

INTERGOVERNMENTAL WATER SERVICE AREA AGREEMENT

This AGREEMENT is made and entered into this 21ST day of JUNE, 1995, by and between the City of Sequim, Washington, hereinafter called the "City," and the Public Utility District No. 1 of Clallam County, Washington, hereinafter called the "District."

WITNESSETH that:

WHEREAS, the City and the District concur that the elimination and avoidance of duplicate water system facilities would be in the best interests of their rate-paying customers; and

WHEREAS, the laws of the State of Washington, specifically Chapter 54.48 RCW and RCW 35A.14.900, contain language governing agreements between utilities regarding service territories and acquisition of facilities; and

WHEREAS, City and District representatives have met and reached an agreement on water service areas;

NOW, THEREFORE, IT IS AGREED between the parties hereto as follows:

1. Service Area Boundary:

1.1 The water service area boundary between the City and the District shall be as shown on Exhibit "A" attached hereto and made a part of this Agreement. Each utility shall have the exclusive right to provide water service to facilities lying within their respective service territories.

1.2 As areas are annexed into the City during the term of this Agreement, the service area boundary shall be reviewed by representatives of each party hereto, and appropriate adjustments made to Exhibit "A."

2. Powers:

The District shall have the right and authority to enter over, under, along, across, and upon the City rights-of-way and/or easements in accordance with the water service area boundary described in Section 1.1 and future revisions thereto. This right and authority shall be for the purpose of construction, extension, connection, repair, maintenance,

operation, and removal of facilities as authorized herein in conformity with such City, State, and Federal codes, regulations, and standards, as now enacted or hereafter amended, governing such facilities, and as further provided in Section 10.1 of this Agreement for conformance with City Standards.

3. Termination of Agreement:

After the tenth year of this Agreement and at five-year intervals thereafter, either party to this Agreement may terminate the Agreement by giving the other party written notice at least one hundred eighty (180) days before the end of the tenth year or the end of any five-year period thereafter.

4. Changes to the Agreement:

Changes in the terms and conditions of this Agreement may be made at any time upon the mutual written consent of both parties, provided, however, that revisions to Exhibit "A" as necessitated by annexations have already been agreed upon herein. Either party desiring a change shall give the other party ninety (90) days written notice. The notice shall contain the desired changes and a full explanation of the reasons for the changes. If, at the end of the 90-day period, the parties hereto cannot mutually agree to the proposed changes, the Agreement shall remain unchanged.

5. Annexations and Purchase of Certain Facilities:

5.1 Intent to Serve New Areas: As areas where District water facilities do not exist are annexed into the City, the City will decide whether to provide service to customers in the annexed area by constructing facilities or authorizing the District, if it so chooses, to plan facilities for service.

5.2 Intent to Purchase: Within sixty (60) days of the effective date of annexation of areas that are served by the District, the City will advise the District if the City intends to provide water service to the customers in the annexed area, and the date the City proposes to purchase any District facilities in the annexed area. The purchase price will be in accordance with Section 8 of this Agreement.

5.3 City Assumes District Service: The City may, at its option, give notice to the District of the City's intent to assume service of areas serviced by the District within the City limits existing at the date of this agreement and purchase any District facilities. The purchase price will be in accordance with Section 8 of this Agreement.

6. Exclusion:

All existing and future District transmission lines, major distribution feeder lines, and reservoirs as described and shown on Exhibit "A" attached hereto, and as further amended, and made a part of this Agreement, are excluded from the terms and conditions of this Agreement unless purchased in their entirety. These lines may be repaired, replaced, expanded, and upgraded to a higher capacity at any future date without regard to this Agreement.

7. Emerald Highlands Subdivision: The District and the City acknowledge that the Emerald Highlands developer has paid for installation of water mains as shown on Exhibit D. These water mains have been deeded to the City by the Emerald Highlands developer at no cost to the City. Until such time as the City has infrastructure to provide water to this development, the District shall utilize these water mains to provide water to the customers of the Emerald Highlands development. The City shall have the option to assume service responsibility to the customers within Emerald Highlands for the sole amount of severance costs (see Exhibit B). The serving utility is responsible for operation and maintenance of the water mains. Should the City exercise this option prior to May 21, 2013, the City agrees to collect the District's customary hookup fees from new customers within Emerald Highlands and forward those funds to the District. After May 21, 2013, under this option, the District will no longer collect hookup fees.

8. Purchase Formulas:

The purchase price for transfers from the District to the City shall be established pursuant to Sections 8.1 and 8.2 of

this Agreement. The meaning of the terms used in Sections 8.1 and 8.2 is set forth on Exhibit "B," attached hereto and made a part of this Agreement.

8.1 Purchase Price for Transfer of Facilities with Customers: The purchase price shall be the lesser of: a) the cost for the City to serve plus severance costs, or b) compensation based on five (5) years of net revenue plus plant value plus severance costs.

8.2 Purchase Price for Transfer of Customers Only: In situations where transfer of customers occurs with no transfer of facilities, the purchase price shall be compensation based on five (5) years of net revenue plus severance costs. (Note Section 7 exception.)

9. Water Sale and Interconnection:

The District and the City agree that in certain situations either party may provide wholesale water to the other party. This will be accommodated after completion of an agreement between the parties for interconnection conditions and water sales rate.

The parties also agree that system interconnection may be determined to be in the parties' best interests and, therefore, allowed upon written concurrence.

10. District Service Within Existing City Limits and City's Urban Growth Limits:

10.1 City Standards: Facilities constructed within the City limits and the City's urban growth limits as set forth on Exhibit "A" are to be constructed to at least the standards adopted by the City. City shall review and approve all construction plans prior to construction.

10.2 City Facilities: Facilities constructed by developers to serve areas within the City limits shall be conveyed to and owned by the City.

10.3 District Facilities: Facilities constructed by the District utilizing their own funds to provide service to District customers within the existing City limits and the City's urban growth limits shall be owned by the District.

10.4 Operation and Maintenance: The District shall be responsible to operate and maintain City-owned facilities that the District utilizes to provide water to District customers within the existing City limits, except for a wheeling agreement.

11. Wheeling Agreements:

The City and the District acknowledge that there may be certain groups of their customers located where extension of their lines would be uneconomic and duplicative of the other party's facilities.

Recognizing potential benefits to rate-paying customers, the District and City hereby agree to consider transporting water through their facilities for the other party upon request and subject to an appropriate wheeling agreement(s). Each wheeling agreement will specify the conditions and charges for this service utilizing the Wheeling Principles set forth in Exhibit "C." The parties will strive for a simple formula for wheeling charges that recognizes cost factors and utility standards. Either party may deny a request for wheeling services.

12. Hold Harmless:

The City agrees, upon completion of the transfer of service area and water facilities in accordance with this Agreement, to indemnify, defend, and hold harmless the District and its officials, employees, and agents, from and against any and all claims for damages or any other relief due to property damage, personal injury, or any other form of loss arising from accidents or injuries occurring after the date of the transfer. The City agrees to accept facilities as is with no warranty as to condition or suitability for use by the City except as otherwise provided in this Section.

The District agrees, upon completion of the transfer of service area and water facilities referenced above, to indemnify, defend, and hold harmless the City, its officials, employees, and agents, from and against any and all claims for damages or any other relief due to property damage, personal injury, or any other form of loss arising from accidents or injuries occurring

prior to the date of the transfer or occurring as a result of defects.

13. Authority:

Each party warrants that the undersigned representative has full and complete legal authority to sign for it and to commit it to the performance of the agreements set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and executed in two counterparts as of the day and year first above written.

ATTEST:

Adelle M. Jenkins

Michael McInnes  
Michael McInnes, General Manager  
PUBLIC UTILITY DISTRICT NO. 1  
OF CLALLAM COUNTY

ATTEST:

James L. McFarhead

James L. McFarhead  
CITY OF SEQUIM

EXHIBIT "B"

DEFINITIONS OF PURCHASE TERMS:

COST FOR PURCHASING PARTY TO SERVE - The estimated cost to install the necessary distribution facilities to serve the customers to be transferred at purchasing party's current construction standards and conditions.

PLANT VALUE - Current replacement cost using existing unit costs for all system facilities multiplied by the salvage factor.

Salvage Factor:

<u>Age (Years)</u>	<u>Salvage Factor</u>
1 - 3	1.00
4 - 6	0.85
7 - 11	0.65
12 - 16	0.56
17 - 21	0.51
22 - 26	0.47
27 - 31	0.43
32 +	0.35

SEVERANCE COSTS - All costs associated with transfer of customers including but not limited to removing interconnecting piping, facilities, and meters and administrative costs.

NET REVENUE - To determine net revenue, system net revenue is determined as follows, using the most recent audited financial statements:

Operating Revenue (Income Statement)  
Less Purchased Water Cost (if applicable)  
Less Distribution Maintenance Expenses  
Less General Taxes (Income Statement)  
Annual System Net Revenue

Five (5) years of net revenue is determined as follows:

Annual System Net Revenue x Transferred Customer Revenue x 5 years  
Annual System Operating Revenue

The Transferred Customer Revenue in the above calculation shall be based on such customers' usage during the most recent twelve (12) months, multiplied by the retail rate in effect for such customers at the time of transfer.

EXHIBIT "C"

WHEELING PRINCIPLES:

It is the intention of the parties that wheeling services will be granted to the requesting party when sufficient capacity exists for such service and that the party granting such service shall be fully compensated for the wheeling services provided.

1. Definitions:

"Party 1" - The utility requesting wheeling services.

"Party 2" - The utility providing wheeling services.

"Rated capacity" - The available flow in gallons per minute, so as not to adversely impact existing service connections.

"Peak load" - The highest daily average computed on a monthly basis multiplied by 2.5.

"Necessary facilities" - The facilities such as water mains, valves, pumps, meters, and pressure reducing valves that are necessary to provide service to Party 1's customers.

2. Term of Agreements:

Individual "Wheeling Agreements" shall have a term of twenty-five (25) years.

3. Termination of Agreements:

Party 1 may terminate a Wheeling Agreement at any time by giving Party 2 written notice at least sixty (60) days prior to termination. Party 2 may terminate a Wheeling Agreement either upon receiving the consent of Party 1 or if Party 1 does not timely elect to participate in capacity expansion or make payment pursuant to Section 9 of this Exhibit.

4. Changes to Agreements:

Changes in the terms and conditions of a Wheeling Agreement may be made at any time upon mutual written consent by both parties. Either party desiring a change shall give the other party one hundred eighty (180) days written notice. The notice shall contain the desired changes and a full explanation of the reasons for the changes. If, at the end of the 180-day period, the parties hereto cannot mutually agree to the proposed changes, the Agreement shall remain unchanged.



5. Wheeling Areas:

Each Wheeling Agreement shall include an exhibit showing all areas to be provided with wheeling services. Information included in the exhibit shall include the physical area to which water would be wheeled.

6. Requests for Wheeling Service:

Written requests to have wheeling services provided may be made at any time by either party. Such requests shall include a map or drawing of the area involved, the proposed source of water to be wheeled, and the amount of water to be wheeled.

7. Acceptance or Rejection of Requests for Wheeling Service:

Within thirty (30) days of receipt of a request to provide wheeling services, Party 2 shall determine if sufficient capacity exists in its facilities to carry the required additional water. The request shall include a plan as to how to interconnect the facilities of the two parties. After both parties have reviewed, and if necessary, revised the plan, and if capacity exists, both parties shall decide whether to enter into an agreement. If insufficient capacity exists, the request will be denied unless the additional provisions of Section 8 of this Exhibit are enacted.

8. Facility Costs in Order to Provide Wheeling Service:

All costs of modifying or upgrading facilities in order to provide wheeling services shall be paid for by Party 1. In addition, should Party 1 wish Party 2 to provide wheeling services when insufficient capacity exists, then all costs associated with upgrading any necessary facilities shall be borne by Party 1. Payment of costs by Party 1 shall be within thirty (30) days of invoice by Party 2 upon completion of an upgrade project.

9. Insufficient Capacity Due to Load or Customer Growth:

Each year capacity calculations shall be made by both parties for all facilities involved in providing wheeling services. If any facilities have become overloaded, Party 2 shall prepare a cost estimate to upgrade the necessary

facilities. Costs shall be split proportionately between the parties based on each party's capacity need through the section or facility. Party 1 shall then have ninety (90) days to decide whether to terminate the wheeling agreement, pay its share of the costs to upgrade the facilities, or reduce its demand on Party 2's facilities. Payment of costs by Party 1 shall be within thirty (30) days of invoice by Party 2 upon completion of an upgrade project.

10. Wheeling Charges:

Compensation will be calculated in accordance with a formula to be established in the Wheeling Agreement and due and payable within twenty (20) days of receipt of invoice.

11. Hold Harmless:

Each Wheeling Agreement shall have a hold harmless clause.