless from any and all claims, damages, costs, and other liabilities arising out of any use by District or City or its customers receiving or to have received water through the interties or 297 Tank, including emergency use for fire purposes and normal domestic use by any District or City customers which relate in any way to water supplied under this Agreement.

5.4 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5.5 Any notice to be given or any documents to be delivered by any party to any other shall be delivered in person or by certified mail and addressed to District or City at the following addresses:

To District at:	District Manager 1510 220th Avenue S.E. Issaquah, WA 98027
-----------------	--

With a courtesy  
copy to:

John Milne  
Inslee, Best, Doezie & Ryder, P.S.  
Security Pacific Plaza  
777 108th Avenue N.E., Suite 1900  
Bellevue, WA 98009-9016

To City at:

Mayor, City of Issaquah  
P. O. Box 1307  
Issaquah, WA 98027-1307

With a courtesy  
copy to:

Wayne Tanaka  
Ogden, Murphy & Wallace  
2100 Westlake Center Tower  
1601 Fifth Avenue  
Seattle, WA 98101-1686

5.6 No waiver by either party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

5.7 If any paragraph or provision of this Agreement is held to be invalid, the remainder of the Agreement shall not be affected, and shall remain in force and effect.

5.8 This Agreement shall take effect ("effective date") upon the ratification of this Agreement by both the District Board of Commissioners and the City Council of City.

5.9 This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and may be modified only by an agreement in writing signed by both parties.

5.10 Each party agrees to comply with all federal, state, and local regulations in the operation of its water system connected to the interties and 297 Tank which is the subject of this Agreement.

Approved as to Form

SAMMAMISH PLATEAU WATER AND SEWER  
DISTRICT ("District")

District Legal Counsel

By *John W. Milne*  
Its General Counsel  
Dated May 16, 1994

By *Richard W. Muller*  
Its President  
Dated ~~May 16, 1993~~  
May 16, 1994

Office of the City Attorney

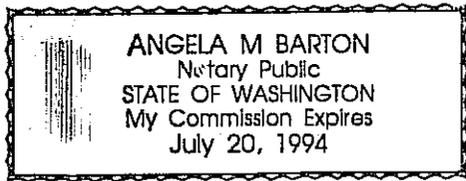
CITY OF ISSAQUAH ("City")

By Wage Owen  
Its City Attorney  
Dated 5-20-94

By Karen Heid  
Its Mayor  
Dated 5-23-94

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Gifford W. Miller is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Commissioner of Sammamish Plateau Water and Sewer District, a municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.



Dated May 16, 1994  
Angela M Barton  
Notary Public in and for the State  
of Washington, residing at Maple Valley  
My Appointment Expires 7-20-94

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF KING            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
is the person who appeared before me, and said person acknowledged that he signed this  
instrument, on oath stated that he was authorized to execute the instrument and acknowledged  
it as the \_\_\_\_\_ of the City of Issaquah, a municipal corporation,  
to be the free and voluntary act of such municipal corporation for the uses and purposes  
mentioned in the instrument.

Dated \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State  
of Washington, residing at \_\_\_\_\_  
My Appointment Expires \_\_\_\_\_

EXHIBIT "A"

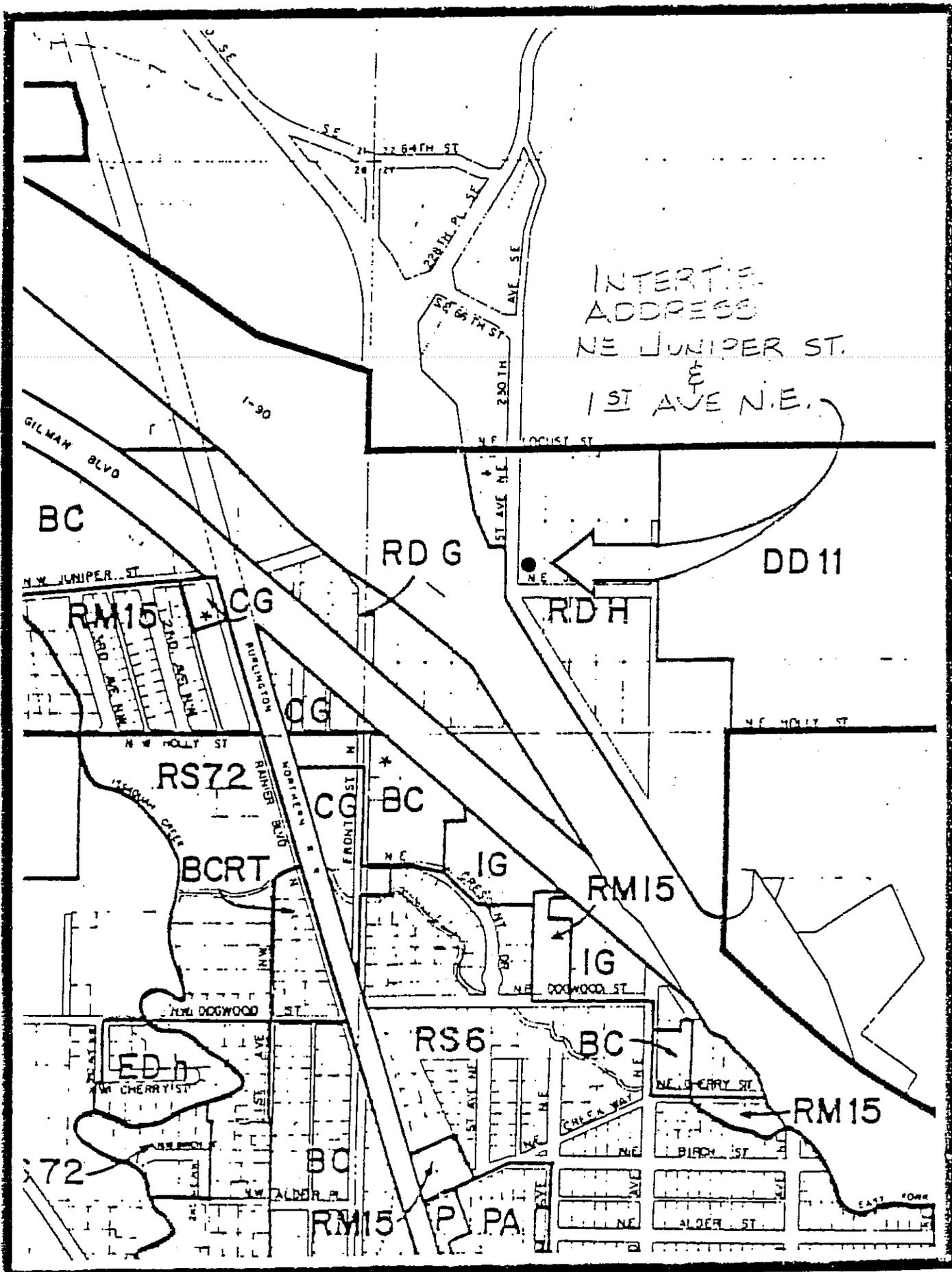


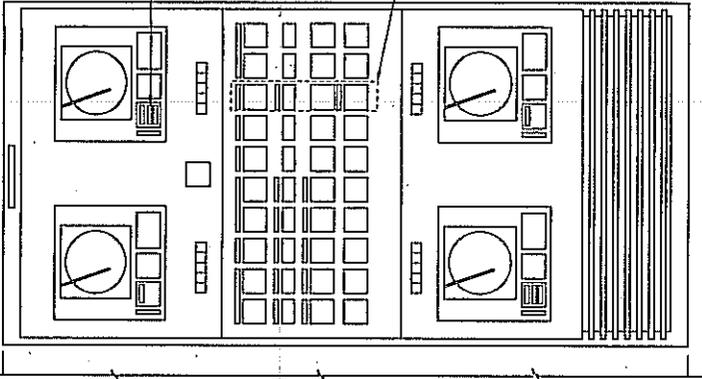
Exhibit J











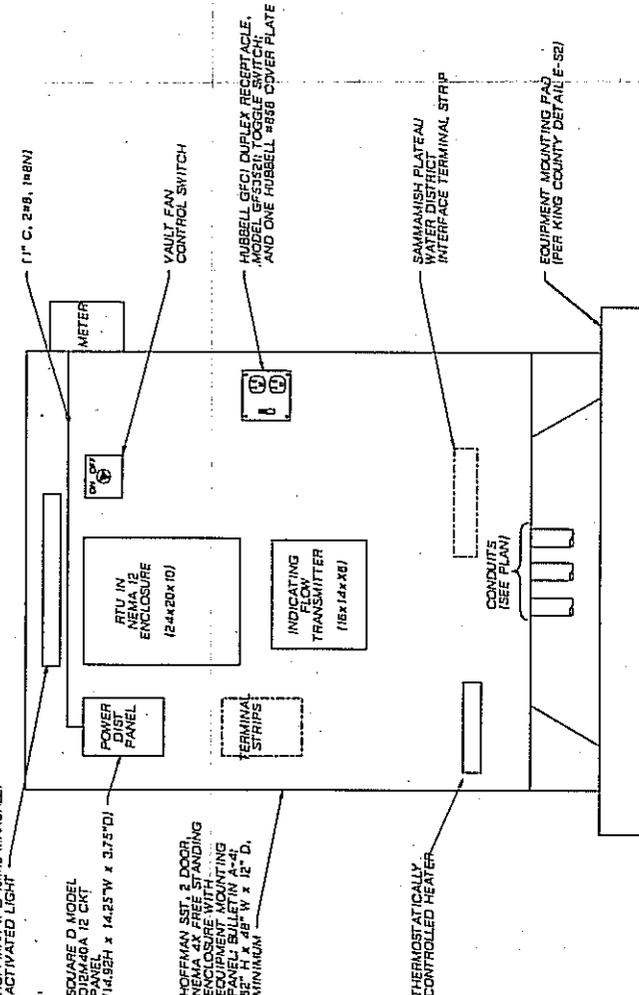
DETAIL  
NTS

EXST TONE RACKS A AND B

NOTE:  
REFER TO SECTION "ELECTRICAL AND INSTRUMENTATION & CONTROLS" SPECIFICATIONS FOR ADDITIONAL REQUIREMENTS FOR WORK IN THE FLOW METER VAULT, AND FLOW METER CONFIGURATION/SETUP.

HEADQUARTERS CONTROL PANEL  
MODIFICATIONS  
NTS

RTU ENCLOSURE  
NTS  
(AT METER VAULT,  
SEE DWG. D80)



	DR. R. BELT DR. MARY-BAH DR. V. BRIDSON APD C. SPOBERG	NO. DATE REVISION	BY APD	REUSE OF DOCUMENTS THIS DOCUMENT IS THE PROPERTY OF THE CITY OF ISSAQUAH. IT IS TO BE USED ONLY FOR THE PROJECT AND NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN AUTHORIZATION OF THE CITY OF ISSAQUAH.	CITY OF ISSAQUAH PUBLIC WORKS DEPARTMENT 5 S. 36TH ST ISSAQUAH, WA 98027 AND BRIDGE IMPROVEMENTS	F.A. NO. BRH-200407B	STAGE TWO-B PANEL ELEVATIONS	SHEET NO. 21 DATE 15 APRIL 2011 PROJECT 100-162400PK
	NOTE: REFER TO SECTION "ELECTRICAL AND INSTRUMENTATION & CONTROLS" SPECIFICATIONS FOR ADDITIONAL REQUIREMENTS FOR WORK IN THE FLOW METER VAULT, AND FLOW METER CONFIGURATION/SETUP.							



SEP 3 1996

RECEIVED

**AMENDMENT NO. 1 TO THE  
AGREEMENT FOR INTERTIES AND 297 TANK LEASE**

**THIS AMENDMENT** is made by and between the Sammamish Plateau Water and Sewer District, a municipal corporation, in King County, Washington ("District"), and the City of Issaquah a municipal corporation, in King County, Washington ("City") for the purposes set forth herein.

**SECTION I: RECITALS**

- 1.1 District and City desire a third intertie located on Black Nugget Road to increase system redundancy and other emergency purposes.
- 1.2 District and City are authorized by RCW Chapter 39.34 to enter into interlocal agreements for joint action.

In consideration of the terms and conditions contained herein, the parties now agree to amend their existing Interlocal Agreement entitled **AGREEMENT FOR INTERTIES AND 297 TANK LEASE** executed in May 1994 by adding the following section:

**SECTION VI: BLACK NUGGET ROAD INTERTIE**

- 6.1 District and City agree to provide each other with an emergency standby source of water through an intertie connection between District and City water systems at the location described and depicted on Exhibit "1A" attached hereto, commonly known as Black Nugget Road Intertie. This connection shall be an emergency standby connection, and water shall only be drawn through this point when an emergency occurs. An emergency shall be considered any event that requires District's or City's water supply to be augmented on a temporary emergent basis.
- 6.2 District or City shall notify the other party in writing at least three (3) business days in advance of the date either party desires to receive water through the intertie. In case of emergency need, District or City shall provide water immediately upon oral notification of such emergency. Follow-up written notice of such emergency request shall be made by District or City to the other party within five (5) days of the commencement of such use.
- 6.3 The intertie is constructed and owned by the City. The intertie is capable of being placed into operation at any time.
- 6.4 Water supplied by District through the intertie will be treated. Water supplied by the City through the intertie will be untreated.
- 6.5 District and City shall use reasonable efforts to provide an uninterrupted supply of water. Neither party shall be liable for any shortage or interruption in the delivery of water. In addition, neither party shall be liable for any failure, interruption, or shortage of water, or any loss or damage resulting therefrom occasioned by any cause beyond the control of either party. District

and City do not guarantee the availability of water through the intertie at all times because of each parties' respective needs and water demand. Further, during critical water shortage periods as determined by either party, District or City may close the intertie until sufficient water supply exists to make such available for use by either party. In the event District or City declares and/or imposes water usage restrictions within their boundaries, District and City agree to adopt and impose water usage restrictions no less restrictive than those adopted by the other party as a pre-condition to receiving water through the intertie.

- 6.6 All water delivered under this agreement may only be resold to members/customers within the parties' respective water service boundary for use therein.
- 6.7 City shall measure all water delivered through the intertie by metering equipment owned by the City. District and City will monitor the water flow measurements. District shall own, operate, and maintain any water line from the District side of the intertie vault to the District water system. City shall be responsible for the flushing of such intertie water line as reasonably necessary to ensure water quality.
- 6.8 Only City personnel shall operate the intertie valve. District shall notify City when there is a need for emergency intertie water supply; in such event, City's personnel shall operate the valves for opening and closing the intertie.
- 6.9 In the event that District or City receive water through the intertie, both parties agree to replenish or replace the same volume of water received and delivered from the intertie to the other party within seventy-two hours of the time of receipt. In the event such water delivered is not replaced by the receiving party within such period, the party receiving such water shall pay the other party for such water delivered at the commercial commodity rate charged by the party delivering such water. The party delivering such water shall bill the party receiving such water monthly for the amount of water delivered. The party receiving such water shall pay the other party within sixty (60) days of the date of such billing. Any billings not paid by the party within such sixty-day period, shall accrue interest at the rate of twelve percent (12%) per annum until paid.

Approved As To Form  
District Legal Counsel

SAMMAMISH PLATEAU WATER  
AND SEWER DISTRICT ("District")

By \_\_\_\_\_

By *Ronald E. Litt*

Its \_\_\_\_\_

Its GENERAL MANAGER

Dated \_\_\_\_\_

Dated 8-26-96

Office of the City Attorney

CITY OF ISSAQUAH ("City")

By [Signature]

By Rowan Hinds

Its \_\_\_\_\_

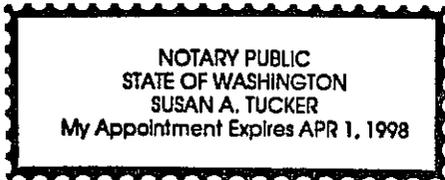
Its Mayor

Dated 9/4/96

Dated 9-12-96

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that RONALD E. LITTLE is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the GENERAL MANAGER Sammamish Plateau Water and Sewer District, a municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.



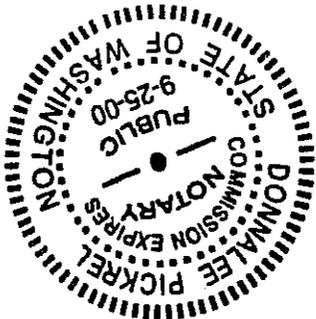
Dated August 26, 1996

Name Susan A. Tucker

Notary Public in and for the State of Washington, residing at North Bend, Wa.  
My Appointment Expires 4/1/98

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Rowan Hinds is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Issaquah, a municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.



Dated 9-12-96

Name Donnalee Pickrel

Notary Public in and for the State of Washington, residing at Issaquah  
My Appointment Expires 9-25-00



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**SPWSD HIGHLAND AREA WITHDRAWAL OF TERRETORY (2011)**





# SAMMAMISH PLATEAU

## WATER AND SEWER DISTRICT

December 22, 2011

Sheldon Lynne, Director Public Works Engineering  
City of Issaquah  
PO Box 1307  
Issaquah, WA 98027

**RE: Issaquah Highlands Area Withdrawal of Territory**

Dear Sheldon:

This is in response to your request that the Sammamish Plateau Water & Sewer District complete a service boundary change for a proposed development of Lakeside Industries owned property. As you noted, the District 2010 Water Comprehensive Plan identified certain areas within the District's corporate limits for de-annexation or withdrawal. This area was identified based on its inclusion in the Issaquah Highlands development area, and associated road development.

The area shown in the Lakeside Industries development proposal extends beyond the previously identified withdrawal area. The area the District will include in the Withdrawal of Territory action will include the previously identified area for withdrawal plus the additional Lakeside Industries development area. A map indicating the proposed area is enclosed.

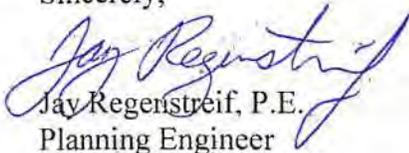
The District plans to pursue this action by the Resolution Method identified in RCW 57.28.035. One of the requirements of the Resolution Method is as follows:

*... Whenever the board of commissioners proposes to commence the withdrawal of any portion of its territory located within a city or town using the alternative procedures herein authorized, it shall first notify such city or town of their [its] intent to withdraw the territory. If the legislative authority of the city or town takes no action within sixty days of receipt of notification, the district may proceed with the resolution method.*

At their December 19, 2011 meeting the District Board of Commissioners approved, by motion, for District staff to notify the City of Issaquah of the District's intent to commence the Withdrawal of Territory including both the Issaquah Highlands MPD portion and proposed Lakeside Industries development area. This notification is required based on RCW

This letter is the formal notification to the City of Issaquah, that will start the 60 day period for the City of Issaquah to take action, if the City does not want the District to proceed with the Withdrawal of Territory under the Resolution Method.

Sincerely,

  
Jay Regenstreif, P.E.  
Planning Engineer

Encl.

RECEIVED

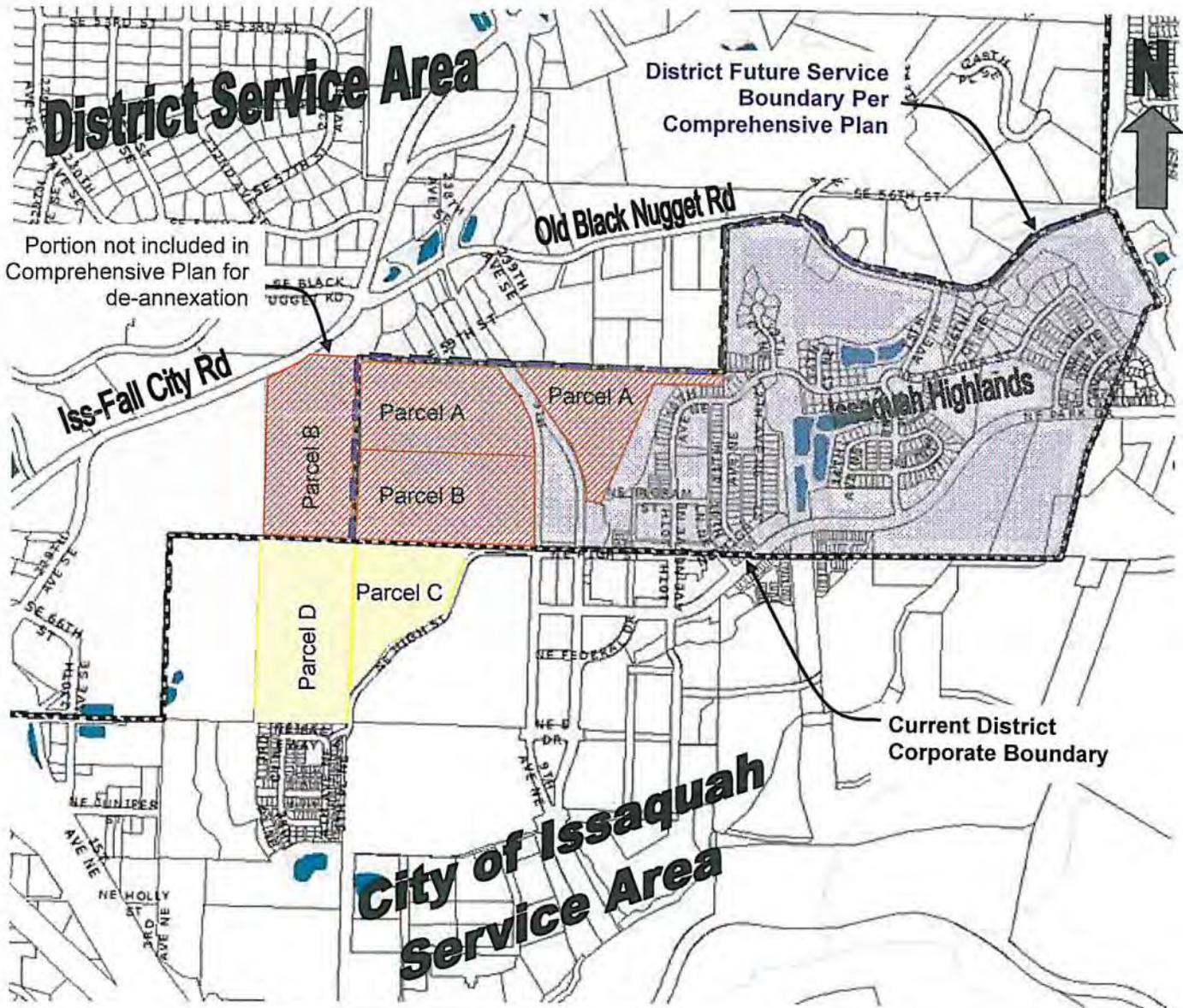
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PUBLIC WORKS ENG.

11-12-53Iss High Withdrawal 60-day notice.docx



Map of Withdrawal of Territory Area



Portion not included in Comprehensive Plan for de-annexation

District Future Service Boundary Per Comprehensive Plan

Current District Corporate Boundary

LEGEND	
Lakeside Development Parcels in District Corporate Limits	
Lakeside Development Parcels in City of Issaquah Service Area	
Area Proposed for Withdrawal of Territory Action	
Lakeside Ownership	
Other Ownership	

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