

AFTER RECORDING MAIL TO:
Lands Program
Washington State Parks & Recreation Commission
P.O. Box 42650
Olympia, WA 98504-2650

**AMENDMENT No. 1 TO INTERLOCAL AGREEMENT
BETWEEN
WASHINGTON STATE PARKS AND RECREATION COMMISSION
AND
PUBLIC UTILITY DISTRICT No. 1 of CHELAN COUNTY
FOR WATER SYSTEM EXPANSION DESIGN AND
CONSTRUCTION SERVICES**

WHEREAS, Washington State Parks and Recreation Commission and the Public Utility District No. 1 of Chelan County are parties to the Agreement for Water System Expansion Design and Construction Services effective October 10, 1996 (hereinafter "the Agreement"); and

WHEREAS, Lake Chelan State Park is connected to the Public Utility District No. 1 of Chelan County's Chelan Ridge Water System (hereinafter "Water System"); and

WHEREAS, Washington State Parks and Recreation Commission desires to assist the Public Utility District No. 1 of Chelan County in implementing efficiencies that reduce cost and/or improve water quality; and

WHEREAS, the Public Utility District No. 1 of Chelan County desires to no longer utilize surface water from Lake Chelan as the source of water for the Water System; and

WHEREAS, Washington State Parks and Recreation Commission has allowed the Public Utility District No. 1 of Chelan County to develop a test well within Lake Chelan State Park that indicated the potential for a well to produce appropriate water quantity and quality to become the source for the Water System; and

WHEREAS, the Public Utility District No. 1 of Chelan County has requested to make Water System improvements to establish a production well and connections to the Water System within Lake Chelan State Park; and

WHEREAS, Washington State Parks and Recreation Commission issued the Public Utility District No. 1 of Chelan County an easement dated November 6, 1996 and recorded under Chelan County Auditor's Book No. 1078 at pages 0233 - 0237:

for the purpose of installing, constructing, operating, maintaining, removing, replacing, and using water improvements as further defined and described in the Agreement, with all connections, manholes and underground appurtenances thereto, together with the nonexclusive right of ingress and egress from said property for the foregoing purposes; and

WHEREAS, Washington State Parks and Recreation Commission wishes to amend the Agreement to expand the scope of work and the nature of the improvements to be installed/constructed.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

A. The parties hereby agree to amend the Agreement to include the following new terms:

28. Water System Improvements: The scope of work of the Agreement will include improvements to the Chelan Ridge Water System (Water System), consisting of:
- o 12-inch diameter groundwater well, including pitless adapter and adjacent air/vac valve in vault
 - o 15-foot wide asphalt access road including two (2) to eight (8) foot tall rockery walls on both sides of road, to provide access to pump control and chlorination building
 - o 200 square foot masonry and reinforced concrete waterworks building
 - o 200 lineal feet of six (6) inch ductile iron water main
 - o 2,300 lineal feet of eight (8) inch ductile iron water main
 - o 2,000 lineal feet of overhead power line including one(1) power pole
 - o 1500 lineal feet of underground three phase power and fiber conduit (2 inch schedule 40 PVC)

Approximate locations of these improvements are as indicated in Exhibit "A" attached hereto and incorporated herein.

29. Easement: Property access and use is granted as stipulated in Easement #LPE96-0502, issued to the District on November 6, 1996. The parties agree that "termination for breach" as used in term 13 of Easement #LPE96-0502 is intended to mean only a breach by the Grantee for failure to complete the installation of the Water System improvements.
30. Construction Schedule: Construction work for Water System improvements is scheduled to begin on or after September 15, 2006. There will be a winter shut down from approximately November 30, 2006 to March 1, 2007 depending on weather conditions. Substantial completion will occur on approximately May 1, 2007. If work is not substantially complete by May 1, 2007, the District agrees that it will ensure a temporary shutdown of the work no later than May 15 and the District will continue that shutdown until September 15, 2007 in order to accommodate the State Park's camping schedule. The temporary shutdown will include all work necessary to ensure the safe usage of the State Parks land during the shutdown period so that the use of the normal camping areas within the park is not impacted. The District will be responsible for ensuring that the

Contractor has notice of these dates and requirements. Full completion of improvement contained within this agreement will occur by May 1, 2008, unless an extension is mutually agreed, in writing, by both parties.

31. **Coordination of Construction Schedule:** The District shall coordinate the construction schedule with State Parks. Construction on this project may occur when Lake Chelan State Park is in operation. The District's construction contractor shall be required to provide various measures to safely separate work areas from public areas and maintain utility services to existing facilities.
32. **Governance:** This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

 - Applicable state and federal statutes and rules;
 - Statement of work; and
 - Any other provisions of the agreement, including materials incorporated by reference.
33. **Transfer of Ownership:** State Parks shall be consulted prior to any transfer of ownership of all, or portions of, the Water System improvements, by the District, to another operator.
34. **Independent Capacity:** The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.
35. **Indemnification:** Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement. In the case of negligence of more than one party, any damages allowed or indemnity provided shall be levied in proportion to the percentage of negligence attributable to each party. The requirements of this paragraph shall survive termination of this agreement. For the purposes of this indemnity provision, the District shall be solely responsible for the design, construction, maintenance, and operation of the water improvements.
36. **Assignment:** The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.
37. **Entire Agreement:** This agreement and its amendment, duly accepted and approved, constitutes the entire agreement between the parties hereto, and no modifications of this agreement shall be binding upon the parties or either of them unless such modification shall be in writing and duly accepted by the District and State Parks. All other

communications between the parties hereto, either verbal or written, with reference to the subject matter of this agreement are hereby abrogated.

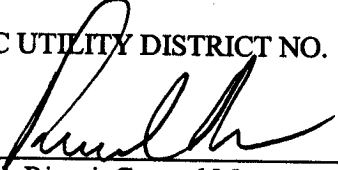
38. Waiver: A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.
39. Severability: If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.
40. Effective Date: This amendment shall be effective on the date and the year set forth below and shall continue in full force and effect, until such time that an updated, mutually agreed upon, easement is executed. Any updated easement shall replace this agreement, the referenced October 10, 1996 agreement and the November 6, 1996 easement #LPE96-0502, between State Parks and the District. This amendment may be terminated by written mutual agreement of the parties.

B. The parties hereby agree to amend the Agreement by replacing the entirety of Section 26 of the Agreement with the following:

26. Termination: This agreement may be terminated at any time upon the mutual written consent of the parties. If this agreement is terminated prior to completion of all work required under this agreement, the District shall remove all improvements and restore the project area to its original state or the improvements shall become State Parks' property, at the option of State Parks.

DATED this 6th day of September, 2006

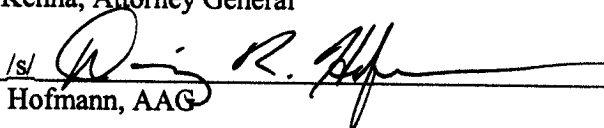
PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY


By: Rich Riazzi, General Manager

WASHINGTON STATE PARKS AND RECREATION COMMISSION


By: Jim Harris, Eastern Region Manager

APPROVED AS TO FORM:
Rob McKenna, Attorney General

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Dorigen Hofmann, AAG