

EMERGENCY INTERTIE AGREEMENT

BETWEEN

SEATTLE PUBLIC UTILITIES

AND

CITY OF EDMONDS

This Agreement is made and entered into this 31 day of December, 2011, by and between the City of Seattle, a Washington municipal corporation, acting through its Seattle Public Utilities (“SPU”) and City of Edmonds, a Washington municipal corporation (“Water Utility”).

WHEREAS, SPU and Water Utility each own and operate public water supply systems (“Water System”) within their respective service areas in accordance with the laws of the State of Washington; and

WHEREAS, Water Utility has requested that SPU provide it with an emergency back-up water supply through an existing intertie connection between SPU’s and Water Utility’s Water Systems, which will increase reliability for operating Water Utility’s Water System during temporary periods when its Water System is impaired or disrupted; and

WHEREAS, SPU agrees to use its best efforts to provide Water Utility an emergency back-up water supply under certain terms and conditions from its available existing sources of water supply.

NOW THEREFORE, both parties agree as follows:

1. **TERM:** The initial term of this Agreement shall be for fifty (50) years commencing on January 1, 2012 and expiring on December 31, 2061.
2. **DESCRIPTION OF EMERGENCY INTERTIE:** SPU will deliver water to Water Utility through service connection(s), which include the water meter and appurtenances (“Emergency Intertie”), as described below and as more particularly described, including the location(s) and specific operating conditions, in Exhibit I, a copy of which is attached and incorporated herein. Exhibit I may be revised in writing upon mutual agreement of the Director of SPU and the City of Edmonds Director of Public Works, except that SPU may modify the minimum hydraulic gradient once during any fifteen (15) year period upon four (4)

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years' advance written notice, unless a shorter notice is agreed to by Water Utility. SPU Facilities include: the outlet from the supply pipeline, the pipeline from the outlet to the meter vault, and the meter vault and its contents. Water Utility Facilities include: everything past the external wall of the meter vault. SPU will provide water for use at the Emergency Intertie at any time except as otherwise allowed by the terms of this Agreement.

3. USE OF EMERGENCY INTERTIE: Water Utility's use of the Emergency Intertie is limited to temporary, emergency backup water supply for up to one week, unless SPU approves a longer period in writing, which will not be unreasonably withheld. The parties agree that in the event a substantially longer period is approved, the Director of SPU may require additional reasonable terms and conditions that will be in effect during the approved longer period. For the purposes of this Agreement, an emergency means an unforeseen event that causes damage or disrupts Water Utility's normal operations of its Water System or requires immediate action to protect public health and safety, which includes fire flow purposes.

4. LIMITATIONS ON USE OF EMERGENCY INTERTIE:

a. The Emergency Intertie may not be used to respond to routine or seasonal peak demands or water shortages.

b. Before using the Emergency Intertie, Water Utility shall use best efforts to activate its own emergency sources of supply or alternative operations to cope with the emergency.

c. SPU will provide water at the point of delivery in accordance with this Agreement during use of the Emergency Intertie as defined in Exhibit I, as revised from time to time.

d. Water Utility will endeavor to not exceed flows defined in Exhibit I during use of the Emergency Intertie without specific written authorization by SPU.

e. Water Utility may use up to the number of gallons of water per year through the Emergency Intertie identified in Exhibit 1 for administrative purposes only, such as hydrant or valve exercising/testing, flushing or other measures taken to maintain water quality, which is included as part of the Annual Fee ("Administrative Allowance"). The Director of SPU and the City of Edmonds Director of Public Works may revise the Administrative Allowance in Exhibit I as necessary, upon mutual written agreement between the Director of SPU and President of Water Utility.

f. Water Utility agrees and acknowledges that in the event of a general emergency or weather-related water shortage affecting SPU's Water System, SPU may interrupt or reduce its deliveries of water to its wholesale customers (except for fire protection), including Water Utility under this Agreement.

g. Water Utility agrees and acknowledges that in the event of a general emergency or weather-related water shortage affecting SPU's Water System or the region, SPU may implement emergency water use curtailment measures that impact Water Utility's retail customers' use of water in accordance with its Water Shortage Contingency Plan or other necessary action. Water Utility will assist and support any emergency curtailment measures that are implemented and related to use of the Emergency Intertie.

h. Water Utility agrees and acknowledges that SPU may temporarily interrupt use or reduce availability of water through the Emergency Intertie if SPU determines that the interruption or reduction is necessary or reasonable in case of a localized or SPU Water System emergency or in order to perform any required maintenance, improvement, repair, inspection or testing of SPU's Water System. Except in cases of emergency affecting SPU's Water System, SPU will provide Water Utility reasonable notice of any temporary interruptions or reductions and will endeavor to minimize interruptions and reductions of water available through the Emergency Intertie, especially when the Emergency Intertie is in active use by Water Utility. In the case of emergency, SPU will provide Water Utility notice as soon as practicable.

5. **NOTIFICATION:** Whenever general notice is required or prudent under this Agreement, notice shall be giving to the following representatives, which may be amended in writing:

SPU:
Wholesale Contracts Manager
PO Box 34018
Seattle, WA 98124-4018

206-733-9815

Email: terri.gregg@seattle.gov

Water Utility:
Public Works Director
7110 210th SW
Edmonds, WA 98026

425-771-0235

Email: phil.williams@ci.edmonds.wa.us

a. Water Utility will verbally notify SPU Operations Control Center at 206-386-1818 whenever the Emergency Intertie is used for emergency use. Water Utility will endeavor

to notify SPU within 1 hour after the use of the Emergency Intertie begins, or as soon as practicable, and will state the nature of the emergency and estimated/actual duration.

- b. Water Utility will send written notice to SPU Wholesale Contracts Manager at the address above within 10 days after each use of the Emergency Intertie, in a form acceptable to SPU, stating the duration and estimated quantity of water use.

6. WATER QUALITY: SPU will provide water to the point of delivery that meets all state and federal drinking water standards and shall be of the same standard and quality as that normally delivered by SPU to its retail and wholesale customers. Water Utility acknowledges and agrees that because the Emergency Intertie is used intermittently, it may result in water being stagnant at the point of delivery for periods of time that may affect water quality. Water Utility is solely responsible for implementing operational best practices, such as flushing the service connection, prior to use of the Emergency Intertie for potable or other use. Water Utility is solely responsible for compliance with all applicable local, state and federal drinking water quality laws and regulations within its Water System.

7. INTERTIE MAINTENANCE: Each utility shall be responsible for maintenance of their portion of the Emergency Intertie as described in Section 2 of this Agreement as SPU and Water Utility Facilities respectively.

8. METER EQUIPMENT: SPU shall own, maintain and pay the cost of the metering equipment for the Emergency Intertie, including periodic inspection and testing. If Seattle changes the location of the intertie connection to Water Utility for Seattle's benefit, then Seattle shall pay the cost of constructing a new wholesale meter installation at the new location. If Water Utility requests the change in location, then Water Utility shall pay the cost of the new connection.

9. EMERGENCY INTERTIE FEES: Water Utility will pay the following charges within 30 days of an invoice from SPU:

- a. An Annual Fee, paid in advance by January 1 of each calendar year, which covers SPU's expenses to administer this Agreement and the Administrative Allowance for Water Utility under Section 4.e and Exhibit 1 of this Agreement. The Director of SPU may revise the Annual Fee reasonably to account for any change in the Administrative Allowance mutually agreed under Section 4.e above. Each year during the term of this Agreement, the Director of SPU may revise the Annual Fee by the same percentage as the change in the average of the Peak and Off-Peak Commodity Charge Rates from the

prior year to the current year then in effect for wholesale customers under Seattle Municipal Code Section 21.04.440.E.2, as it may be amended from time to time. The initial Annual Fee due January 1, 2012 is \$4214. SPU will provide 30 days' written notice of any subsequent revisions to the Annual Fee, which will become incorporated herein by this reference at the time the revised Annual Fee becomes effective.

b. A Commodity Charge for the metered amount of water used through the Emergency Intertie minus the Administrative Allowance at the then applicable average of the Peak and Off-Peak Commodity Charge Rates in effect for wholesale customers under Seattle Municipal Code Section 21.04.440.E.2, as it may be amended from time to time, plus any emergency surcharge, if applicable generally to the wholesale customers at that time.

c. A one-time transaction fee of \$1500 is due January 1 2012.

d. Any late payment will accrue interest at 1% per month.

10. LIMIT OF LIABILITY: Water Utility understands and agrees that SPU obligations under this Agreement are subject to the limitations herein. SPU shall not be held liable, under any circumstances, for loss or damage from a deficiency or failure to supply water caused by an emergency, unforeseen event, or for any other reason allowed under this Agreement.

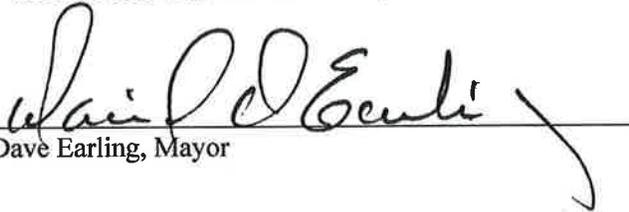
11. TERMINATION: Water Utility may terminate this Agreement at any time upon twelve (12) months' written notice to SPU. SPU may terminate this Agreement upon sixty (60) days' written notice to Water Utility that it has materially breached this Agreement and does not cure the material breach within the 60-day cure period, or a longer time period as SPU may approve in writing if Water Utility is making substantial progress towards curing the material breach. In the event of termination under this provision, Water Utility will be responsible for any reasonable costs SPU incurs to disconnect or remove the service connection as may be required by industry or SPU operating practices then in effect.

12. DISPUTE RESOLUTION: If a dispute arises out of or relates to this Agreement, the parties agree to negotiate in good faith to resolve the dispute within 90 days. Unless the parties agree to a longer time, if the dispute remains unresolved after 90 days, the parties agree to try in good faith to settle it by mediation before resorting to arbitration, litigation or some other legal dispute resolution procedure. Venue and jurisdiction shall lie in the King County Superior Court for the State of Washington in Seattle.

13. MISCELLANEOUS. This Agreement represents the entire agreement between the parties concerning the subject matter. This agreement shall be interpreted in accordance with the laws of the State of Washington. This agreement will inure to the benefit of and be binding upon the parties and their successors and assigns. If any of this Agreement or its application is determined by a court of law to be illegal, invalid, or void without rendering performance of this Agreement impossible or infeasible, then the Parties intend that the validity of the remaining provisions of this Agreement or their application shall not be affected and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereby execute this Agreement.

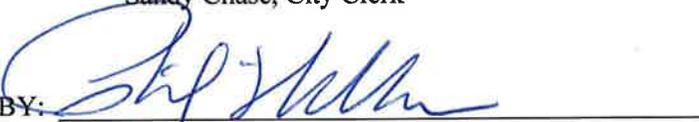
THE CITY OF EDMONDS/WATER UTILITY:

BY: 
Dave Earling, Mayor

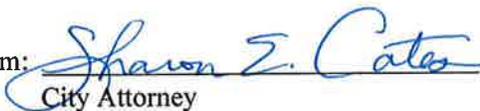
Date: 12-21-11

ATTEST: 
Sandy Chase, City Clerk

Date: 12-21-11

BY: 
Phil Williams, Public Works Director

Date: 12/20/11

Approved as to Form: 
City Attorney

Date: 12/15/11

THE CITY OF SEATTLE:

BY: 
Director, Seattle Public Utilities

Date: 12/31/11

EXHIBIT I

**SERVICE CONNECTIONS, MINIMUM HYDRAULIC GRADIENTS,
 MAXIMUM AND MINIMUM FLOW RATES, AND
 ANNUAL ADMINISTRATIVE ALLOWANCE OF WATER SUPPLIED**

SERVICE CONNECTION			MINIMUM HYDRAULIC GRADIENT FOR PLANNING PURPOSES AT STATION UPSTREAM OF METER (FEET NAVD-88 Datum)	MAXIMUM FLOW RATE UP TO WHICH THE MINIMUM HYDRAULIC GRADIENT APPLIES (gpm)	MINIMUM FLOW RATE (gpm)	ANNUAL ADMINISTRATIVE ALLOWANCE
LOCATION	STATION NUMBER	SIZE OF METER (IN.)				
Fremont Ave. N. & N. 205 th St.	110	10	560		250	100 ccf
			TOTAL:			