

**2009 AGREEMENT REGARDING LAKE TAPPS
BETWEEN CASCADE WATER ALLIANCE AND THE LAKE TAPPS COMMUNITY**

This Agreement Regarding Lake Tapps (“Agreement”) is made and dated as of this 13th day of May 2009, between the Cascade Water Alliance, a Washington Non-Profit Corporation (“Cascade”), and each and all of the following organizations: Friends of Lake Tapps, dba the Lake Tapps Community Council, a Washington non-profit corporation; the Church Lake Maintenance Co., a Washington non-profit corporation; Driftwood Point Association, a Washington non-profit corporation; Inlet Island Maintenance Company, a Washington non-profit corporation; Snag Island Maintenance Association, a Washington non-profit corporation; Tacoma Point Improvement Club, a Washington non-profit corporation; Tapps Island Association, Washington non-profit corporation; and West Tapps Maintenance Co., a Washington non-profit corporation (each individually a “Party” and collectively the “Lake Tapps Community”). Cascade and the Lake Tapps Community together are sometimes collectively referred to as the “Parties”.

RECITALS

A. WHEREAS, Puget Sound Energy, Inc. (“PSE”) owns certain assets comprising the White River Project (“Project”); and

B. WHEREAS, until January 15, 2004, PSE operated the Project subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”) but ceased hydropower operations at that time; and

C. WHEREAS, construction of the Project formed Lake Tapps and PSE diverted water from the White River into Lake Tapps Reservoir (hereinafter “Lake Tapps”) pursuant to its pre-code water right claim (“Claim”); and

D. WHEREAS, the Church Lake Maintenance Co., Driftwood Point Association, Inlet Island Maintenance Company, Snag Island Maintenance Association, Tacoma Point Improvement Club, Tapps Island Association, and West Tapps Maintenance Co. have authorized the Lake Tapps Community Council to implement the terms and conditions of this Agreement on their behalf; and

E. WHEREAS, PSE and Cascade have executed an Asset Purchase Agreement (dated April 23, 2008) under which PSE will transfer the Project to Cascade. The Project Assets are more particularly described as “Transferred Assets” in Article 2 of the Asset Purchase Agreement. The Asset Purchase Agreement is available at the offices of Cascade Water Alliance; and

F. WHEREAS, in order to provide for the use of Lake Tapps as a resource of water for municipal supply purposes, PSE submitted four applications to the Washington State Department of Ecology (“Ecology”), including one change of use application for its Claim (CS2-160822CL) and three new applications (S2-29920, R2-29935, and S2-29934) (PSE’s water right applications in their current form or as may be modified and as approved by Ecology are collectively referred to as the “Water Rights”); and

G. WHEREAS, Cascade submitted correspondence to Ecology on August 12, 2008 in support of PSE's application with requested conditions of issuance, including the condition to meet specified minimum flows, and the Parties recognize that Ecology may issue Water Rights that reflect those minimum flows; and

H. WHEREAS, the Parties agree that the Lake Tapps Community must have an appropriate and equitable role in and responsibility for the settlement of the issues surrounding the Project, and accordingly that all stakeholders including the Lake Tapps Community who receive a direct or indirect benefit from the Project must assume responsibility for benefits received; and

I. WHEREAS, to receive the support of the collective Lake Tapps Community, the resolution of such issues must assure the long-term viability of Lake Tapps; and

J. WHEREAS, Cascade must manage Lake Tapps for water supply purposes; and

K. WHEREAS, Cascade recognizes that the Lake Tapps Community desires a lake-level fluctuation plan that assures the recreational and ecological viability of Lake Tapps; and

L. WHEREAS, the Lake Tapps Community and PSE entered into the Agreement Regarding Reservoir Management dated March 31, 2004 (the "2004 Agreement"), which included provisions designed to keep Lake Tapps at "Normal Full Pool" (as defined below) for extended periods of time, taking into account recreation, flood control, dock repair and maintenance, water quality (including but not limited to Eurasian Watermilfoil Control, "milfoil control"), maintenance and repair of the penstock intake, maintenance and repair of dikes and withdrawal for water supply; and

M. WHEREAS, on April 10, 2009, the Parties entered into a Memorandum of Agreement that anticipated the development of this Agreement based on the 2004 Agreement and the Parties intend for this Agreement upon its Effective Date, as defined in Section 1.6 below, to supersede both the Memorandum of Agreement and the 2004 Agreement;

NOW, THEREFORE, the Parties agree as follows:

1. Implementation of Agreement: This Agreement shall be implemented when all of the following conditions have been satisfied:

1.1 Cascade. Cascade shall implement this Agreement when all of the following conditions have been satisfied:

1.1.1 Cascade has acquired the Project Assets from PSE and notified the Lake Tapps Community that it has acquired these Assets; and

1.1.2 Cascade, after reviewing the Final Reports of Examination ("Ecology decision") on the Water Rights and in consultation with the Lake Tapps Community, but no later than 15 days after receiving the Ecology decision, has notified the Lake

Tapps Community that it is prepared to accept the Ecology decision on the Water Rights. Cascade's acceptance of the Water Rights shall commit it to this Agreement unless the Lake Tapps Community exercises its option to withdraw under 1.3; and

1.1.3 Cascade has not received notice from the Lake Tapps Community of its intent to withdraw pursuant to Section 1.3 below.

1.2 Lake Tapps Community. The Lake Tapps Community shall implement this Agreement when all of the following conditions have been satisfied:

1.2.1 The Lake Tapps Community has received notice from Cascade that it has acquired the Project Assets from PSE; and

1.2.2 The Lake Tapps Community, in consultation with Cascade, has reviewed the Ecology decision on the Water Rights, and has received notice from Cascade that it is prepared to implement the Agreement; and

1.2.3 The Lake Tapps Community has determined that it will not exercise the withdrawal option of Section 1.3 below and will support Cascade in any water rights challenges pursuant to Section 7 of this Agreement.

1.3 Lake Tapps Community Withdrawal Option. The Lake Tapps Community may withdraw from this Agreement by providing Cascade with written notice of its decision to withdraw, but not later than 5 days after receipt of notice from Cascade that Cascade is prepared to implement this Agreement. If the Lake Tapps Community withdraws from this Agreement, then this Agreement shall be of no further force or effect and the 2004 Agreement will remain in effect.

1.4 Effect of Cascade Decision Not to Implement. If Cascade, after reviewing the Ecology decision on the Water Rights, but no later than 15 days after receiving the Ecology decision, notifies the Lake Tapps Community that it is not prepared to implement the Agreement, this Agreement shall be of no further force or effect and the 2004 Agreement will remain in effect.

1.5 Effect of 2004 Agreement and Memorandum of Agreement:

1.5.1 The parties recognize that unless and until satisfaction of all the conditions by both parties under Sections 1.1 and 1.2, the 2004 Agreement remains in effect.

1.5.2 Upon satisfaction by both parties of all conditions in both Sections 1.1 and 1.2, the 2004 Agreement and the Memorandum of Agreement are superseded.

1.6 The date upon which all conditions in both Sections 1.1 and 1.2 are satisfied shall be referred to as the **"Effective Date."**

1.7 Issuance of Water Right In Advance of Project Asset Acquisition: In the event that the conditions of Sections 1.1.2, 1.1.3, 1.2.2, and 1.2.3 are satisfied prior to Cascade

acquiring the Project Assets from PSE, the parties shall work together in connection with Ecology's decision.

2. Term. This Agreement is final upon signature and subject to the Implementation provisions of Section 1. It shall remain in effect unless terminated by mutual agreement of the Parties or otherwise under the Termination provisions provided by Section 11 of this Agreement.

3. Recreational Lake Levels.

3.1 Beginning on the Effective Date, Cascade will maintain a “**Normal Full Pool**” (defined as a water level between 542.2 feet and 543.7 feet¹) during the “**Annual Recreational Period.**” The “Annual Recreational Period” constitutes times during which the Normal Full Pool is required as described in the following sections. Within the described time periods, operational variances may be required due to forecasts or available precipitation, the terms and conditions of the Water Rights, any necessary milfoil control, or the terms and conditions of applicable law.

3.1.1 Initial Phase—April 15 through September 30: Cascade will maintain Normal Full Pool from April 15 through September 30 of each year until the later of (i) thirty (30) years from the Effective Date or (ii) Cascade's commencement of the use of Lake Tapps for municipal water supply.

3.1.2 Secondary Phase—April 15 through September 15: Following completion of the Initial Phase described in Section 3.1.1, Cascade will maintain Normal Full Pool from April 15 to September 15 of each year.

3.1.3 Secondary Phase—September 16 through September 30: Following completion of the Initial Phase described in Section 3.1.1, Cascade will maintain Normal Full Pool from September 16 through September 30 of each year more than ninety percent (90%) of the time, measured by the number of days (i.e., no more than fifteen (15) days in a rolling ten year period of time) below the lower parameter of the Normal Full Pool, starting with the first calendar year in which lake levels fall below the lower parameter of Normal Full Pool.

3.1.4 October: Cascade will make reasonable efforts to maintain Normal Full Pool through October 31 in all years.

3.2 Cascade's obligations under this Agreement shall be implemented in a manner that is consistent with the following priority of interests for use of White River flows: (i) provision of instream flows; (ii) provision of recreational lake levels; and (iii) provision of municipal water supply.

3.3 Changes in the definitions of either “Normal Full Pool” or “Annual Recreation Period”

¹ The U.S. Geological Survey in Washington State uses the National Geodetic Vertical Datum (NGVD) of 1929 as the datum for gages to determine the elevation of gage-height data. These figures are expressed in NGVD. These elevations are equivalent to water levels of 541.5 msl and 543 msl as measured at the USGS Gage 12101000 as contained in the 2004 Agreement.

may be proposed by either Cascade or the Lake Tapps Community; however, any change may only be effective upon mutual agreement of the Parties.

3.4 Lake Management Team: The Parties will establish a Lake Management Team ("Team") to help Cascade plan the yearly operations of Lake Tapps. Membership of the Team will include Cascade, the Lake Tapps Community, and other appropriate persons or entities. Local governments may be invited to join the Team.

3.4.1 Annual Meeting: Prior to February 1 of each year and additionally on an as needed basis, the Team will meet to address the following topics and other topics as they may arise:

- (a) Refill/Drawdown - Cascade will provide a report containing information about expected water forecast for the upcoming year, a projection of the schedule for spring refill and fall drawdown, and a discussion of how Cascade will meet the required recreational lake levels. The Team will review and provide comments on this report;
- (b) Any expected maintenance or drawdowns of the lake levels, and potential timing thereof;
- (c) Past year's lake levels and management decisions;
- (d) Data collected from the previous year under Section 6;
- (e) Any issues relating to boat management, milfoil control, water quality, shoreline development, or other matters of common interest;
- (f) Communication and outreach within the Team. This shall include verification or designation of the primary contact for the Lake Tapps Community and Cascade, two alternate contacts for each Party, and notification of designated legal representatives. This shall also include discussion of the best methods for timely and efficient communication, including but not limited to telephone, email, fax, US mail, or other;
- (g) What meetings in addition to the Annual Meeting should be scheduled by the Team in the current year; and
- (h) The Lake Tapps Community will provide an Annual Report on the Community Communications Plan outlined in 4.1 below.

3.4.2 Comprehensive Review: The Team shall develop a review process by which either Cascade or the Lake Tapps Community may propose modifications to this Agreement, including without limitation its provisions for the Annual Recreational Period or the parameters of Normal Full Pool. The Parties must conduct this review process no later than the year 2030. Either Party may propose meeting and conferring at any time if information raises concerns about long-term changes in the hydrograph. A change to the range of elevation constituting Normal Full Pool may require physical changes to the Lake to increase the storage volume and appropriate implementation measures (including funding) for such activities. Any modification will require mutual agreement by both Parties.

3.4.3 The Team may take on other activities as are agreed to by the Parties.

3.4.4 Cascade will provide the Lake Tapps Community with copies of all documents relating to the Water Rights that Cascade files with Ecology at the time such documents are filed.

4. In-Kind Services Provided by the Lake Tapps Community: On their own accord, or in combination with local governments, including appropriate law enforcement agencies, the Lake Tapps Community will assist Cascade through the following efforts:

4.1 Community Communication. Within 90 days of the Effective Date, in consultation with Cascade, the Lake Tapps Community will implement a Communications Plan for communicating with its members regarding issues related to operation of Lake Tapps addressed by this Agreement. The goal of this Communication Plan is to ensure timely, cost effective communication.

4.1.1 Required Elements: These elements must be included in the plan.

- (a) Crisis communication plan
- (b) Routine updates to a website

4.1.2 Potential Elements:

- (a) Newsletter to members
- (b) Active phone tree
- (c) Call in number
- (d) Community-wide meetings as needed
- (e) Mechanism for feedback to Cascade
- (f) Other mechanisms as appropriate

The Lake Tapps Community shall provide a report on the implementation of the Communications Plan at the Annual Meeting described in Section 3.4.1.

4.2 Other Voluntary Lake Enhancements. Cascade and the Lake Tapps Community may, at any time, and by mutual agreement, conduct additional voluntary lake enhancement projects that benefit Lake Tapps.

5. Responsibility for Milfoil: Cascade shall control milfoil to the extent required by law or to achieve Cascade's own operational goals, and may do so in whatever manner Cascade deems most appropriate, including extended fall/winter drawdowns if necessary. Any such actions by Cascade will include consultation with the Team.

6. Gauging and Monitoring: Cascade will establish and fund an ongoing stream flow, lake level and water quality data collection program in consultation with the Team. Data collected will be made available to the Team and will be used to guide the annual operation of Lake Tapps and to inform the comprehensive review process. Data collected through this effort will be reviewed as needed, but at least once every year at the Meeting referenced in Section 3.4.1.

7. Lake Tapps Community Support of Water Rights: The Lake Tapps Community will support Cascade in connection with any challenge to Ecology's decisions on the Water Rights. This support may include but is not limited to participation at public hearings, submission of public comments, and, depending upon the costs of and the availability of funding for such

activities, participation in administrative or judicial proceedings as an intervenor or a friend of the court.

8. Transferability: The rights and obligations of the Parties arising under this Agreement shall inure to the benefit of and shall be binding upon such Parties' respective successors and assigns. Any Party may transfer or assign its rights and obligations under this Agreement, provided, however, in the event of any such transfer or assignment, such assignee or transferee shall, as evidenced in a written instrument signed by such assignee or transferee, assume and be bound by all of the terms and conditions of this Agreement and the Party having so transferred or assigned its rights and obligations under this Agreement is thereafter fully released and discharged from any further obligations arising under this Agreement. In the event of any transfer or assignment by Cascade of substantially all of the Project Assets, all the terms and conditions of this Agreement shall be binding upon any such transferee or assignee, except as provided in Section 11. If Cascade determines that it does not wish to retain ownership of any portion of the Project, it will follow the procedures set forth in Section 11 below.

9. Enforceability: The Parties intend this Agreement to be certain and enforceable, as well as a mechanism for ongoing collaboration as to any issues that may arise in connection with implementation of the Agreement. Except as necessary for compliance with and enforcement of this Agreement, the parties do not intend this Agreement to modify their respective property rights.

10. Compliance with All Applicable Law; Modification: All the foregoing shall be performed in compliance with all applicable law (including, but not limited to, the Safe Drinking Water Act, the Clean Water Act and the Endangered Species Act) and all necessary consents or approvals of government bodies. In the event that compliance with applicable law has a material adverse effect upon the viability of the Water Rights, or in the event that compliance with applicable law makes it impossible for a Party to comply with its obligations under this Agreement, the Parties shall negotiate in good faith to modify the terms and conditions of this Agreement in order to achieve its purposes to the maximum extent possible.

11. Right of First Offer, Right of Match or Right of Last Offer, and Termination.

11.1 Intent. The Parties recognize that circumstances may arise whereby it would not be possible or desirable for Cascade to operate the Project or maintain Lake Tapps as a reservoir or may not be possible for Cascade to transfer the Project Assets to any other party for such purposes. The Parties desire to establish a procedure whereby Cascade in such an event may terminate this Agreement after providing the Lake Tapps Community with the right to acquire the Project Assets (or such portions thereof as Cascade may then own) on terms and conditions that are fair and reasonable.

11.2 Section Not Applicable to Certain Events. Section 11 shall not apply to, nor be triggered by, any action taken by Cascade's governing body that is intended to lead to a potential transfer of all or a part of the Project Assets under the following circumstances:

- 11.2.1** Transfer to a public entity who will be bound by the terms and conditions of this Agreement;
- 11.2.2** A transfer of a portion of the Project Assets, provided that the assets being transferred are not essential for Cascade to comply with its obligations under this Agreement and Cascade will continue to be bound by the terms and conditions of this Agreement; or
- 11.2.3** A transfer that results from a corporate restructuring of Cascade, provided that the successor entity will be bound by the terms and conditions of this Agreement.
- 11.3 Application.** Section 11.4 to 11.7 shall apply to any action taken by Cascade's governing body intended to transfer all or part of the Project Assets not governed by Section 11.2. In the event that Cascade transfers the Project Assets to a non-public entity for municipal water supply purposes, then the purchaser will be bound by the terms of this Agreement. In the event that Cascade decides to sell the Project Assets for any other purpose, such transfer may result in the termination of this Agreement.
- 11.4 Notice.** In accordance with Section 23 (Notice) of this Agreement, Cascade shall notify the Lake Tapps Community, within a commercially reasonable time period, when any action is taken by its governing body that is intended to lead to a potential sale or transfer of all or a material part of the Project Assets other than those actions described in Section 11.2 above. Cascade shall include with such notice a description of the Project Assets to be conveyed (the "**Project Assets to be Conveyed**"), together with a copy of (1) any minutes, resolutions, or other documents reflecting the governing body's action; and (2) current and recent financial statements and system plans insofar as they relate to Lake Tapps, subject to any person to have access to the above materials first entering into a confidentiality agreement with Cascade with respect to such information being shared (the "**Confidentiality Agreement**").
- 11.5 Right of First Offer.** Within one hundred and fifty (150) days of the date of such notice, the Lake Tapps Community may submit to Cascade a bona fide offer to purchase the Project Assets to be Conveyed (the "**First Offer**"), together with supporting documentation for the purchase price for the Project Assets to be Conveyed. The First Offer shall include additional material terms including, without limitation, any contingencies to closing, closing timeframe, or additional requirements of Cascade.
- 11.6 Action on First Offer.** Within sixty (60) days of Cascade's receipt of the First Offer under Section 11.5, the following shall occur:
- 11.6.1 If First Offer Accepted.** If the First Offer is accepted by Cascade, the parties shall proceed with negotiating a purchase and sale agreement pursuant to the terms of the First Offer.
- 11.6.3 If Negotiation Requested.** In the event that Cascade requests that the Parties enter into further negotiations on the First Offer, the Parties shall have thirty (30)

additional days to agree upon the material terms of the purchase and sale agreement. Failure of the Parties to agree upon the terms and conditions of the purchase and sale agreement prior to the expiration of said thirty (30) additional day period shall be deemed as a rejection by Cascade of the First Offer.

11.6.4 No First Offer or First Offer Rejected. If the Lake Tapps Community does not make a First Offer within the time period specified, or if the First Offer is rejected by Cascade or deemed rejected, Cascade may thereafter market the Project Assets to be Conveyed to a third party, subject to the terms of Section 11.7 and provided that Cascade must utilize a publicly advertised process. Failure by Cascade to respond within sixty (60) days from Cascade's receipt of the First Offer shall be deemed as a rejection by Cascade of the First Offer.

11.7 Application, Opportunity to Match, Right of Last Offer.

11.7.1 Opportunity to Match. This Section shall apply when Cascade markets the "Project Assets to be Conveyed" to a third party under Section 11.6.4. If Cascade finds a suitable third party purchaser of the Project Assets to be Conveyed on terms and conditions that are acceptable to Cascade, then Cascade shall promptly notify the Lake Tapps Community and provide the Lake Tapps Community with the opportunity to offer to match the terms of the third party offer within thirty (30) days of the date of such notice ("**Match**").

11.7.1.1 If the Lake Tapps Community offers a Match, the Parties shall proceed with negotiating the purchase and sale agreement.

11.7.1.2 If the Lake Tapps Community does not offer a Match within the time period specified, then Cascade may dispose of the Project Assets by consummating the transfer that has not been matched.

11.7.1.3 If for any reason said third-party transaction is not consummated, then Cascade may negotiate with another third party purchaser, and the Lake Tapps Community will have an additional opportunity to match, unless the Lake Tapps Community waives further opportunity.

11.7.2 Last Offer. This Section applies when Cascade markets the Project Assets to be Conveyed to a third party under Section 11.6.4 and fails to find a suitable third party purchaser on terms and conditions that are acceptable to Cascade in its sole discretion after any of the following events: (1) Lake Tapps Community has not provided a First Offer under Section 11.5; (2) Cascade has rejected the Lake Tapps Community's First Offer under Section 11.6.3; or (3) Cascade is unable to consummate a third party transaction following the Lake Tapps Community's failure to Match under Section 11.7.1. In this case, Cascade shall promptly notify the Lake Tapps Community. Together with such notice, Cascade shall provide the Lake Tapps Community with any available information that Cascade has regarding rejected bids, subject to any person to have access to the above materials first entering into a Confidentiality Agreement. Within ninety (90) days of the date of such notice, the Lake Tapps Community may submit to Cascade a

bona fide offer to purchase the Project Assets to be Conveyed, which shall include the purchase price and other material terms as described in Section 11.6 (the “**Last Offer**”). Cascade shall have ninety (90) days to evaluate the Last Offer.

11.7.2.1 If Cascade accepts the Last Offer, then the Parties shall proceed with negotiating the terms and conditions of the purchase and sale agreement.

11.7.2.2 If the Lake Tapps Community fails to make a Last Offer within the time period specified or Cascade rejects the Last Offer, then Cascade may dispose of the Project Assets to be Conveyed in any manner it deems appropriate in its sole discretion.

11.8 Community Affiliation with Public Entity; Good Faith Negotiations. In connection with any offer made by the Lake Tapps Community to acquire the Project Assets to be Conveyed in accordance with Sections 11.1 through 11.7, the Lake Tapps Community may affiliate with a public entity provided that such public entity is: (i) legally able and authorized to acquire the Project Assets to be Conveyed, and (ii) able to promptly and reliably finance the acquisition of the Project Assets to be Conveyed. Further, in connection with any such effort by the Lake Tapps Community to acquire the Project Assets to be Conveyed, Cascade shall, at the request of the Lake Tapps Community, cooperate with the Lake Tapps Community in undertaking due diligence activities by providing the Lake Tapps Community with reasonable access to relevant documents and other information readily available to Cascade, subject to the Confidentiality Agreement. Cascade shall also, if so requested by the Lake Tapps Community, engage in good faith negotiations over such matters as the Parties may then determine to be relevant to the fairness and reasonableness of any acquisition of the Project Assets to be Conveyed contemplated by the Parties. By way of example, and not by way of limitation, such matters may include the determination of the fair market value of the Project Assets to be Conveyed, the allocation of liabilities (if any) associated with the Project Assets to be Conveyed, and the ability of the Lake Tapps Community (and/or its affiliate public entity) to finance and close the transaction in a timely manner.

11.9 Right of Termination after Right of First Offer and Right to Match or Last Offer.

11.9.1 Cascade’s Right of Termination. Cascade may, at any time from and after the effective date of this Agreement, terminate this Agreement if all of the following are met:

11.9.1.1 Cascade shall have determined, in its sole discretion, that it is unable to operate Lake Tapps; and

11.9.1.2 Cascade shall have notified the Lake Tapps Community of its determination and followed the procedures of Right of First Offer, Match, and Right of Last Offer in Section 11.5 through 11.8 above such that either Section 11.7.1.2 or 11.7.2.2 is triggered; and

11.9.1.3 Cascade shall have determined, in its sole discretion, that it is unable to sell, lease or otherwise dispose of substantially all of the Project Assets on satisfactory terms and conditions as described in Section 11.2.1 above or otherwise for municipal water supply purposes. Effective from and after five (5) days of the date Cascade provides notice to the Lake Tapps Community under 11.9.1.2, this Agreement shall be null and void and of no further force or effect as between any Party and no Party shall thereafter be entitled to assert any right or interest arising under this Agreement except as specified in Section 20 (Survival of Claims).

11.9.2 The Lake Tapps Community's Right of Termination. At any time after Cascade provides notice to the Lake Tapps Community under Section 11.4 above, the Lake Tapps Community may terminate this Agreement upon thirty (30) days notice to Cascade. Effective from and after the date of such notice, this Agreement shall be null and void and of no further force or effect as between any Party, and no Party shall thereafter be entitled to assert any right or interests arising under the Agreement except as specified in Section 20 (Survival of Claims).

12. Notice of Breach; Opportunity to Cure:

12.1 Notice of breach. In the event that any Party believes another Party has breached its obligations under this Agreement, the aggrieved Party shall provide the other Party with notice of said breach and an opportunity to cure the breach within five (5) days.

12.2 If the aggrieved Party believes that such breach has not been timely cured, the aggrieved Party may pursue its remedies as follows:

12.2.1 Breach Involving Imminent Threats: In the event any Party believes another Party has breached its obligations under this Agreement, in a manner that either (a) poses an imminent threat to Normal Full Pool during the Annual Recreational Period or (b) involves the obligation to support the Water Rights under this Agreement, the aggrieved Party may pursue remedies either under Section 13 or 14.

12.2.2 Other Breaches. For breaches other than those specified in Section 12.2.1, the aggrieved Party must pursue remedies under Section 13 and thereafter, may pursue remedies under Section 14.

12.3 In the event that the Lake Tapps Community fails to perform its obligations under this Agreement after notice and an opportunity to cure, Cascade shall have the right (but not the obligation) to undertake the performance of any and all such obligations and if Cascade undertakes performance due to a material breach by the Lake Tapps Community, Cascade may suspend performance of its obligations under this Agreement after completion of the informal dispute resolution procedure set forth in Section 13 of this Agreement.

13. Dispute Resolution:

In the event that any dispute arises between Cascade and the Lake Tapps Community, the aggrieved Party shall give a notice of the dispute to the other Party as provided in Section 12. Cascade and the Lake Tapps Community shall, within five (5) days of such notice, each nominate a senior officer of its management to meet at a mutually agreed location, to attempt to resolve such dispute. The parties shall each designate a representative(s) to confer on the best and most cost effective way to resolve the dispute. By mutual agreement, they may choose direct negotiations, mediation or arbitration. If there is no agreement between the parties on how to proceed within thirty (30) days, either Party may pursue legal action subject to the limitations set forth in Section 14 below.

14. Specific Performance; Other Remedies:

14.1 Each Party acknowledges that a monetary remedy for a material breach of this Agreement may be inadequate and may be impracticable and extremely difficult to prove, and that any such breach could cause the other Parties irreparable harm. In the event of such a breach, the aggrieved Party shall be entitled to temporary and permanent injunctive relief, including temporary restraining orders, specific performance, preliminary injunctions and permanent injunctions, without the necessity of posting a bond or making any undertaking in connection therewith and without the necessity of proving actual damages. Each Party hereby waives any such requirement of a bond or undertaking, and acknowledges that absent such a waiver, the court might require a bond or undertaking. Except as otherwise provided by Sections 14.2 to 14.4, no remedy conferred by this Agreement is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity.

14.2 A Party shall not be liable to another Party for any damages other than direct damages in connection with any breach, default or other noncompliance with the terms and conditions of this Agreement. Without limiting the generality of the foregoing, each and all of the Parties hereby agree that no Party shall be liable for any indirect, incidental, consequential, special, exemplary or punitive damages (including, but not limited to, loss of profits, revenues or property values) arising out of such Party's performance or nonperformance of this Agreement, or such Party's breach of or default under this Agreement. Except as otherwise provided by Section 14.3 below, Cascade's liability in connection with any breach, default or other noncompliance with the terms and conditions of this Agreement shall not exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00) per occurrence, and Cascade's aggregate and cumulative liability under this Agreement (for any one or more events of breach, default or noncompliance) is limited and shall not exceed One Million and 00/100 Dollars (\$1,000,000.00).

14.3 In the event of a material breach of Section 3.1 by Cascade in connection with the beneficial use of the Water Rights, the foregoing limitations of liability shall not apply if and to the extent such breach is attributable to the gross negligence or wanton

and reckless misconduct of Cascade.

14.4 The aggregate liability of the Parties comprising the Lake Tapps Community in connection with any breach, default or other noncompliance with the terms and conditions of this Agreement by one or more such Parties shall not exceed Fifty Thousand and 00/100 Dollars (\$50,000.00) per occurrence, and the cumulative aggregate liability of such Parties under this Agreement (for any one or more events of breach, default or noncompliance) is limited and shall not exceed Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00). The Parties comprising the Lake Tapps Community shall be jointly and severally liable for any such breach, default or other noncompliance; provided, however, that each such Party shall retain any and all rights of contribution it may have against any other such Party.

15. Non-Waiver: No delay or failure by a Party to exercise any of its rights, powers or remedies under this Agreement following any breach by another Party shall be construed to be a waiver of any such breach, or any acquiescence therein, or of or in any similar breach thereafter occurring, nor shall any waiver of any single breach be deemed a waiver of any other breach theretofore or thereafter occurring.

16. Severability: In the event that any of the terms of this Agreement are in conflict with any rule of law or statutory provision or otherwise unenforceable, such terms will be deemed stricken from this Agreement, but such invalidity or unenforceability will not invalidate any of the other terms of this Agreement, and this Agreement will continue in force, unless the invalidity or unenforceability of any such provisions hereof does substantial violence to, or where the invalid or unenforceable provisions comprise an integral part of, or are otherwise inseparable from, the remainder of this Agreement.

17. No Third Party Beneficiary: This Agreement is for the sole and exclusive benefit of the Parties and is not intended to and shall not confer any rights or benefits on any third party not a signatory hereto.

18. Integrated Agreement; Relationship to Other Documents: Except as otherwise provided by this Agreement with respect to maintenance of Normal Full Pool during the Annual Recreational Period (as defined and limited by this Agreement), this Agreement shall not alter, confirm or affect the rights, benefits, privileges, interests and obligations of the Parties arising under that certain "Deed" dated June 22nd, 1954, wherein Puget Sound Power & Light Company is "Grantor" and Lake Tapps Development Co., Inc. is "Grantee," recorded with the Pierce County Auditor in Vol. 1063, pages 485 through 495, records of Pierce County Washington. With respect to maintenance of Normal Full Pool during the Annual Recreational Period (as defined and limited by this Agreement), the Parties intend this Agreement to be their complete agreement and that this Agreement supersedes all other negotiations or agreements, whether written or oral, with respect to the Annual Recreational Period (as defined and limited by this Agreement). In all other respects, the Parties intend for this Agreement to be interpreted and construed to be consistent with and complementary to their existing property rights. The Parties expressly recognize that certain matters that are the subject of this Agreement are also, or may also be, the subject of the Water Rights, and that under certain circumstances the provisions of the Water Rights may take precedence over this Agreement by operation of law.

19. Amendment: This Agreement only may be amended or supplemented in a writing signed by the Parties.

20. Survival of Claims: Any claim that a Party has asserted by raising it under the Dispute Resolution provisions of this Agreement (Sections 12-14) prior to the termination of this Agreement and that may reasonably be interpreted or construed to survive the termination of this Agreement shall survive the termination of this Agreement.

21. Signature in Counterpart: This Agreement may be executed in any number of counterparts and all of those counterparts taken together shall constitute one and the same instrument.

22. Lake Tapps Community Contact:

22.1 No later than fourteen (14) days after the date of execution of this Agreement, the Lake Tapps Community will designate in writing an individual ("Lake Tapps Contact Person"), and two alternates, to serve as a single point of contact for day-to-day implementation of this Agreement and notices, except a notice of breach or default. The Lake Tapps Contact Person will be responsible for all communications between Cascade and the Lake Tapps Community. The Lake Tapps Community shall notify Cascade in writing of any change in the Lake Tapps Contact Person. As noted in Section 3.4.1 above, this designation will be reviewed at least once a year at the Annual Meeting.

22.2 In the event that the Friends of Lake Tapps, dba the Lake Tapps Community Council, intends to dissolve, such dissolution shall not affect the viability of this Agreement so long as (1) Cascade is provided prior notice of said intended dissolution and (2) the remaining Parties comprising the Lake Tapps Community provide Cascade with adequate assurances of their ability to fully and satisfactorily perform all obligations of the Lake Tapps Community arising under this Agreement. If Cascade is not adequately assured, then prior to termination of this Agreement, the Parties will engage in dispute resolution as described in Section 13 above, provided that no further legal action must be pursued prior to termination.

23. Notices.

23.1 All notices, except a notice of termination, breach or default, to be given between Cascade and the Lake Tapps Contact Person, hereunder shall be given in writing (i) by personal delivery, (ii) by recognized overnight air courier service, (iii) by United States postal service, postage prepaid, registered or certified mail, return receipt requested, (iv) by facsimile transmission, using facsimile equipment providing written confirmation of receipt at the receiving facsimile number, or (v) electronic mail.

23.2 A notice of termination, breach or default shall be given by certified or registered mail, return receipt requested, with a courtesy copy by ordinary mail and electronic mail being sent to each Party at the address set out in Exhibit A or such other address as each Party may designate by notice to the other Parties.

24. Further Assurances: Each Party covenants and agrees to do all things necessary or advisable in order to confirm and better assure the intent and purposes of this Agreement.

25. Authority: Each party, by executing this Agreement warrants that it has duly approved this Agreement and has to power to enter into this Agreement and to enforce its terms.

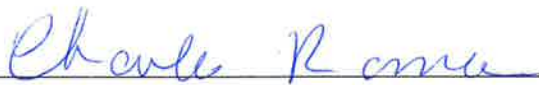
26. Good Faith Commitment to Support Agreement: The Parties covenant and agree to act in good faith and to support the terms and validity of this Agreement. Cascade shall, during the term of this Agreement, support and defend the validity of the Agreement and shall not seek, either directly or indirectly, to invalidate the Agreement or undermine or modify its terms and conditions through administrative, legislative, judicial or other means.

27. Future Use for Hydropower: Nothing in this Agreement shall preclude the development of hydropower as long as such development does not adversely affect the ability of the Parties to perform under this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.



Chuck Clarke, CEO
Cascade Water Alliance



Charles Romeo, President
Lake Tapps Community Council




Leon Stucki, Snag Island Maintenance Association;
VP & Director, Lake Tapps Community Council



James Diebag, GM Tapps Island Association;
Director, Lake Tapps Community Council




John Farrell, Church Lake Maintenance Co;
Director, Lake Tapps Community Council



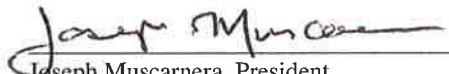
Vickie Karuzas, Inlet Island Maintenance Co;
Director, Lake Tapps Community Council



Cliff McIntosh, President
West Tapps Maintenance Co



Michael P. Miller
Tacoma Point Improvement Club



Joseph Muscarnera, President
Driftwood Point Association



Ralph Mason, Director At Large
Lake Tapps Community Council



Kirk Shuler, Director At Large
Lake Tapps Community Council



Ron Wilderman, Director
Lake Tapps Community Council



Don Fisher, Treasurer
Lake Tapps Community Council



Michelle Whittmier, Director
Lake Tapps Community Council

EXHIBIT A—CONTACTS

Lake Tapps Community Contacts

Primary Contact:

Lake Tapps Community Council
Community/Lake Management Team Coordinator
c/o Tapps Island Club House
20818 Island Park Way E
Lake Tapps, WA 98391
(253) 862-6616

Initial appointee:

Dr. Leon G. Stucki, LTCC VP
21406 Snag Island Drive
Lake Tapps, WA 98391
LStucki@Future-Tech.com
(253) 939-7552

Alternate #1

Lake Tapps Community Council
Lake Management Team Member
c/o Tapps Island Club House
20818 Island Park Way E
Lake Tapps, WA 98391
(253) 862-6616

Initial appointee:

Ralph Mason
2425 199th Ave. Ct. E.
Lake Tapps, WA 98391
RalphMason55@msn.com
(253) 862-7418

Alternate #2

Lake Tapps Community Council
Lake Management Team Member & Tapps Island
General Manager
c/o Tapps Island Club House
20818 Island Park Way E
Lake Tapps, WA 98391
(253) 862-6616

Initial appointee:

James Diebag, GM Tapps Island
jdiebag@comcast.net
(253) 862-6616

Attorney

Liz Thomas
K&L Gates LLP
925 4th Avenue, Suite 2900
Seattle, WA 98104-1158
Direct Dial (206) 370-7631
Cell (206) 228-5506
Fax (206) 370-6190
Email liz.thomas@klgates.com

Cascade Water Alliance Contacts

Primary Contact:

Cascade Water Alliance
Chief Executive Officer
11400 SE 8th Street, Suite 440
Bellevue, WA 98004
Phone (425) 453-0930
Fax (425) 453-0953

Alternate #1:

Cascade Water Alliance
Director of Planning
11400 SE 8th Street, Suite 440
Bellevue, WA 98004
Phone (425) 453-0930
Fax (425) 453-0953

Alternate #2

Cascade Water Alliance
Intergovernmental and Communications Director
11400 SE 8th Street, Suite 440
Bellevue, WA 98004
Phone (425) 453-0930
Fax (425) 453-0953

Attorney

Terese Neu Richmond
Gordon Derr LLP
2025 First Avenue, Suite 500
Seattle WA 98121
Phone 206-382-9540
Fax 206-626-0675
trichmond@gordonderr.com

A courtesy copy of any notice of breach, default, or intent to transfer shall be given to:

Pierce County Executive
County-City Building
930 Tacoma Avenue South, Room 737
Tacoma, WA 98402
Phone: 253-798-7477
pcexecutive@co.pierce.wa.us

In addition, any notice of breach under Section 23.2 shall be given to:

1. Lake Tapps Community Council President
Charles Romeo, LTCC President
18402 Driftwood Dr., Lake Tapps, WA 98391
charles_romeo48@msn.com
(253) 862-6565
2. Lake Tapps Community Council (regular mail only)
P. O. Box 2093
Sumner, WA 98390
3. Lake Tapps Community Council
c/o Tapps Island Club House
20818 Island Park Way E
Lake Tapps, WA 98391
(253) 862-6616
4. Attorney for Lake Tapps Community Council
Liz Thomas
K&L Gates LLP
925 4th Avenue, Suite 2900
Seattle, WA 98104-1158
Direct Dial (206) 370-7631
Cell (206) 228-5506
Fax (206) 370-6190
Email liz.thomas@klgates.com