

Appendix 2-5 – Supply Agreements

Alderwood Supply Agreement

**EVERETT AND ALDERWOOD WATER AND WASTEWATER DISTRICT
WATER SUPPLY CONTRACT**

THIS CONTRACT is made and entered into by and between the City of Everett, a municipal corporation of the State of Washington, hereinafter referred to as "the City," and the Alderwood Water and Wastewater District, a municipal corporation of the State of Washington, hereinafter referred to as "District."

WHEREAS, the City owns and operates a water supply system located in the Sultan Basin of Snohomish County, Washington. Said system has regional supply capability for domestic, commercial and industrial water consumption; and

WHEREAS, pursuant to RCW Chap. 35.92 and RCW Chap. 39.94, the City is authorized to enter into contracts with other municipalities and districts to supply such other municipalities and districts with water. Pursuant to WAC 246-290-100 (2001), the City prepared a Water System Plan, which identifies the District as being within the City's water supply area; and

WHEREAS, the City has been the sole water supplier to the District for many years; and

WHEREAS, the District and the City desire to execute a water supply agreement designating the City as the source of supply for the District;

NOW, THEREFORE, for the mutual benefits to be derived, the parties agree as follows:

1. **Delivery of Water.** The City hereby agrees to provide and sell to the District, and the District agrees to purchase from the City, a maximum of one hundred six million gallons of water per day (106 MGD). A maximum of fifty-five million gallons per day (55 MGD) shall be allowed at any single specific connection point. The City shall be the District's primary source of water. The District may utilize existing ground-water rights and re-use water. The District may use other sources of water with the prior written consent of the City.

2. **Point of Delivery.** The City shall deliver water to the District at agreed connection sites. The agreed connection sites are the District's Clearview pump station and the District's Evergreen Way pump stations. Other connection points will be established by mutual written agreement, which agreement shall not be unreasonably withheld by the City. The District shall install, at its cost, a master meter system at

agreed connection points. The master meter installation(s) shall meet the specifications and approval of the City and shall become the property of the City after installation. The actual point of delivery at each connection point shall be the downstream flange of the valve downstream of each master meter. If the master meter is not connected directly to the City's pipeline, the actual point of delivery shall be the downstream flange of the valve nearest the City's pipeline.

3. **Quantity of Water.** The City and the District agree that each have made, and will continue to make, significant capital investments in water supply facilities that are interdependent and that coordinated planning will be required throughout the term of this contract to maximize public benefits and minimize costs. The parties acknowledge that peak day demands of the District will not exceed one hundred six (106) million gallons per day. Estimated average daily demands and peak day demands of the District and its major wholesale customers for the near future are shown on Attachment A attached hereto. The quantity of water delivered shall be measured by the master meters referred to in paragraph 2 above.

4. **Quality of Water.** The City agrees that all water delivered to the District at the connection point(s) shall be of the same standard and quality as normally delivered to the City's other customers. The City shall be responsible for meeting state and federal standards for drinking water at the connection points. All water supplied by the City for use or sale by the District shall be upon the express condition that after water passes the connection points, it becomes the property of the District, and the City shall not be liable for any degradation of water quality and resulting damages that may occur beyond said point. The City shall not be responsible for acts of sabotage that might degrade the quality of water delivered to the District.

5. **Rates and Charges.**
 - A. **Rates for Water** – The District shall be billed and pay to the City for each million gallons of water delivered as determined in the following manner:
 1. Demand charge of \$30.65 per million gallons shall be set and remain in effect until December 31, 2011. After that date, the City reserves the option of reasonably modifying the demand charge by using industry accepted rate-making methodology.
 2. A commodity charge of \$184.35 per million gallons shall be set and remain in effect until at least March 1, 2005. Future commodity charges will be based on cost of service studies

using modern cost of service principles. Commodity charges will be reviewed no less frequently than every two years and adjusted, as needed, effective with the mid-March master meter reading of year of adjustment. The commodity charge shall include a rate multiplier (based on the sum of both demand and commodity charges) of 1.20. There shall be no rate multiplier for filtration. At any time during the term of this agreement the District may change from a rate multiplier charge to a connection fee charge based on the mutual agreement and execution by both the District and the City.

3. Any increase in or additional excise, utility or other taxes imposed by the federal, state, or other governmental agency, including such taxes which may be imposed upon the water and filtration utility by the Everett City Council, shall be borne by all classes of users of the City's water, including the District to whom such tax may be applicable, in proportion to the total revenues received from such users.

B. Rates for Filtration

1. In addition to water rates discussed above, the District agrees to pay for **cost of filtering water** in accordance with the following formula:

$$R = \frac{P}{X} \frac{(M + C + DS + FDS + O)}{Q}$$

- R = Additional cost for filtered water – (to be added to current water rate) computed to nearest ten-thousandth of a Dollar per 100 cubic feet.
- M = Maintenance & Operation cost for Lake Chaplain Filtration plant for preceding year less any credit from the sinking fund.
- C = Additional Capital Outlay costs attributable to Filtration plant for preceding year, less funds collected and used from the sinking fund. (See Section 2).
- DS = Annual debt service, exclusive of reserve interest income, if reserve funded from bond proceeds, attributable to total project costs for initial construction of Lake Chaplain Filtration plant, including coverage.
- FDS = Annual debt service, exclusive of reserve interest income, if reserve funded from bond proceeds, attributable to total project costs for future

construction of Lake Chaplain Filtration plant, including coverage, with total project cost reduced by the amount of funds in sinking fund at the time of issuing bonds.

- O = Annual overhead attributable to Filtration plant to be determined from previous years expense as follows:
 - 2% of Filter plant material and supply costs excluding power and 14% of labor costs at filter plant including fringe benefits.
- P = District Maximum Daily Demand (day of highest use in preceding year) divided by the District Average Daily Demand (for preceding year)
- Q = Quantity of water produced in previous year expressed in 100 cubic feet. (Filter Plant Meter Reading)
- X = System Maximum Daily Demand (day of highest use IN preceding year) divided by the System Average Daily Demand for preceding year)

2. The City agrees to establish a Sinking Fund made up of the bond coverage funds required for the Annual Debt Service (DS) for initial construction cost and Annual Debt Service (FDS) for future construction costs of the Lake Chaplain filtration plant facilities. Bond coverage funds collected from all wholesale and retail customers under the Rate Formula (R) in Paragraph 5(B)(1) above shall be placed in this Sinking Fund and the principal and interest from investments from the Sinking fund shall be used for Additional Capital Outlay Costs (C) attributable to the Lake Chaplain filtration plant before other City funds are used thereby reducing the (C) value in the Rate Formula (R) by the amount used; or if revenue bonds are required for future construction (FDS) the amount of bonds required shall be reduced by the amount collected or remaining in the Sinking Fund including interest on investments at the time of issue of the bonds for future construction.

In the event the Sinking Fund balance exceeds \$2 million during the term of the bond issue(s), funds in excess of \$2 million shall be used to defray O&M costs. At the expiration of the term of the bond issue(s) any balance remaining in the Sinking Fund shall be credited to O & M until fully utilized.

The filtration rate shall be adjusted annually and be effective with the April 1st meter read for that year.

6. **Payment.** On a monthly basis, the City shall bill the District for water delivered through pipeline master meters. Said bills shall be payable within thirty (30) days after issuance of the invoice. Bills delinquent for any period greater than sixty (60) days after issuance of the invoice shall be assessed interest in the amount equal to one percent a month or such greater amount as allowed by City ordinance. The City shall also bill the District for Reservoir 3 land lease charges on a monthly basis. In case of billing errors, or errors caused by misadjusted meters, the City may collect back to date of last meter calibration to a maximum of twelve months.
7. **Resale or Distribution of Water.** After water has passed the points of delivery and has entered the District's system, said water becomes the property of the District and under its exclusive authority, subject only to the following express limitations:
- a. The District agrees not to allow any new customer connections to its water system larger than twenty (20) inches, or supply a new customer more than five million gallons per day at peak, unless the District first provides written notification to the City for said connection.
 - b. The District will distribute water received from the City in a manner consistent with the City Water System Plan, and the District's Water System Plan, as approved by the Washington State Department of Health if appropriate.
 - c. The District shall not serve water received from the City, pursuant to the terms of this Agreement, in areas outside the City's approved service area shown in Attachment B attached hereto, without prior written approval of the City.
 - d. In the event of annexations of the District's service area, by Everett, the City reserves the right to assume service to those customers who have been annexed into the City in accordance with State law.
8. **Lease of Property.** The City agrees to lease to the District, and District agrees to make lease payments to the City for, all sites leased to the District as described in this section and shown in Attachments C & D. The amount due shall be made in monthly payments hereby established as \$5,150.00 per month. The Rent shall be adjusted annually to an amount equal to the percentage increase or decrease of the Seattle-Tacoma-Bremerton Consumer Price Index (CPI) for All

Urban Consumers. All items (1982-1984=100) published by the United States Department of Labor, Bureau of Labor Statistics (the "Bureau"). If the Bureau discontinues publishing the CPI the parties mutually shall agree on a substitute index of comparable statistics on the cost of living for Snohomish County by an agency to the United States or by a responsible financial periodical of recognized authority. The annual Rent adjustment shall take effect on January 1 of each year.

Property Legal Descriptions

Pump station #1 site (See Attachment C)

Beginning at the E $\frac{1}{4}$ corner of Section 6, Township 28N, Range 5E, WM, thence westerly along the south line of the NE $\frac{1}{4}$ of said Section 6, a distance of 2,466.68' to a point which is the NW corner of the 13.98 acre parcel owned by the City of Everett and comprising a portion of the tract known as City of Everett Reservoir No. 3 Site, (recorded June 7, 1923 in Box 129 of Deed, page 511) and which point lies on the easterly boundary of Washington Primary State Highway No. 1, thence southerly along the easterly boundary of said Washington Primary State Highway No. 1 a distance of 45'; thence turning an angle of 90° left; thence easterly a distance of 80' to the true point of beginning; thence continue on the same straight line a distance of 110'; thence turn an angle of 90° right; thence southerly and parallel to the easterly boundary of said Washington Primary State Highway No. 1 a distance of 130'; thence turn an angle of 90° right; thence westerly a distance of 110'; thence turn an angle of 90° right; thence northerly and parallel to the easterly boundary of said Washington Primary State Highway No. 1 a distance of 130' to the true point of beginning and containing approximately 0.33 acres.

Pump station # 2 site (See Attachment D)

In Section 6, Township 28 north, Range 5 east, W.M. Snohomish County, Washington, described as follows:

Beginning at the east $\frac{1}{4}$ Cor. of said Section 6.

Thence westerly along the south line of the NE $\frac{1}{4}$ of said Section 6 a distance of 2,466.68' to a point described as the NW corner of tax lot 4-009, said tax lot owned by the City of Everett. Said tax lot 4-009 also known as the City of Everett Reservoir No. 3 site (recorded June 7, 1923 in Book 1 29 of Deeds, Page 511). Said NW Cor. of said tax lot 4-009 lies on the easterly margin of Washington Primary State Highway No. 99.

Thence S 10°41'41"E along the easterly margin of said Highway 99 a distance of 45' to the T.P.O.B.

Thence S 79° 18'19"E, 80.00';

Thence S 10° 41'39"W, 130.00';

Thence S 79° 18'19"E, 110.00';
Thence S 10° 41'41"W, 54.54';
Thence N 79° 56'07"W, 125.78' more or less to a southern corner
of the reservoir No. 3 property;
Thence N 87° 49'50"W along the southern property line, 64.94'
more or less to the east margin of State Highway 99;
Thence N 10° 41'41"E along the easterly margin of said State
Highway 99 a distance of 195.55' more or less to the T.P.O.B.

Pump station No 1 Pipeline Easement (See Attachment E)

Beginning at a point on Everett's existing 36" water pipeline at
the 36" tee which point lies approximately 130' easterly and
approximately 30' southerly of the NW corner of the 13.98 acre
parcel owned by the City of Everett and comprising a portion of
the Tract known as City of Everett Reservoir No. 3 Site (Recorded
June 7, 1923 in Book 1 29 of Deed, page 511)' thence southerly on
a straight line into and through the proposed Alderwood Water
District pumping station located within the site above described
in Description "C"; and continue southerly to the south boundary
of said pumping station site; thence southerly on a straight line
parallel to the easterly boundary of Washington Primary State
Highway No. 1 a distance of 5'; thence turn an angle of 23° left;
thence southeasterly a distance of 670' more or less; thence turn
an angle of 15° right; thence southerly a distance of 20' more or
less to a point in the north boundary line of Berkshire Drive
which point is also on the southerly boundary of the 13.98 acre
parcel referred to above, and which point lies 30' westerly of the
NW corner of Lot 11, Blk. 2 of Beverly Hills Division No. 2.

The entire pumping station site and pipeline description referred
to as Descriptions "C" and "D" above, are contained wholly
within the NW¼ of the SE¼ of Section 6, Township 28N, Range
5E, WM.

Pump station No 2 Pipeline Easement (See Attachment F)

In Section 6, Township 28 north, Range 5 east, W.M. Snohomish County,
Washington, described as follows:

Beginning at the east ¼ Cor. of said Section 6.

Thence westerly along the south line of the NE ¼ of said Section
6 a distance of 2,466.68' to a point described as the NW corner of
tax lot

4-009, said tax lot owned by the City of Everett. Said tax lot 4-
009 also known as the City of Everett Reservoir No. 3 site
(recorded June 7, 1923 in Book 129 of Deeds, Page 511). Said
NW Cor. of said tax lot 4-009 lies on the easterly margin of
Washington Primary State Highway No. 99.

Thence S 10° 41'41"W along the easterly margin of said Highway 99 a distance of 229.54'; thence S 79° 18'19E, 133.88' more or less to the easement centerline T.P.O.B.

Thence S 51° 13'40"E, 75.69';

Thence S 88° 07'16"E, 340.09';

Thence S 2° 02'58"W, 345.22';

Thence S 87° 58'38"E, 605.99';

Thence S 1° 30'11"W, 228.35' more or less to a point on the south line of said tax lot 4-009

Said easement being 15 feet in width lying 7.5 feet on each side of the heretofore described easement centerline.

The District agrees to perform or cause to be performed all construction, reconstruction, maintenance and operation in connection with the pumping station, pipeline and appurtenances legally described above, and to pay all costs associated therewith. For purposes of this Agreement, District's responsibility for construction, reconstruction, maintenance and operation, shall end at the face of the southerly branch of the 36" tee located as described above.

The District agrees that the pumping station structure and grounds shall be continuously maintained in a neat and presentable condition to the satisfaction of the City. If, in the opinion of the City, the District is not properly maintaining the structure and grounds, the City shall provide the District with written notice to this effect. If the District fails to perform the necessary maintenance or cleanup work within thirty (30) days of receipt of the written notice, the City shall have the right to perform or cause to be performed, the necessary maintenance or cleanup work and the District hereby agrees to reimburse the City for the full cost of any such maintenance or cleanup work so performed. Any additions, alterations, reconstruction or later modification to either the pumping station or the pipeline shall be submitted to the City for approval and said approval must be obtained prior to commencement of any additions, alterations, reconstruction or modification. The City shall have the right of reasonable access to the pumping station, pipeline and appurtenances, including keys to be provided by the District. The City and the District agree to work in collaboration regarding security measures at the pump station site.

The District agrees to permit the City to obtain and transmit by telemetering any and all water system operational information available at the pumping station.

If the District abandons and ceases to use the property herein leased for six consecutive months or more, the City shall send written notice to the District instructing the District to commence use of the property or abandon its lease

rights. If the City does not receive a response from the District within sixty (60) days, the City may terminate the lease.

At termination of the lease, the District shall have the right to remove all installations and improvements made by the District over the lease term provided it shall restore the land to the same condition as it existed prior to construction.

9. **Term of Contract.** The term of this contract shall be from the date of its mutual acceptance by the parties until January 1, 2055. The parties may renew this contract by mutual written agreement upon such terms and conditions as the parties may later agree. The City agrees to work with the District regarding water availability beyond the expiration date of this agreement.

10. **Continuity of Service.**

- a. To the extent feasible, the City shall continuously maintain service to the District. In the event of a general emergency or water shortage, the City and the District will share in implementing the necessary water conservation measures. Recognizing that both the City and the District have critical customers, the City will consult with the District regarding water allocations. General restrictions placed upon deliveries to the District shall be made according to the City's most recent Emergency and/or Drought Response Plan. In the event of localized emergency problems, temporary service interruptions may result.
- b. It is recognized by both parties that emergency conservation measures may have to be implemented by the City on a regional basis in order to meet an emergency condition. The District shall assist and support such emergency conservation measures.
- c. The City shall provide oral notice to the District, and may temporarily interrupt or reduce deliveries of water to the District, if the City determines that such interruption or reduction is necessary or reasonable in case of system emergencies. Except in cases of emergency, and in order that District's operations will not be unreasonably interfered with, the City shall give the District five (5) days notice of any other interruptions or reduction in services, the reason therefore, and the probable duration thereof, including any interruptions or reduction in services that will be caused by installation of equipment, repairs, replacements, investigations, inspections, or

other maintenance performed by the City on its water system or those parts of the system supplying the District.

11. **Force Majeure and Changes in Law.** None of the parties hereto shall be considered to be in default in respect to any obligations hereunder if prevented from fulfilling such obligations due to conditions beyond their reasonable control or due to changes in state or federal law. If a party is unable to perform in whole or in part because of such condition or change in the law, the party shall diligently and promptly take reasonable steps to allow it to perform.

12. **Construction, Operation and Maintenance of Capital Improvements.** At its sole cost and expense, the District shall construct or cause to be constructed all capital improvements to its water system necessary to implement this agreement. The District shall maintain and repair such capital improvements. All construction, maintenance and repairs shall strictly comply with any standards approved by the Washington State Department of Health as appropriate. By separate agreement, the District will contract with the City for operation of the Clearview pump station. The District shall annually provide to the City a water system report to include number of customers, peak use related to its Clearview partners and other information as reasonably required by the City to optimize operations.

13. **Legal Relations**
 - A. Each party shall defend, hold harmless, and indemnify the other from any and all claims, demands, suits, and judgments arising out of its conduct. If, and to the extent, the parties are both liable to a third party claimant, each party shall be responsible to the extent of its fault, and shall defend, hold harmless, and indemnify the other for its fault.

 - B. Notwithstanding any other provision of this Agreement, neither the District nor the City shall be liable to the other for indirect, incidental, special, exemplary or consequential damages, including but not limited to damages for lost revenues or benefits, even if such party has been advised of the possibility or existence of such damages

14. **No Joint Venture.** This Agreement describes the entire relationship of the parties with regard to the subject matter herein concerned. Except as maybe explicitly provided otherwise herein, the Parties are independent agencies and shall not be deemed to be partners, joint ventures, principals, or agents of each other for any purpose

whatsoever. Each party shall have and maintain sole and complete control over all of its employees, agents, and operations. Except as may otherwise be explicitly provided herein, or in separate agreement, each and all of the obligations, responsibilities, and liabilities of the parties under and in connection with this Agreement are several, and not joint.

15. **Dispute Resolution.** Any dispute under or in connection with this Agreement may, upon the mutual agreement of the parties, be submitted for resolution by mediation. Disputes not resolved in such manner shall be resolved in Superior Court for Snohomish County, Washington

16. **Miscellaneous.**
 - A. **Entire Agreement.** This Agreement, together with any attachments, sets forth the entire agreement of the parties.

 - B. **Interpretation.** The headings used herein are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

 - C. **No Third Party Beneficiaries.** Except as expressly set forth in this Agreement, none of the provisions of this Agreement shall inure to the benefit of or be enforceable by any third party.

 - D. **Waivers.** Any waiver at any time by a party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection therewith, shall not be deemed a waiver with respect to any subsequent default or matter. Either party may waive any notice or agree to accept a shorter notice than specified in this Agreement. Such waiver of notice or acceptance of shorter notice by a party at any time regarding a notice shall not be considered a waiver with respect to any subsequent notice required under this Agreement.

 - E. **Invalid Provision.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

- F. Amendment. No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both parties.
- G. Assignment and Subcontracts; Binding Agreement. Neither party may assign this Agreement, or assign or subcontract all or any part of such party's rights or obligations under this Agreement, without the prior written consent of the other party, which consent shall not be unreasonably withheld. Without in any way limiting the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- H. Governing Law Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The parties agree that any lawsuit or judicial action or proceeding arising out of or relating to this Agreement must be heard in the Superior Court of the State of Washington in and for Snohomish County.
- I. Construction. No provision of the Agreement shall be construed in favor of or against either of the parties hereto by reason of the extent to which any such party or its counsel participated in the drafting thereof or by reason of the extent to which such provision or any other provision or provisions of this Agreement is or are inconsistent with any prior draft thereof.

17. **Notice.** Formal notice and official communications between the parties regarding this Contract shall be sent by first class mail as follows:

To Everett
Mayor
City of Everett
2930 Wetmore Avenue
Everett WA 98201

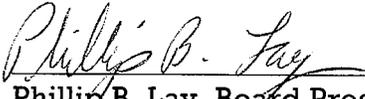
To The District
General Manager
Alderwood Water and Wastewater District
3626 156th ST SW
Lynnwood WA 98037

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their proper Officers on the 28th day of January, 2005.

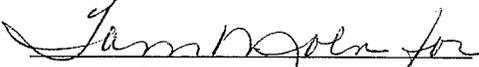
CITY OF EVERETT

ALDERWOOD WATER AND
WASTEWATER DISTRICT

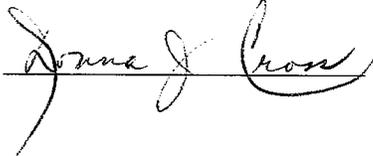

Ray Stephanson, Mayor


Phillip B. Lay, Board President

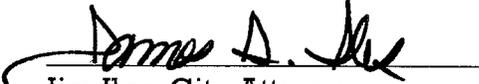
ATTEST:


Sharon Marks, City Clerk

ATTEST:



APPROVED AS TO FORM:


Jim Iles, City Attorney

Attachment A

**ALDERWOOD AND ITS MAJOR WHOLESALE CUSTOMERS
WATER DEMAND BASELINE FORECAST**

Utility Customer	2000		2006		2010		2020		2050+	
	ADD	PDD	ADD	PDD	ADD	PDD	ADD	PDD	ADD	PDD
Alderwood	12.6	27.4	14.7	32.0	16.1	35.1	18.3	39.9	23.3	51.0
Cross Valley (P)	0.3	0.5	0.8	1.5	1.1	2.2	1.7	7.6	2.2	18.0
Edmonds	3.4	6.9	3.5	7.0	3.6	7.1	3.6	7.2	4.6	9.0
Lynnwood	3.7	6.3	4.0	6.7	4.1	7.0	4.7	8.0	6.0	10.0
Mountlake Terrace	2.0	3.9	2.0	4.0	2.0	4.1	2.2	4.5	2.8	6.0
Silver Lake	2.8*	6.2	3.3	7.3	3.6	8.0	4.0	8.7	5.0	12.0
TOTAL	24.8	51.2	28.3	58.5	30.5	63.5	34.5	75.9	43.9	106.0

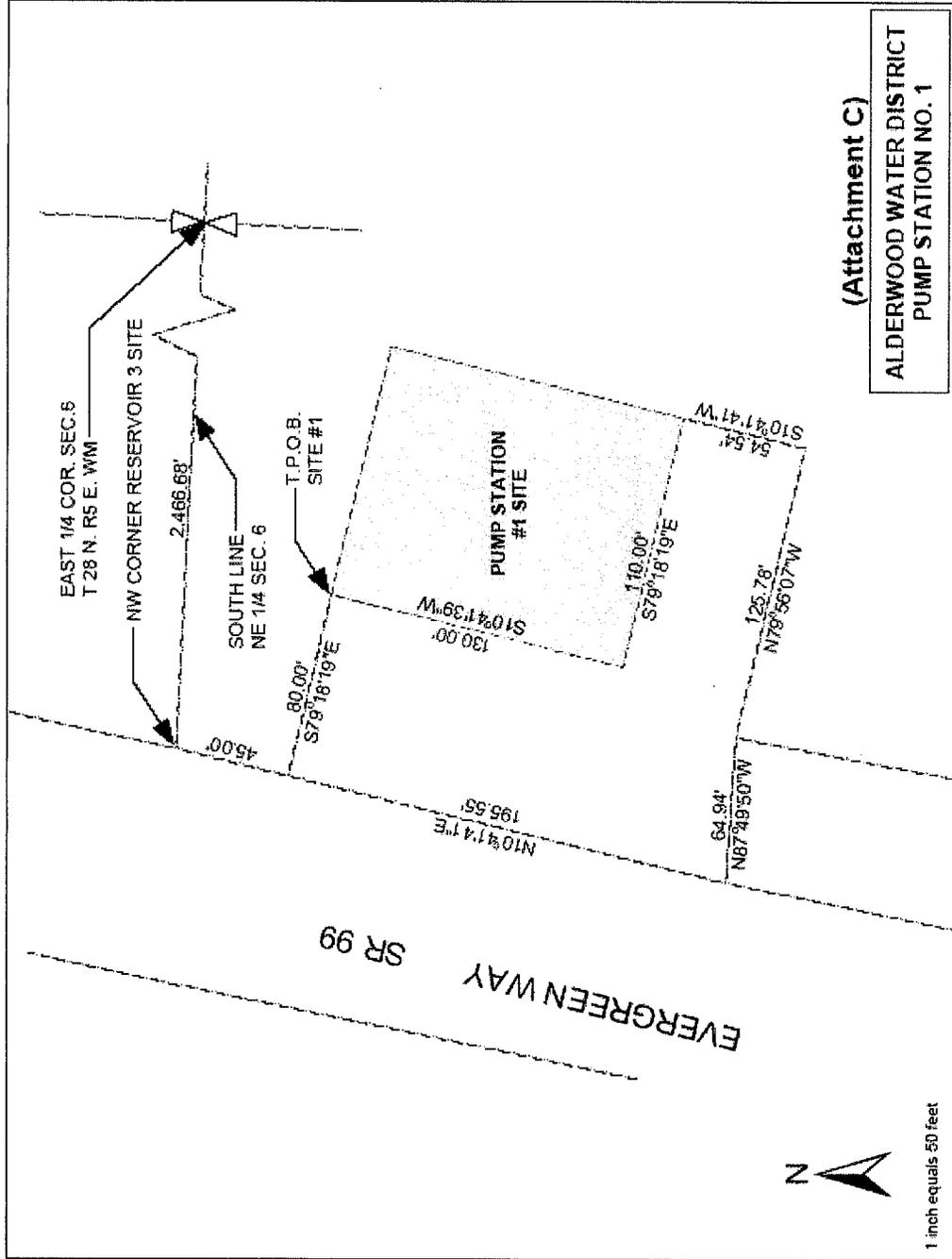
Source: Everett Public Works 2000 Comprehensive Water Plan Except for 2050+ which is also based on the Clearview Agreement between Alderwood, Cross Valley and Silver Lake.

Note: While some of the 2050+ demands may be for outside of the service area in Attachment B, service would be subject to Section 7.

ADD= Average Daily Demand in MGD

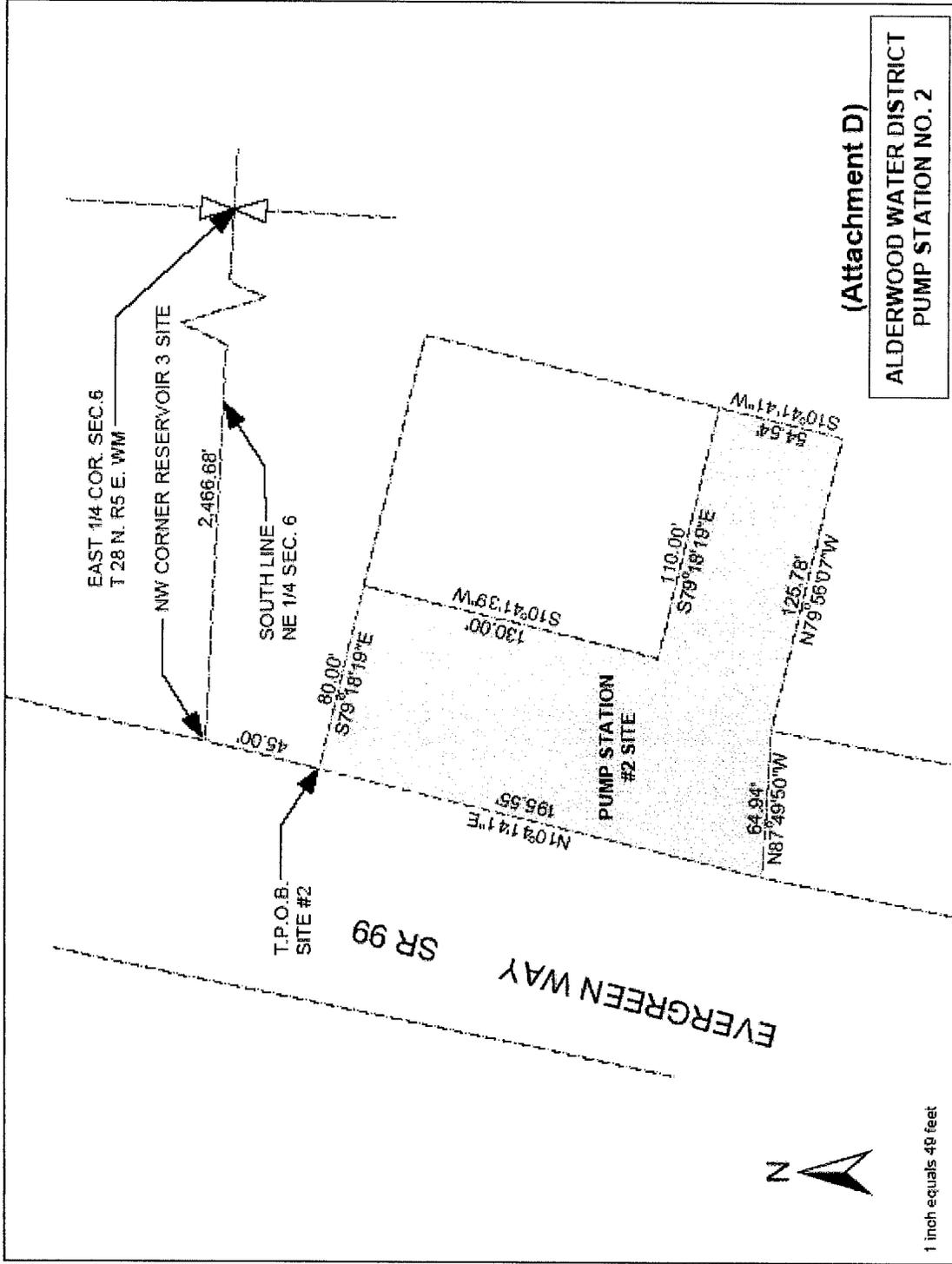
PDD = Peak Day Demand in MGD

P = Partially Supplied by Everett Source

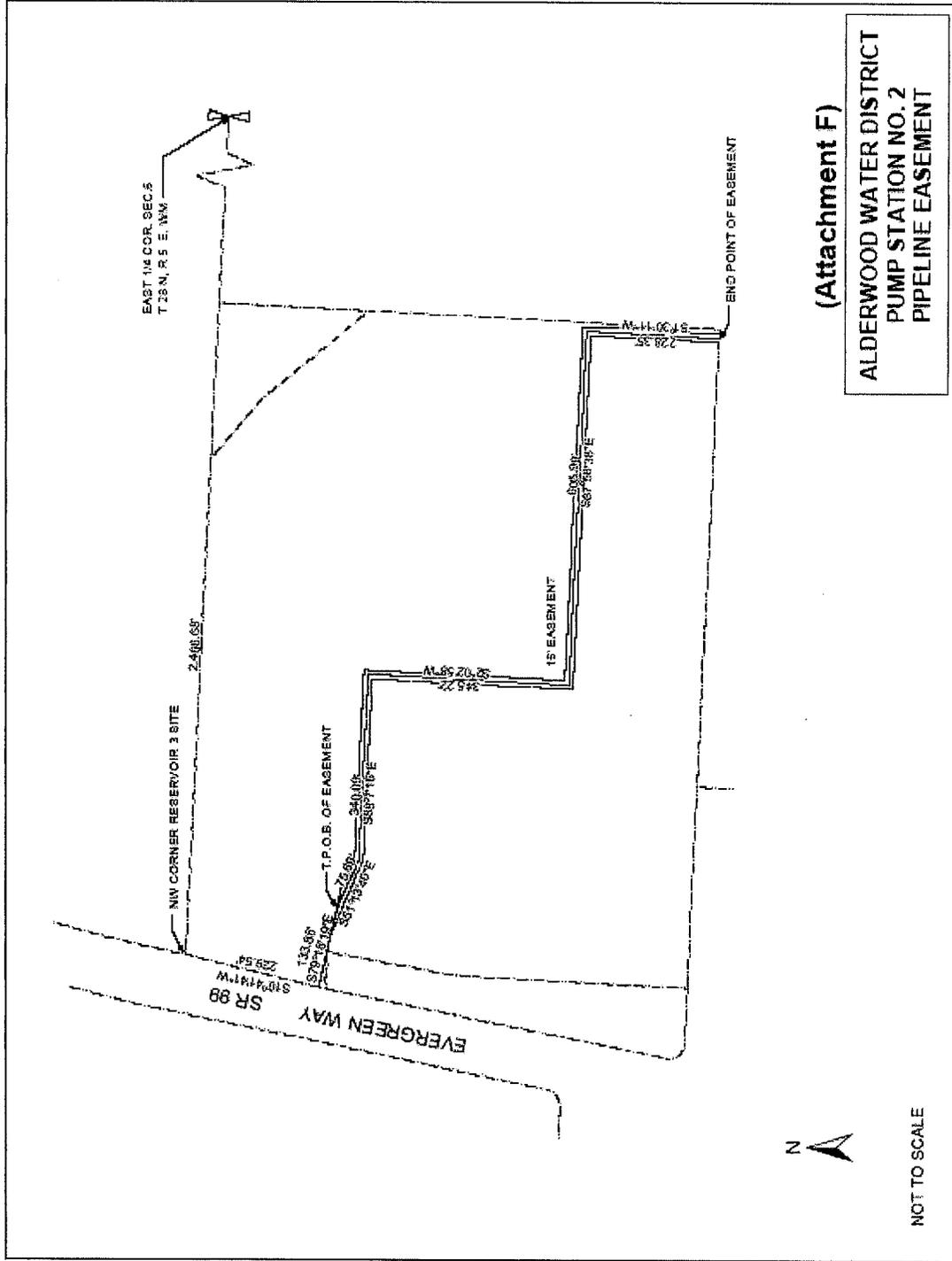


(Attachment C)

ALDERWOOD WATER DISTRICT
PUMP STATION NO. 1



Attachment F



(Attachment F)

ALDERWOOD WATER DISTRICT
PUMP STATION NO. 2
PIPELINE EASEMENT

JOA Supply Agreement

**EVERETT AND JOA PARTICIPANTS
WATER SUPPLY CONTRACT**

THIS CONTRACT is made and entered into by and between the City of Everett, a municipal corporation of the State of Washington, hereinafter referred to as "Everett," and the City of Marysville (Marysville), and Public Utility District No. 1 of Snohomish County (PUD), municipal corporations of the State of Washington, and the Tulalip Tribes of Washington (Tribes), a federally recognized Indian Tribe, hereinafter referred to as "Participants."

WHEREAS, Everett owns and operates a water supply system located in the Sultan Basin of Snohomish County, Washington. Said system has regional supply capability for domestic, commercial and industrial water consumption; and

WHEREAS, pursuant to RCW 35.92.170, RCW 35.92.200 and RCW 39.94, Everett is authorized to enter into contracts with other municipalities and recognized tribes to supply said municipalities with water. Pursuant to WAC 248-54, Everett has prepared a Water System Plan identifying certain areas of north Snohomish County as being within its long-range wholesale water supply service area; and

WHEREAS, the Participants own and operate water supply systems in north Snohomish County, Washington, and distribute said water on a retail basis to domestic, commercial and industrial customers within their respective service areas; and

WHEREAS, the Participants have entered into a Joint Operating Agreement (JOA) for the purpose of initiating construction of a 30-inch pipeline by Marysville from the Everett transmission line to the Sunnyside vicinity, allocating pipeline capacity among the Participants, and cooperating in a regional solution to meet future water supply needs; and

WHEREAS, the Participants together with Washington State, Snohomish County, Everett and other public water purveyors have jointly agreed to prepare a Coordinated Water System Plan (CWSP) for north Snohomish County; and

WHEREAS, the execution of this contract and the participation of the Tribes in the processes contemplated by the contract do not constitute nor imply any abrogation, diminishment or waiver of the Tribes existing or reserved rights or sovereign powers, whether arising under treaty, statute or common law; and

WHEREAS, the preliminary findings and recommendations of the CWSP demonstrate an immediate need for additional water supply to meet current and near term water needs of the Participants and a need for long-term regional solutions through joint use and operation of water transmission and storage facilities; and

WHEREAS, a study of available and alternative sources has identified Everett as being the best source for water supply for the Participants' service areas in the foreseeable future. Pursuant to WAC 248-54, Marysville and Everett have updated their respective Water System Plans to include an intertie with Everett;

NOW, THEREFORE, for the mutual benefits to be derived, the parties agree as follows:

1. Delivery of Water. Everett hereby agrees to deliver to the Participants, and the Participants hereby agree to pay Everett for the delivery and treatment of water to be used as their primary source of supply in accordance with its usual and accustomed rates and conditions for customers similarly situated and as provided in Section 5 hereof.

2. Point of Delivery. Everett shall deliver water to the Participants at agreed connection points along Everett's Northern Transmission Pipeline corridor. Said agreed connection points include existing connections located at 73rd Avenue S.E., 91st Avenue S.E., 103rd Avenue S.E. and at Williams Road. Said agreed connection points also include new connections to be located at Woods Creek Road and the Seattle City Light power line right-of-way (Seattle R/W). Other future connection points shall be subject to mutual agreement. Participants shall install, at their cost, a master meter system at the Seattle R/W new connection point. Said master meter installation shall include telemetry of flow data and any necessary control functions and shall meet the specifications and approval of Everett and shall become the property of Everett after its installation. The Woods Creek Road new connection and other future connections shall be installed per Everett's standard policies for new service connections or by other mutually agreeable means. The actual point of delivery at each connection point shall be the upstream flange of the valve downstream of each master meter and check valve.

3. Quantity of Water. Marysville will construct a 30-inch pipeline from the Seattle R/W point of delivery as Phase 1 of the preliminary CWSP and JOA. Everett and the Participants agree that each have, and will continue to make significant capital

investments in water supply facilities which are interdependent, and that coordinated planning will be required throughout the term of this contract to maximize public benefits and minimize costs. In the design of Marysville's 30-inch pipeline and future Participants' water supply projects, Everett shall not be responsible for storage except as it relates to Everett's existing storage at Lake Chaplain. Everett agrees to use best efforts, subject to meeting the requirements of all Everett customers, to provide a regular and uninterrupted supply of water at said point of delivery. (Everett will exercise best efforts to operate so as to supply water at a hydraulic head of not less than 440' mean sea level at the Seattle R/W connection point and the hydraulic equivalent at other connection points throughout the term of this contract.) It is understood that the Participants will reach peak demands of 18 million gallons per day through Marysville's transmission pipeline before the expiration of this contract and that additional facilities, including a second pipeline connection to Everett and a regional reservoir, will be required to meet long range demands. Estimated average daily demands and peak day demands of the Participants, for the near future (Phase 1) are shown on Exhibit A attached hereto. Everett's facilities have, or will have in the future, the capacity to supply the Participants' water quantity demands. Everett and the Participants shall develop a technical operating plan to accommodate the operational needs of the parties. The quantity of water delivered shall be measured by the master meters referred to in paragraph 2 above. Nothing herein, however, shall be construed as obligating the Participants to take or purchase any minimum quantity of water from Everett at any time except as Everett's rates require minimum payment related to each connection.

4. Quality of Water. Everett agrees that all water delivered to the Participants at the points of delivery shall be of the same standard and quality as that normally delivered by Everett to master meter customers east of the Snohomish River. Everett shall be responsible for meeting state and federal standards for safe, high-quality drinking water at the point of delivery. All water supplied by Everett for use or sale by the Participants shall be upon the express condition that after it has passed the point of deliver the same becomes the property of the Participants, and Everett shall not be liable for any damages or loss resulting from degradation of water quality which may occur beyond said point. Further, Everett shall not be responsible for changes in water quality or operating problems which may result from mixing of different sources of water in the Participants' systems. Participants shall provide means to assure that water will not backflow into the Everett system.

5. Rates and Charges. Rates shall be established by ordinance of the City of Everett. The charges for water service shall include a base rate, a minimum charge for each connection, and a filtration charge. The base rate for water and the minimum charge for each connection shall be established by ordinance of the City of Everett and shall be based on cost of service principles; provided that it is agreed that rates may include usual and accustomed charges imposed on the City utility by the City's general fund. The rate structure may include a minimum charge for each point of connection without regard to consumption plus a commodity charge. The Participants agree to read each of the master meters on a monthly basis and provide Everett with the readings by the 7th day of each month. Everett agrees that the Participants shall be served with notice of any future rate modifications that will impact the Participants at least thirty (30) days prior to consideration of said modifications by the Everett City Council.

In addition to the base rate for water, Participants agree to pay the ordinance filtration rate. If flow telemetry is installed on all of the Participants' connections, or mutually agreeable daily meter-readings are arranged and the Participants' daily average of water consumption exceeds 3 MGD, the Participants may elect to pay the filtration charge in accordance with the following formula:

$$R = \frac{P}{X} \left(\frac{M + C + DS + O}{Q} \right)$$

R = Additional cost for filtered water computed to the nearest ten-thousandth of a dollar per 100 cubic feet.

M = Maintenance & Operation costs for Lake Chaplain filtration plant for preceding year.

C = Additional Capital Outlay costs attributable to filtration plant for preceding year.

DS = Annual debt service, exclusive of reserve interest income, if reserve funded from bond proceeds, attributable to total project costs for all past and future construction of Lake Chaplain filtration plant, including coverage.

O = Annual overhead attributable to filtration plant to be determined from previous years expense as follows:

O = 2% of filter plant material, supplies and utilities costs and 14% of labor costs at filter plant including fringe benefits.

P = $\frac{\text{JOA Participants Maximum Daily Demand}}{\text{JOA Participants Average Daily Demand}}$
(day of highest Participant use in preceding year)
(for preceding year)

Q = Quantity of water produced in previous year expressed in 100 cubic feet. (Filter Plant Meter Reading)

X = $\frac{\text{System Maximum Daily Demand}}{\text{System Average Daily Demand}}$
(day of highest system use in preceding year)
(for preceding year)

The filtration charge according to the above formula shall commence in April following one full calendar year (January through December) starting the January after the date of the Participants' election to pay by formula (formula date). Commencing on said formula date Everett agrees to establish a Participants' sinking fund made up of the bond coverage funds required for the Annual Debt Service (DS) for the Lake Chaplain filtration plant facilities. Bond coverage funds collected from the Participants under the Rate Formula (R) above shall be placed in this sinking fund and the principal and interest from investments of said funds shall be used for Additional Capital Outlay Costs (C) attributable to the filtration plant before other City funds are used thereby reducing the (C) value in the Rate Formula (R) by the amount used or if revenue bonds are required for future construction the amount of bonds required shall be reduced by the amount collected or remaining in the sinking fund including interest on investments at the time of issue of the bonds.

In the event the Sinking Fund exceeds One Million Dollars (\$1,000,000) during the term of the bond issue(s), funds in excess of One Million Dollars (\$1,000,000) shall be used to defray Maintenance & Operations (M) costs. At the expiration of the term of the bond issue(s) any balance remaining in the Sinking Fund shall be credited to Maintenance and Operations (M) until fully utilized.

6. Payments by Participants. On a monthly basis, Everett shall bill Marysville for water delivered through the Phase I JOA pipeline master meter and each Participant, directly, for water delivered through master meters at connection points which serve one Participant only. Bills for water delivered at future

connection points which serve more than one Participant shall be sent to an agency designated by the Participants. Said bills shall be payable within thirty (30) days after receipt of the invoice. Delinquent bills shall accrue interest at the rate of twelve percent (12%) per annum for any delinquency greater than sixty (60) days.

7. Resale or Distribution of Water by the Participants. After water has passed the points of delivery and has entered the PUD's system or Marysville's transmission pipeline, said water becomes the property of the Participants according to the point of delivery and/or their respective capacity right as established in the JOA and the use and distribution of the same shall be under the exclusive authority of the Participants, subject only to the following express limitations.

a. Ordinance No. 1347-87 (EMC 14.15.460) requires that new connections outside the City of Everett greater than 12 inches are subject to Everett Water System Plan modification. Participants agree not to allow any customer connection to Participants' water systems which is using water purchased from Everett if said connection is greater than 12 inches in diameter, or supplies more than one million gallons per day, unless Participants first obtain approval from Everett for said connection. Everett's approval shall not be unreasonably withheld and shall be based on the water supply impacts to the Everett water system caused by said connection.

b. The Participants will distribute water received from Everett in a manner consistent with the Everett Water System Plan, the CWSP, and the individual Participants' Water Systems Plans, as approved by the Washington State Department of Health if appropriate.

c. The Participants shall not serve water received from Everett, pursuant to the terms of this agreement, in areas outside the service area shown in Exhibit B attached hereto.

8. Term of Contract. The term of this Contract shall be from the date of its mutual acceptance by all parties until July 1, 2020, with provisions for amendment to incorporate Phase 2 facilities and demands to be consistent with the CWSP. The Participants shall have a right to renew this Contract for an extended term of similar duration and for a quantity of water consistent with the demands projected by the CWSP.

9. Construction, Operation and Maintenance of Capital Improvements. The Participants shall construct all capital

improvements to their water systems and shall own all capital improvements downstream from the points of delivery and shall assume exclusive responsibility for the operation, maintenance and repair of the same. All construction, operation, and maintenance and repairs shall be in strict compliance with standards approved by the Washington State Department of Health as appropriate. By separate agreement, the Participants may contract with Everett for certain inspection, repair and maintenance services relating to the 30-inch pipeline. The Participants shall annually provide to Everett a water system report to include number of customers, peak use and other information useful in optimizing joint operations.

10. Uncontrollable Forces. None of the parties hereto shall be considered to be in default in respect to any obligations hereunder if prevented from fulfilling such obligations by reason of uncontrollable forces. All parties rendered unable to fulfill any obligation hereunder by reason of an uncontrollable force shall exercise due diligence to deal with such uncontrollable force with all reasonable dispatch.

11. Assignment; Successors Bound. Neither this Contract nor any right or privilege herein shall be assigned by any party without the written consent of the other parties. This Contract shall apply to and be binding upon the lawful successors of all parties.

12. Notices. All notices complying with this Contract shall be sent by registered mail as follows:

To Everett

Mayor
City of Everett
Everett City Hall
3002 Wetmore Avenue
Everett, WA 98201

To the PUD

Manager
PUD No. 1 of Snohomish County

2320 California
Everett, WA 98201

To Marysville

Mayor
City of Marysville
Marysville City Hall
514 Delta Avenue
Marysville, WA 98270

To the Tribes

Executive Director
Tulalip Tribes of
Washington
6700 Totem Beach Road
Marysville, WA 98270

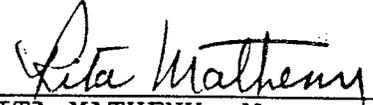
IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their proper Officers on the 15th day of October, 1991.

CITY OF EVERETT



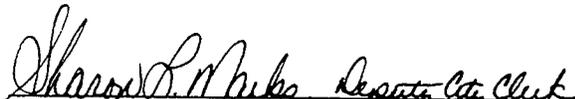
PETE KINCH, Mayor

CITY OF MARYSVILLE



RITA MATHENY, Mayor

ATTEST:



DONNA L. RIDER, City Clerk

ATTEST:



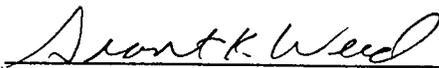
PHILLIP E. DEXTER, City Clerk

APPROVED AS TO FORM:



BRUCE E. JONES, City Attorney

APPROVED AS TO FORM:



GRANT WEED, City Attorney

PUBLIC UTILITY DISTRICT NO. 1
OF SNOHOMISH COUNTY



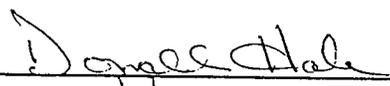
CHARLES N. EARL, District Manager

THE TULALIP TRIBES OF
WASHINGTON



STANLEY G. JONES SR., Chairman

APPROVED AS TO FORM:

By: 
Dated: 10/9/91

ATTEST:

By: 
MARIE M. ZACKUSE, Secretary

(0110)

EXHIBIT A

WATER REQUIREMENTS FORECAST FOR MARYSVILLE - LAKE STEVENS - TULALIP TRIBES SERVICE AREAS (1)

(Peak Day MGD)

SERVICE AREA	YEAR			
	2000	2010	2020	2040
Marysville (2)	9.71	11.66	13.68	17.72
Lake Stevens/PUD	0.75	3.42	5.93	10.96
Marysville/PUD Overlap (3)	1.04	1.49	2.05	3.17
Tulalip Tribes	<u>3.11</u>	<u>4.09</u>	<u>5.34</u>	<u>6.39</u>
TOTAL	<u>14.61</u>	<u>20.66</u>	<u>27.00</u>	<u>38.24</u>

Footnotes:

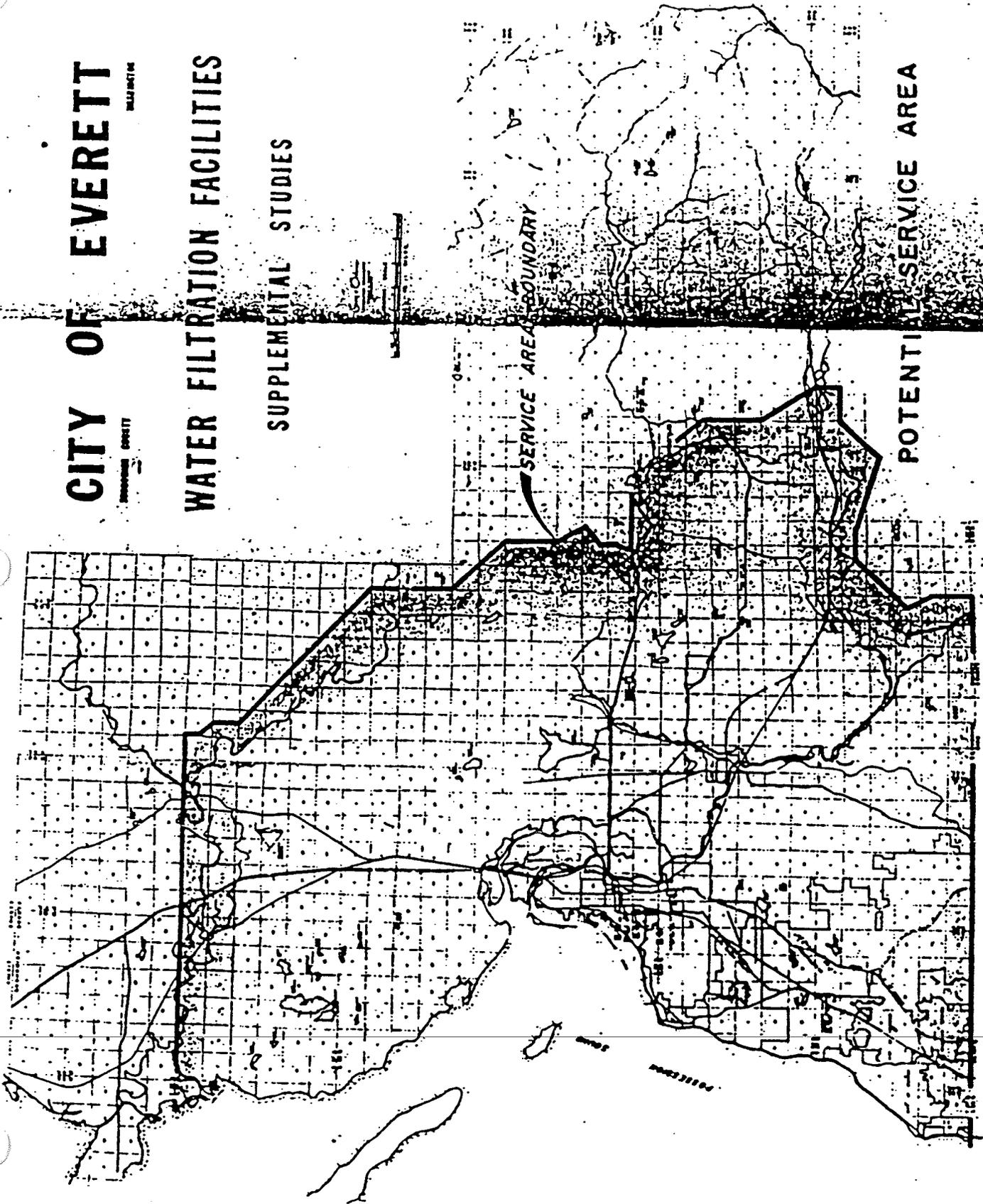
- (1) Forecast as currently developed through the Coordinated Water System Plan.
- (2) Demand forecast assumes current supply of 1.9 MGD from Edwards Springs and Lake Goodwin wells will serve other users.
- (3) Demand to be assigned to utilities based upon final resolution of service area overlap.

CITY OF EVERETT

PROJECT

WATER FILTRATION FACILITIES

SUPPLEMENTAL STUDIES



POTENTIAL SERVICE AREA

Sultan Supply Agreement

**EVERETT AND CITY OF SULTAN
WATER SUPPLY CONTRACT**

THIS CONTRACT is made and entered into by and between the City of Everett, a municipal corporation of the State of Washington, hereinafter referred to as "Everett," and the City of Sultan, a municipal corporation of the State of Washington, hereinafter referred to as "Sultan."

WHEREAS, Everett owns and operates a water supply system located in the Sultan Basin of Snohomish County, Washington. Said system has regional supply capability for domestic, commercial and industrial water consumption; and

WHEREAS, pursuant to RCW 35.92.170, RCW 35.92.200 and RCW 39.94, Everett is authorized to enter into contracts with other municipalities to supply said municipalities with water. Pursuant to WAC 248-54, Everett has prepared a Water System Plan identifying certain areas of central Snohomish County as being within its long-range wholesale water supply service area; and

WHEREAS, Sultan owns and operates a water supply system in central Snohomish County, Washington, and distributes said water on a retail basis to domestic, commercial and industrial customers within its service area; and

WHEREAS, Sultan wishes to upgrade and expand its water treatment plant and distribution system and to develop and construct a connection to the Everett water supply system initially to supplement its water supply system or, at its option eventually, to constitute Sultan's sole source of supply;

NOW, THEREFORE, for the mutual benefits to be derived, the parties agree as follows:

1. **Delivery of Water.** Everett hereby agrees to deliver water to Sultan and Sultan agrees to pay Everett for the delivery and treatment of water. Everett water will initially be used as a supplement to Sultan's water supply and eventually may be used, at its sole option and discretion, as its primary source of supply. Everett agrees to charge its usual and accustomed rates and charges for customers similarly situated and as provided in Section 5 hereof.
2. **Point of Delivery.** Everett shall deliver water to Sultan at agreed connection points along Everett's Transmission Pipeline No. 5 corridor. Sultan shall install or cause to be installed, at its cost, a master meter

system at the new connection point. Said master meter installation shall include telemetry of flow data and any necessary control functions and shall meet the specifications and approval of Everett and shall become the property of Everett after its installation. The new connection and other future connections shall be installed per Everett's standard policies for new service connections or by other mutually agreeable means. The actual point of delivery at each connection point shall be deemed to be the upstream flange of the valve downstream of each master meter and check valve.

3. **Quantity of Water.** Sultan will construct or cause to be constructed a 16 inch pipeline from its point of delivery to connect to Sultan's existing water system. Everett and Sultan agree that each have made, and will continue to make significant capital investments in water supply facilities which are interdependent and that coordinated planning will be required throughout the term of this contract to maximize public benefits and minimize costs. Everett shall not be responsible for storage except as it relates to Everett's existing storage at Lake Chaplain. Everett agrees to use best efforts, subject to meeting the requirements of all Everett customers, to provide regular and uninterrupted supply of water at said point of delivery. (Everett will exercise best efforts to operate so as to supply water at a hydraulic head of not less than 570' mean sea level at the connection point and the hydraulic equivalent at other connection points throughout the term of this contract.) It is understood that Sultan and consumers of water from Sultan may reach peak demands of 3.0 million gallons per day before the expiration of this contract and that additional facilities may be required to meet long range demands. Estimated average daily demands and peak day demands of Sultan and its major customers for the near future (Phase 1) are shown on Exhibit A attached hereto. Everett's facilities have, or will have in the future, the capacity to supply Sultan's water quantity demands. Everett and Sultan shall develop a technical operating plan to accommodate the operational needs of the parties. The quantity of water delivered shall be measured by the master meters referred to in paragraph 2 above. Nothing herein, however, shall be construed as obligating Sultan to take or purchase any minimum quantity of water from Everett at any time except as Everett's rates require minimum payment related to each connection.

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4. **Quality of Water.** Everett agrees that all water delivered to Sultan at the point(s) of delivery shall be of the same standard and quality as that normally delivered by Everett to master meter customers east of the Snohomish River. Everett shall be responsible for meeting state and federal standards for safe, high-quality drinking water at the point of

delivery. All water supplied by Everett for use or sale by Sultan shall be delivered upon the express condition that after it has passed the point of delivery the same becomes the property of Sultan, and Everett shall not be liable for any damages or loss resulting from degradation of water quality which may occur beyond said point. Provided, however, that it is understood and agreed by and between the parties that the transmission line to be constructed for the benefit of Sultan will be built under a contract between Sultan and Snohomish County PUD No. 1 (the "PUD"). Ownership of the transmission lines will, pursuant to such contract will be divided between Sultan and the PUD and each will have capacity rights in the other's portions of such transmission line.. Everett shall not be responsible for changes in water quality or operating problems which may result from mixing of different sources of water in Sultan's system or in systems served by Sultan. Sultan shall provide means to assure that water will not backflow into the Everett system.

5. Rates and Charges.

- a. Rates shall be established by ordinance of the City of Everett. The charges for water service shall include a base rate, a minimum charge for each connection, and a filtration charge and shall be based on cost of service principles; provided that it is agreed that rates may include taxes, in-lieu taxes, and/or charges imposed on the City utility by the City's general fund. The rate structure may include a minimum charge for each point of connection without regard to consumption plus a commodity charge. Everett agrees that Sultan shall be served with notice of any future rate modifications that will impact Sultan at least thirty (30) days prior to enactment of said modifications by the Everett City Council.
- b. Sultan agrees that, so long as Everett water remains a supplementary source for Sultan water (i.e. less than 60% of the total water consumption by all in-City and out-of City Sultan water consumers), then Sultan's rates shall be revised to reflect an availability surcharge as follows:
 1. For 365 days following delivery of Everett water to Sultan and each 365 day period thereafter, daily usage shall be determined in MGD to the nearest one hundredth (0.00). Everett shall give verbal or written notice of meter readings or meter reading frequencies. In the event that daily usage cannot be otherwise determined, daily usage shall constitute the average of each day's usage between meter readings.

2. The availability factor shall be:

$$\text{AF (availability factor)} = \frac{\text{P (Peak day usage over 365 day period)}}{\text{A (Average daily usage over 365 day period)}}$$

3. If the availability factor (AF) is greater than 3.00, Sultan's monthly charges shall be increased to reflect a surcharge factor of

$$\frac{\text{AF}}{2.50}$$

For example, if Sultan's AF is 4, then the surcharge factor would be 1.6, and Sultan's monthly charges for the next 12 months would be revised to

1.6 X Ordinance Rate

Emergencies will be excepted from the calculation of peak usage.

6. **Payment.** On a monthly basis, Everett shall bill Sultan for water delivered to Sultan through pipeline master meter. Said bills shall be payable within thirty (30) days after receipt of the invoice. Delinquent bills shall accrue interest at the rate of twelve percent (12%) per annum for any delinquency greater than sixty (60) days.
7. **Resale or Distribution of Water.** After water has passed the points of delivery and has entered Sultan's connection transmission pipeline, said water becomes the property of Sultan and under its exclusive authority, subject only to the following express limitations:
- a. Ordinance No. 1347-87 (EMC 14.15.460) requires that new connections outside the City of Everett greater than 12 inches are subject to Everett Water System Plan modification. Sultan agrees not to allow any customer connection to its water systems which is using water purchased from Everett if said connection is greater than 12 inches in diameter, or supplies more than one million gallons per day, unless Sultan first obtains approval from Everett for said connection. Everett's approval shall not be unreasonably

withheld and shall be based on the water supply impacts to the Everett water system caused by said connection.

- b. Sultan will distribute water received from Everett in a manner consistent with the Everett Water System Plan, and Sultan's Water System Plan, as approved by the Washington State Department of Health if appropriate.
- c. Sultan shall not serve water received from Everett, pursuant to the terms of this agreement, in areas outside the service area shown in Exhibit B attached hereto, without prior approval of the City of Everett.
- d. Provided, however, nothing herein shall prevent Sultan from selling water to the PUD or "wheeling" water sold by Everett to the PUD through its distribution system provided said distribution system is within the service area shown in Exhibit B of the Sultan Basin Development agreement or PUD waives the right to object to service outside said service area.

8. **Term of Contract.** The term of this Contract shall be from the date of its mutual acceptance by the parties until January 1, 2030. Sultan shall have a right to renew this Contract for an extended term of similar duration, subject to reasonable modification of the terms hereof.

9. **Construction, Operation and Maintenance of Capital Improvements.** Sultan shall construct or cause to be constructed all capital improvements to its water system and shall individually or in conjunction with the PUD own all capital improvements downstream from the points of delivery. Sultan shall assume exclusive responsibility for the operation, maintenance and repair of the same; provided, however, that such responsibility shall be satisfied with respect to that portion of the distribution system owned by the PUD pursuant to the obligations created in the contract between Sultan and the PUD which Sultan agrees to enforce on behalf of Everett as may be required to satisfy the maintenance conditions herein. All construction, operation, and maintenance and repairs shall be in strict compliance with standards approved by the Washington State Department of Health as appropriate. By separate agreement, Sultan may contract with Everett for certain inspection, repair and maintenance services relating to the 16 inch pipeline. Sultan shall annually provide to Everett a water system report to include number of customers, peak use and other information useful in optimizing joint operations.

10. Continuity of Service.

- a. Continuity of service to Sultan shall be maintained by Everett, to the extent feasible, in the same manner as service to the Everett's businesses and residences. In the event of a general emergency or water shortage affecting the Everett Water Supply System requiring restrictions on the delivery of water, general restrictions placed upon deliveries to Sultan shall be determined by a similar method to that used for restricting deliveries to Everett's Direct Service consumers. In the event of localized emergency problems, temporary service interruptions may result.
- b. It is recognized by both parties that emergency conservation measures may have to be implemented by Everett on a regional basis in order to meet an emergency condition. Sultan shall assist and support such emergency conservation measures.
- c. Everett shall provide oral notice to purveyors, and may temporarily interrupt or reduce deliveries of water to any purveyor, if Everett determines that such interruption or reduction is necessary or reasonable in case of system emergencies or in order to install equipment, make repairs, replacements, investigations and inspections or perform other maintenance work on Everett's water system or those parts of the system supplying Sultan. Except in cases of emergency, and in order that Sultan's operations will not be unreasonably interfered with, Everett shall give Sultan reasonable written notice of any such interruption or reduction, the reason therefor, and the probable duration thereof.

11. Indemnity.

- A. Nothing herein shall be interpreted to create indemnity or cross indemnity agreements between the parties. In the event of claim, loss or liability alleged to have arisen out of the ownership or operation of Everett's water supply system or Sultan's water supply facilities, the parties agree that their liability shall be borne in accordance with and as determined under Washington State Law.

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- B. Notwithstanding any other provision of this Agreement, neither Sultan nor Everett shall be liable under or pursuant to this Agreement for indirect, incidental, special, exemplary or consequential damages, including but not limited to damages for

lost profits or benefits, even if such party has been advised of the possibility or existence of such damages.

12. **Uncontrollable Forces or State or Federal Law Changes.** Neither of the parties hereto shall be considered to be in default in respect to any obligations hereunder if prevented from fulfilling such obligations by reason of uncontrollable forces or material changes in state or federal law or enforcement thereof. Parties rendered unable to fulfill any obligation hereunder by reason of an uncontrollable force or material change in state or federal law shall exercise due diligence to deal with such uncontrollable force with all reasonable dispatch and to take actions consistent with the purpose of this agreement.
13. **Assignment; Successors Bound.** Neither this Contract nor any right or privilege herein shall be assigned by any party without the written consent of the other party.
14. **Notice.** Formal notice and official communications between the parties regarding this Contract shall be sent by first class mail as follows:

To Everett
Mayor
City of Everett
2930 Wetmore Avenue
Everett WA 98201

To Sultan
Mayor
City of Sultan
703 - 1st Street
Sultan WA 98294

15. **Relationship of the Parties.** This Agreement describes the entire relationship of the parties with regard to the subject matter herein concerned. Except as maybe explicitly provided otherwise herein, the Parties are independent agencies and shall not be deemed to be partners, joint ventures, principals, or agents of each other for any purpose whatsoever. Each party shall have and maintain sole and complete control over all of its employees, agents, and operations. Except as may otherwise be explicitly provided herein, or in separate agreement, each and all of the obligations, responsibilities, and liabilities of the parties under and in connection with this Agreement are several, and not joint, and no separate legal or administrative entity will be created to fulfill the purposes of this Agreement.
-
16. **Dispute Resolution.** Any dispute under or in connection with this Agreement may, upon the mutual agreement of the parties, be submitted for resolution by mediation or binding arbitration. Disputes not resolved in such manner shall be resolved in Superior Court for Snohomish County, Washington..

17. **Miscellaneous.**

A. **Integration Clause.**

This Agreement, together with Exhibit A , sets forth the entire agreement of the parties and supersedes any and all prior agreements with respect to the subject matter of this Agreement. The rights and obligations of the parties hereunder shall be subject to and governed by this Agreement. The headings used herein are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

B. **No Third Party Beneficiaries**

Except as expressly set forth in this Agreement, none of the provisions of this Agreement shall inure to the benefit of or be enforceable by any third party.

C. **Waivers**

Except as otherwise provided herein or as agreed by the parties, no provision of this Agreement may be waived except as documented or confirmed in writing. Any waiver at any time by a party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection therewith, shall not be deemed a waiver with respect to any subsequent default or matter. Either party may waive any notice or agree to accept a shorter notice than specified in this Agreement. Such waiver of notice or acceptance of shorter notice by a party at any time regarding a notice shall not be considered a waiver with respect to any subsequent notice required under this Agreement.

D. **Invalid Provision**

The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

E. **Amendment**

No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both parties.

F. **Assignment and Subcontracts; Binding Agreement**

Neither party may assign this Agreement, or assign or subcontract all or any part of such party's rights or obligations under this

Agreement, without the prior written consent of the other party, which consent shall not be unreasonably withheld. Without in any way limiting the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

G. Further Assurances

Each party hereto covenants and agrees to do all things necessary or advisable, including but not limited to the preparation, execution, delivery and recording of any instruments or agreements, in order to confirm and better assure the intent and purposes of this Agreement.

H. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

I. Signature Clause

Each of the undersigned signatories represents and warrants that he or she has all necessary and proper authorization to execute and deliver this Agreement on behalf of the party on behalf of which he or she is signing.

J. Governing law; Venue

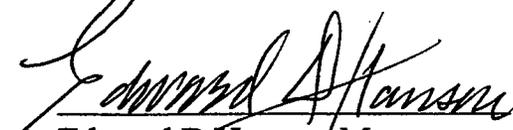
This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The parties (i) agree that any lawsuit or judicial action or proceeding arising out of or relating to this Agreement must be heard in the Superior Court of the State of Washington in and for Snohomish County; (ii) waive any objection to the laying of the venue of any such suit, action or proceeding; and (iii) irrevocably submit to the jurisdiction of any such court in any such suit, action or proceeding between the parties.

K. Rule of Construction

No provision of the Agreement shall be construed in favor of or against either of the parties hereto by reason of the extent to which any such party or its counsel participated in the drafting thereof or by reason of the extent to which such provision or any other provision or provisions of this Agreement is or are inconsistent with any prior draft thereof.

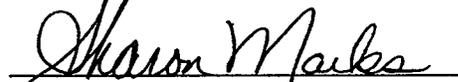
IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their proper Officers on the 30 day of June, 1999.

CITY OF EVERETT



Edward D Hansen, Mayor

ATTEST:



Sharon Marks, City Clerk

APPROVED AS TO FORM:



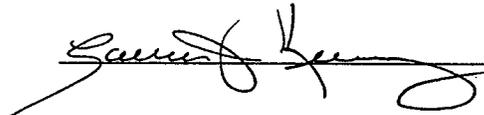
Mark Soine, City Attorney

CITY OF SULTAN



Robert Broughton, Mayor

ATTEST:



APPROVED AS TO FORM:

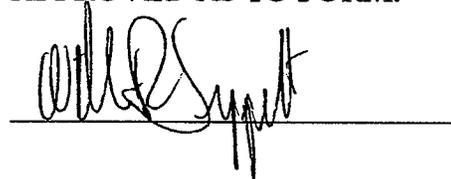


Table 2-6: Combined Water Demand Projections (MGD)

Year	Sultan UGA Maximum Day Demand			PUD Service Area Maximum Day Demand ¹	Combined Maximum Day Demand	
	GMA Population Projection, Water Plan Demand Rates	GMA Population Projection, Proposed Demand Rates	Updated Population Projection, ² Water Plan Demand Rates	Medium Growth Projection	Using Current Sultan Projection	Using Proposed Sultan Projection
1995	1.05	1.05	1.05	—	1.05	1.05
1997	1.06	1.06	1.06	—	1.06	1.06
2000	1.13	0.85	1.17	—	1.13	0.85
2005	1.34	1.00	1.54	—	1.34	1.00
2010	1.59	1.19		—	1.59	1.19
2015	1.88	1.41		0.08	1.96	1.49
2020	2.24	1.68		0.16	2.40	1.84
2025	2.66	1.99		0.25	2.91	2.24

¹Net demand exceeding local groundwater supplies

²Short-term residential holding capacity analysis

