Appendix 2-2

Intergovernmental Agreement with City of Lacey.

Intergovernmental Agreement for Sale of Water (2007 and 2010 Amendment No. 1)
CITY OF OLYMPIA  
P.O. BOX 1967  
OLYMPIA, WA 98507-1967

**Document Title(s) (or transactions contained therein):**  
Intergovernmental Agreement for Sale of Water between City of Olympia and City of Lacey dated May 1st, 2007 (Effective July 1, 2007).  
(Olympia City File # 14067)

**Reference Number(s) of Documents assigned or released: (on page ___ of document(s))**

<table>
<thead>
<tr>
<th>Grantor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. City of Olympia, WA</td>
<td></td>
</tr>
<tr>
<td>2. City of Lacey, WA</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Grantee(s) (Last name first, then first name and initials)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. City of Olympia, WA</td>
<td></td>
</tr>
<tr>
<td>2. City of Lacey, WA</td>
<td></td>
</tr>
</tbody>
</table>

**Legal Description (abbreviated: i.e. lot, block, plat or section, township, range)**  
N/A  
Additional legal is on page 1 and 2 of document.

**Assessors Property Tax Parcel/Account Number**  
N/A  
Additional legal is on page ___ of document.

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party
INTERGOVERNMENTAL AGREEMENT FOR SALE OF WATER

THIS AGREEMENT is made and entered into this 1st day of May, 2007, by and between, the City of Olympia, a Washington municipal corporation ("Olympia"), and the City of Lacey, a Washington municipal corporation ("Lacey"), collectively referred to herein as "the Parties."

WHEREAS, Olympia owns and operates a municipal water supply system; and

WHEREAS, pursuant to RCW 35.92.170, RCW 35.92.200, and RCW 39.34, Olympia is authorized to enter into contracts with another municipality for the supply of water; and

WHEREAS, Olympia and Lacey are parties to an Intergovernmental Agreement for Sale of Water, dated May 4, 1987, under which Olympia provides water to Lacey, and the agreement will expire on June 30, 2007; and

WHEREAS, Lacey desires to continue to purchase wholesale water from Olympia; and

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Termination of Intergovernmental Agreement for Sale of Water

The Intergovernmental Agreement for Sale of Water entered into on May 4, 1987, shall terminate on the date of execution of this agreement, but no later than June 30, 2007.

Section 2. Agreement to Sell Water

Olympia agrees to sell to Lacey and Lacey agrees to purchase from Olympia, an amount of potable water for Lacey, as follows:

A. During the term of the Agreement, Olympia shall supply up to two million gallons per day of water to Lacey during the months of November through June, and up to one million gallons per day of water during the months of July through October.

B. The delivery point at which Olympia will deliver and Lacey will receive said water shall be at the discharge flanges of the meter used to measure the water delivered to Lacey at the system intertie at Pacific Avenue and Mountaineer Road, west of Marvin Road ("Lacey intertie"). Lacey may construct, at its sole expense, additional or alternate delivery points, subject to approval by Olympia and Lacey’s demonstration to Olympia that creation of an alternate or additional delivery point will not adversely affect Olympia’s supply system.
C. All water provided by Olympia to Lacey will be metered through a master meter owned by the City of Olympia. Olympia will maintain and read the meter for billing purposes under this agreement. The Parties shall have access to the meter for reading purposes and Lacey shall have access to Olympia’s meter maintenance records. The existing master meter was installed in 1999. If determined necessary during the term of this agreement, Olympia may purchase and install a replacement meter at its expense. If additional or alternate delivery points are installed under section 2.B, Lacey will purchase and install a master meter at each location that meets a specification provided by Olympia.

D. Lacey shall at its own expense maintain any pump stations necessary to provide water purchased from Olympia to Lacey customers in the Lacey Water System.

E. Olympia may temporarily interrupt or reduce delivery of water to Lacey in event of a loss of supply emergency at Olympia’s McAllister Springs or any point upstream of the Lacey intertie, and, if Olympia, acting in good faith, determines that system emergencies or maintenance and repair so require supply interruption. Except for in emergencies, Olympia shall provide Lacey reasonable written notice of interruption or reduction, the reason therefore, and the likely duration thereof at least 8 weeks prior to the anticipated event to allow adequate time for Lacey and Olympia to schedule the curtailment. In the event of any emergency, Olympia will notify Lacey of the need for immediate supply interruption as soon as reasonably possible. For the purposes of this agreement, a loss of supply emergency is defined as any unforeseen supply disruption that will take longer than two (2) hours to resolve. Olympia shall make a good faith effort to perform routine maintenance when system usage is the lowest.

F. The quality of water supplied to Lacey pursuant to this Agreement shall meet or exceed all applicable federal and state rules and regulations governing water quality for Group A water systems. Olympia shall treat the water supplied to Lacey to meet or exceed current and future standards required by State adopted limits.

G. Lacey shall use water purchased under this Agreement solely for subsequent retail sale to customers within the Lacey Water System retail service area as approved by the Washington State Department of Health.

H. If through meter readings Lacey is found to be drawing more that 2 million gallons of water per day during the months of November through June, or more than 1 million gallons per day of water during the months of July through October (“daily maximum”) from Olympia’s Water System, Olympia may charge Lacey its current retail irrigation customer rate for any use above the daily maximum. If following notice to correct by Olympia, Lacey continues to use more than the daily maximum, Olympia shall have the option to immediately terminate this Agreement.
Section 3. Rate Components

A. The rates for water supply services to be paid by Lacey to Olympia in 2007 shall be a fixed monthly charge of $18,876 plus volume charges of $0.193 per ccf (hundred cubic feet) consumed. These rates have been established to incorporate allocated operating expenses (including city utility tax), capital recovery costs, and a capacity rental charge of 15 percent.

B. For a period of three years following the conclusion of each calendar year, Lacey shall have the right to audit Olympia’s cost records associated with this Agreement. Lacey shall retain the consultant and pay the consultant costs associated with performance of any such audits. Olympia shall maintain appropriate accounting records and make them available for inspection by Lacey’s auditors.

C. Beginning in 2008 and each calendar year throughout the term of the Agreement, Olympia has the right to annually increase the fixed and volume charges in paragraph A at the same rate as the published Seattle consumer price index.

D. Olympia shall bill Lacey the fixed monthly charge and the calculated volume charges each month, and Lacey shall remit to the City the billed amount within thirty (30) days of the date of the billing. Olympia shall provide Lacey with the actual source meter readings which indicate the exact amount of usage (in ccf) for the month being billed.

Section 4. Review of Rate Components

Olympia shall be responsible for performing future rate studies to adjust Capital Costs, O&M Costs and cost allocation. The Parties agree to amend the fixed charge, volume charge, and capacity rental charge components in Section 3 based on the findings of an updated cost of service study to be completed by Olympia in 2008 or later. The new rates and costs will be effective the calendar year following the completion of the cost of service study. For each calendar year subsequent to such an amendment, section 3 D continues to be applicable.

Section 5. General Conditions

A. No separate legal entity is created by this agreement.

B. No joint organization whatsoever is created.

C. No common budget is to be established.

D. No personal or real property is to be jointly acquired or held.

E. This agreement shall be recorded with the Thurston County Auditor’s Office prior to being effective.
F. Each party shall be responsible for its own finances and for its own personal and real property.

G. All lawsuits whatsoever in regards to this agreement shall be brought in Thurston County Superior Court. The governing law shall be the laws of Washington State.

H. The Contract Administrator for Olympia shall be the Director of Water Resources of the City of Olympia, Department of Public Works. The Contract Administrator for Lacey shall be the Water Resources Manager, City of Lacey, Public Works Department.

I. All notices with regard to this agreement shall be sent in addition to any other legal requirement to:

**City of Olympia:**

Department of Public Works  
Attn: Director of Water Resources  
Re: Wholesale Water Agreement with City of Lacey  
PO Box 1967  
Olympia, WA 98507

**City of Lacey:**

Contract Administrator for City of Lacey  
Attn: Water Resources Manager  
Re: Wholesale Water Agreement with City of Olympia  
P.O. Box 3400  
Lacey, WA 98509-3400

J. Lacey shall not assign or convey its interests or obligations under this Agreement without the written consent of Olympia.

Section 6. **Indemnification**

A. Each of the parties shall indemnify, defend and hold the other party harmless from any loss, claim or liability arising from or out of the negligent or tortuous actions or inactions of the indemnifying party’s employees or officers, including the reasonable costs of defense by counsel of the indemnified party’s own choosing. Liability shall be apportioned among the parties or other defendants in accordance with the laws of the State of Washington. This paragraph shall survive expiration or termination of this Agreement.

Section 7. **Effective Date and Termination**

This agreement shall become effective on July 1, 2007, and shall run for a term of 2 years from that date, unless terminated earlier by mutual agreement of the Parties or by Olympia in accordance with Section 2, paragraph H. Lacey shall have the option to
renew this agreement for a period of two additional years by providing notice to Olympia at least six months prior to the end of the term.

DATED this 15th day of May, 2007.

CITY OF OLYMPIA

Mark Foutch, Mayor

Mayor Pro Tem

ATTEST:

Jane Ragland Kirkemo, City Clerk

APPROVED AS TO FORM:

Tom Morrill, Interim City Attorney

CITY OF LACEY

Greg J. Chico, City Manager

APPROVED AS TO FORM:

Kenneth R. Ahl, City Attorney
AMENDMENT No. 1 TO INTERGOVERNMENTAL AGREEMENT FOR SALE OF WATER

THIS AMENDMENT is made and entered into this 15th day of May, 2010 by and between the City of Olympia, a Washington municipal corporation (the “City”), and the City of Lacey, Inc., a Washington municipal corporation (“Lacey”), collectively referred to herein as “the Parties.”

Whereas, the Parties entered into an Intergovernmental Agreement for the Sale of Water (“Agreement”) on May 1, 2007; and

Whereas, the agreement became effective July 1, 2007; and

Whereas, the Agreement provides in Section 7 that Lacey shall have the option to renew the agreement for a period of two additional years beyond the July 1, 2009 date, by providing notice to Olympia at least six months prior, and they have exercised that option; and

Whereas, under the renewed agreement period, the agreement expires on July 1, 2011; and

Whereas, the City completed a cost of service study in 2008 as required under Section 4 and adjusted rates according to the study effective January 1, 2009 with agreement from Lacey; and

Whereas, the City intends to conduct another cost of service study as part of their next Water System Plan update in 2014; and

Whereas, the Parties have agreed on new terms to be added to sections to Sections 3, 4 and 7 related to Rates, Review of Rate Components, and Effective Date and Termination.

NOW, THEREFORE, The Parties agree that the Intergovernmental Agreement for Sale of Water is HEREBY amended as follows:

1. Section 3 of the Agreement, is hereby amended to read as follows:

Section 3. Rate Components

   A. The rates for water supply services to be paid by Lacey to Olympia in 2007-2010 shall be a fixed monthly charge of $15,876 $15,279.13 plus volume charges of $0.193 $0.200 per ccf (hundred cubic feet) consumed. These rates have been established to incorporate allocated operating expenses (including city utility tax), capital recovery costs, and a capacity rental charge of 15 percent.
2. Section 4 of the Agreement, is hereby amended to read as follows:

Section 4. Review of Rate Components

Olympia shall be responsible for performing future rate studies to adjust Capital Costs, O&M Costs and cost allocation. The Parties agree to amend the fixed charge, volume charge, and capacity rental charge components in Section 3 based on the findings of an updated cost of service study to be completed by Olympia in 2008 or later. The new rates and costs will be effective the calendar year following the completion of the cost of service study. For each calendar year subsequent to such an amendment, section 3 continues to be applicable.

3. Section 7 of the Agreement, is hereby amended to read as follows:

Section 7. Effective Date and Termination

This agreement shall become effective on July 1, 2007, and shall run for a term of 2 years from that date until December 31, 2016, unless terminated earlier by mutual agreement of the Parties or by Olympia in accordance with Section 2, paragraph H. Lacey shall have the option to renew this agreement for a period of two additional years by providing notice to Olympia at least six months prior to the end of the term. In addition to the mutual termination provision, Lacey shall have the option to terminate the agreement before the end of this term with 1 year notice in writing to Olympia.

All remaining provisions of the Intergovernmental Agreement for Sale of Water dated May 1, 2007, and not here amended or supplemented shall remain as written in said Agreement, and shall continue in full force and effect.

IN WITNESS WHEREOF, the City and Lacey have executed this Amendment No. 1 of the Agreement as of the date and year written above.

CITY OF OLYMPIA

By: ____________________________
Doug Mah
Mayor
P.O. Box 1967
Olympia, WA 98507-1967

Amendment No. 1 to Intergovernmental Agreement for Sale of Water
Page 2
APPROVED AS TO FORM:

[Signature]
Tom Morrill, City Attorney

CITY OF LACEY

By: [Signature]
Greg J. Cuolo
City Manager

APPROVED AS TO FORM:

[Signature]
Ken Ahlf, City Attorney