



## RESOLUTION NO. U-11381

1 A RESOLUTION relating to Tacoma Water; approving an amendment  
2 extending the 2022 Water Supply Agreement with WestRock.

3 WHEREAS the City of Tacoma, Department of Public Utilities, Water  
4 Division (d/b/a "Tacoma Water"), entered into a 10-year contract Water Supply  
5 Agreement ("Agreement") with the Simpson Tacoma Kraft Company (under  
6 PUB Resolution No. U-10006), commencing on January 1, 2006, and ending on  
7 July 31, 2015, that included two optional 5-year extensions, subject to mutual  
8 agreement of the parties, and

9 WHEREAS RockTenn, CP LLC, a wholly owned subsidiary of WestRock  
10 Company, acquired substantially all of Simpson's Tacoma assets in 2014, and  
11 the Public Utility Board ("PUB") through Resolution No. 10686, consented to the  
12 assignment of the Contract from Simpson to RockTenn, and

13 WHEREAS the City and RockTenn, now doing business as WestRock,  
14 agreed to extend the initial 10-year term with the first of the 5-year extensions  
15 commencing August 1, 2015, through July 31, 2020, and such agreement was  
16 authorized through PUB Resolution No. U-10784, and

17 WHEREAS Tacoma Water is requesting that the Board authorize the  
18 Director of Utilities ("Director") to sign the amendment to the Agreement,  
19 authorizing a one-year extension, to July 31, 2024, with one remaining optional  
20 one-year extension, with the current mill operator, WestRock (the  
21 "Amendment"), and

22 WHEREAS the Agreement sets the rate to be paid by WestRock for the  
23 water supplied by Tacoma Water, and pursuant to City Charter Section 4.11, all  
24 matters relating to rates shall be initiated by the Board, subject to approval by  
25 the City Council, Now, therefore,  
26



BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

Sec. 1. That Tacoma Water's request to extend the water supply Agreement with WestRock for 1-year with an end date of July 31, 2024, is approved and the Director of Utilities, or her designee, is authorized to execute the Amendment.

Approved as to form:

\_\_\_\_\_  
Chair

/s/  
\_\_\_\_\_  
Chief Deputy City Attorney

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Clerk

Adopted \_\_\_\_\_



## Board Action Memorandum

**TO:** Jackie Flowers, Director of Utilities  
**COPY:** Charleen Jacobs, Director and Board Offices  
**FROM:** Scott Dewhirst, Water Superintendent  
**MEETING DATE:** April 12, 2023  
**DATE:** March 28, 2023

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### STRATEGIC DIRECTIVE ALIGNMENT (select as many that apply):

Please indicate which of the Public Utility Board's Strategic Directives is supported by this action.

- |  |   |
|--|---|
| <input type="checkbox"/> SD1 – Equity & Inclusion                  | <input type="checkbox"/> SD8 – Telecom                            |
| <input checked="" type="checkbox"/> SD2 – Financial Sustainability | <input type="checkbox"/> SD9 – Economic Development               |
| <input checked="" type="checkbox"/> SD3 – Rates                    | <input type="checkbox"/> SD10 – Government Relations              |
| <input type="checkbox"/> SD4 – Stakeholder Engagement              | <input type="checkbox"/> SD11 – Decarbonization/Electric Vehicles |
| <input type="checkbox"/> SD5 – Environmental Leadership            | <input type="checkbox"/> SD12 – Employee Relations                |
| <input type="checkbox"/> SD6 – Innovation                          | <input type="checkbox"/> SD13 – Customer Service                  |
| <input type="checkbox"/> SD7 – Reliability & Resiliency            | <input type="checkbox"/> SD14 – Resource Planning                 |

**SUMMARY:** Approve amendment to the 2022 Water Supply Agreement between WestRock and Tacoma for a one-year extension of the Agreement. The 2022 Water Supply Agreement allowed for up to two one-year extensions upon mutual agreement of the parties and subject to approval by the Public Utility Board. WestRock has requested in writing a one-year extension as stipulated in the 2022 Water Supply Agreement and Tacoma Water recommends approval by the Board. If approved by the Board, this would be the first of the potential two one-year extensions.

**BACKGROUND:** On January 1, 2006, Simpson Tacoma Kraft Company, LLC, a limited liability company organized under the laws of the state of Washington ("STKC") and Tacoma entered into a Water Supply Agreement, wherein Tacoma agreed to sell and STKC agreed to purchase a water supply from Tacoma for certain STKC industrial operations. The 2006 Agreement was amended on July 22, 2015, and July 30, 2020 (the "2006 Amended Agreement"). WestRock is STKC's successor in interest and has guaranteed the payment obligations under the 2006 Amended Agreement. In July of 2020, the final five-year optional extension period was amended to a one-year extension with up to four additional one-year extensions through Board Resolution No. U- 11176 and City Council Ordinance No. 28683 with the one-year extension running through July 31, 2021, and with options to extend for additional one-year periods going out to a maximum duration of July 31, 2025.

The expectation was that WestRock and Tacoma would extend the 2006 Amended Agreement for each of the four additional one-year extensions upon mutual agreement of the Parties. Through an administrative oversight the extension of the 2006 Amended Agreement was not completed by August 1, 2021, and, therefore, a 2022 Water Supply Agreement was adopted by Board Resolution No. U- 11345 and City Council Ordinance No. 28835 to confirm and reestablish the terms and conditions of the 2006 Amended Agreement.

The 2006 Amended Agreement can be found as Attachment A to the 2022 Water Supply Agreement.



## Board Action Memorandum

The term of the proposed 2022 Water Supply Agreement would end on July 31, 2023, if the proposed amendment is not approved. Approval of the amendment would extend the 2022 Water Supply Agreement for one-year, to July 31, 2024, with one remaining optional one-year extension to a potential ending date of July 31, 2025, to be considered in the future.

**ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? Yes**

**IF THE EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW IT IS TO BE COVERED. NA**

**IF THE ACTION REQUESTED IS APPROVAL OF A CONTRACT, INCLUDE LANGUAGE IN RESOLUTION AUTHORIZING \$200,000 INCREASE IN ADMINISTRATIVE AUTHORITY TO DIRECTOR? No**

**ATTACHMENTS:** Proposed Amendment, 2022 Water Supply Agreement, Resolution U-11345, and Ordinance No. 28835

**CONTACT:**

Primary Contact: Scott Dewhirst, Water Superintendent, 253-502-8246

Supervisor's Name: Jackie Flowers

## FIRST AMENDMENT TO 2022 WESTROCK WATER SUPPLY AGREEMENT

This First Amendment extends a **2022 WATER SUPPLY AGREEMENT** ("2022 Agreement") by and between **WESTROCK CP, LLC**, a Delaware limited liability company ("WestRock"), and the **CITY OF TACOMA**, a first-class charter city of the state of Washington for and on behalf of its Department of Public Utilities, Water Division ("Tacoma"). WestRock and Tacoma are individually referred to in this First Amendment to the 2022 Agreement as a "Party" and are collectively referred to in this First Amendment to the 2022 Agreement as the "Parties." This First Amendment to the 2022 Agreement is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date"), and is made with reference to the following facts:

WHEREAS on January 1, 2006, Simpson Tacoma Kraft Company, LLC, a limited liability company organized under the laws of the state of Washington ("STKC") and Tacoma entered into a Water Supply Agreement, wherein Tacoma agreed to sell and STKC agreed to purchase a water supply from Tacoma for certain STKC industrial operations (the "2006 Agreement"); and

WHEREAS the 2006 Agreement was amended on July 22, 2015, and July 30, 2020 (the "2006 Amended Agreement"); and

WHEREAS WestRock is STKC's successor in interest in and under the 2006 Amended Agreement and guaranteed the payment obligations under the 2006 Amended Agreement; and

WHEREAS the Tacoma City Council approved a new water supply agreement, the 2022 Agreement, on October 25, 2022, through Ordinance No. 28835, for an initial term to July 31, 2023, with the option to renew for additional one-year periods, with a final ending date not to exceed July 31, 2025; and

WHEREAS Ordinance No. 28835 provided that any amendment to extend the 2022 Agreement for an additional one-year period must be approved by the Public Utility Board; and

WHEREAS the Parties agree that the 2022 Agreement should be extended for a one-year period beginning August 1, 2023 to July 31, 2024; and

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and conditions herein contained, the Parties agree as follows:

The term of the 2022 Agreement is extended to July 31, 2024. On or before the anniversary of the expiration date, the term of the 2022 Agreement may be further extended by mutual agreement of the parties for an additional one (1) year term. If WestRock intends to request extension of this Agreement it shall give advanced written notice to Tacoma, and if so extended, such one (1) year extension shall be

set forth in a written amendment to the 2022 Agreement in accordance with the process set forth in the approval of the 2022 Agreement by the Tacoma City Council. In no event, however, shall the term of the 2022 Agreement be extended beyond July 31, 2025.

The Parties have caused this First Amendment to the 2022 Agreement to be executed and effective as of the Effective Date.

**WESTROCK CP, LLC**

By: DocuSigned by: Mikal B. Haislip  
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Print Name: Mikal B. Haislip

Print Title: SVP & Treasurer

**CITY OF TACOMA:  
Department of Public Utilities**

By: \_\_\_\_\_

Print Name: Jackie Flowers

Print Title: Director of Utilities

**Approved as to form:**

By: DocuSigned by: Robert C. Marshall  
13A6B6FBB20D422...

Print Name: Robert C. Marshall

Print Title: Senior Counsel

**Approved as to form:**

By: \_\_\_\_\_

Print Name: Engel Lee

Print Title: Chief Deputy City Attorney

## 2022 WESTROCK WATER SUPPLY AGREEMENT

This contract confirms and extends a **WATER SUPPLY AGREEMENT** ("Agreement") by and between **WESTROCK CP, LLC**, a Delaware limited liability company ("WestRock"), and the **CITY OF TACOMA**, a first-class charter city of the state of Washington for and on behalf of its Department of Public Utilities, Water Division ("Tacoma"). WestRock and Tacoma are individually referred to in this Agreement as a "Party" and are collectively referred to in this Agreement as the "Parties." This Agreement is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2022 ("Effective Date"), and is made with reference to the following facts:

WHEREAS, on January 1, 2006, Simpson Tacoma Kraft Company, LLC, a limited liability company organized under the laws of the state of Washington ("STKC") and Tacoma entered into a Water Supply Agreement, wherein Tacoma agreed to sell and STKC agreed to purchase a water supply from Tacoma for certain STKC industrial operations (the "2006 Agreement"); and

WHEREAS, the 2006 Agreement was amended on July 22, 2015, and July 30, 2020 (the "2006 Amended Agreement"); and

WHEREAS, WestRock is STKC's successor in interest in and under the 2006 Amended Agreement and has guaranteed the payment obligations under the 2006 Amended Agreement; and

WHEREAS, due to business challenges and the economic uncertainty caused by the COVID19 pandemic, and WestRock's interest in evaluating other supply options, the Parties agreed in July of 2020, that the final five-year optional extension period should be amended to be a one-year extension with up to four additional one-year extensions; and

WHEREAS, the requested change from a final five-year optional extension period to a one-year extension with up to four additional one-year extensions was approved by the Public Utility Board (Resolution No. U- 11176) and the Tacoma City Council (Ordinance No. 28683) with the one-year extension running through July 31, 2021, and with options to extend for up to four additional one-year periods going out to a maximum duration of July 31, 2025; and

WHEREAS, the Parties intended that WestRock and Tacoma would extend the 2006 Amended Agreement for each of the four additional one-year extensions upon mutual agreement of the Parties; and

WHEREAS, WestRock has continued its use of water as provided for in the 2006 Amended Agreement and has paid the bills it has received from Tacoma which has billed WestRock at the rate set forth in TMC 12.10.400(E) for the Pulp Mill Contract; and

WHEREAS, through an administrative oversight the extension of the 2006 Amended Agreement was not completed by August 1, 2021, and, therefore, the Parties intend to confirm

and reestablish the terms and conditions of the 2006 Amended Agreement in this Agreement and to have this Agreement in place before the City's 2023-2024 biannual budget and rates are adopted; and

WHEREAS, the Parties desire to have the term of this Agreement be from the Effective Date to July 31, 2023 with an option for two one-year extensions which would allow this Agreement to go to a potential ending date of July 31, 2025, which is the same potential ending date as was in the 2006 Amended Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and conditions herein contained, the Parties agree as follows:

1. Except for Section 9, the terms and conditions of the 2006 Amended Agreement as set forth in Attachment A are incorporated into this Agreement.

2. Section 9 of the 2006 Amended Agreement is replaced in its entirety as follows:

The term of this Agreement shall commence on the Effective Date of this Agreement as set forth above and end on the 31st day of July, 2023, except as otherwise provided in the termination provisions set forth in sections 6, 11, 13 and 14 of the 2006 Amended Agreement. On or before the anniversary of an expiration date, the term of this Agreement may be extended by mutual agreement of the parties for an additional one (1) year term. If WestRock intends to request extension of this Agreement it shall give advanced written notice to Tacoma, and if so extended, such one (1) year extension shall be set forth in a written amendment to this Agreement in accordance with the process set forth in the approval of this Agreement by the Tacoma City Council. In no event, however, shall the term of this Agreement be extended beyond July 31, 2025.

The Parties have caused this Agreement to be executed and effective as of the Effective Date.

**WESTROCK CP, LLC**

DocuSigned by:  
By: Denise Singleton  
Print Name: Denise Singleton  
Print Title: EVP, General Counsel & Secy

**Approved as to form:**

DocuSigned by:  
By: Robert C. Marshall  
Print Name: Robert C. Marshall  
Print Title: Senior Counsel

**CITY OF TACOMA:  
Department of Public Utilities**

DocuSigned by:  
By: Jackie Flowers  
Print Name: Jackie Flowers  
Print Title: Director of Utilities

**Approved as to form:**

DocuSigned by:  
By: Tom Morrill  
Print Name: Tom Morrill  
Print Title: Chief Deputy City Attorney

Attachment "A"  
2006 Amended Agreement

**AMENDMENT TO  
WATER SUPPLY AGREEMENT**

**THIS AMENDMENT TO WATER SUPPLY AGREEMENT ("Amendment")** is made and entered into as of this 30th day of July, 2020 ("**Effective Date**"), by and between **WESTROCK CP, LLC**, a Delaware limited liability company ("**WestRock**"), and the **CITY OF TACOMA**, a first-class charter city of the state of Washington for and on behalf of its Department of Public Utilities, Water Division ("**Tacoma**"). WestRock and Tacoma are individually referred to in this Amendment as a "**Party**" and are collectively referred to in this Amendment as the "**Parties**." This Amendment is made with reference to the following facts:

WHEREAS, on January 1, 2006, Simpson Tacoma Kraft Company, LLC, a limited liability company, organized under the laws of the state of Washington ("**STKC**") and Tacoma entered into a Water Supply Agreement, wherein Tacoma agreed to sell and STKC agreed to purchase a water supply from Tacoma for certain STKC industrial operations (the "**Agreement**");

WHEREAS, WestRock is STKC's successor in interest in and under the Agreement and has guaranteed the payment obligations under the Agreement; and

WHEREAS, the Parties now desire to extend the term of the Agreement for a period of up to five (5) years.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and conditions herein contained, the Parties agree as follows:

1. **Effect of Amendment.** This Amendment amends the Agreement in accordance with Section 17 of the Agreement. Except as otherwise specifically provided by this Amendment, the terms and conditions of the Agreement as of the Effective Date remain unchanged, as do the respective rights and obligations of the Parties arising under the Agreement, and in all respects the Agreement as of the Effective Date is and remains in full force and effect.

2. **Section 9 Term of Agreement.**

Section 9 of the Agreement is deleted. By this Amendment, Section 9 of the Agreement is replaced, amended and fully restated in its entirety as follows:

The term of this Agreement shall commence on the 1st day of August, 2005, and end on the 31st day of July, 2021, except as otherwise provided in the termination provisions set forth in sections 6, 11, 13 and 14 of this Agreement. On or before the anniversary of an expiration date, the term of this Agreement may be extended by mutual agreement of the parties for an additional one (1) year term, and if so extended, such one (1) year extension shall be set forth in a written amendment to this Agreement in accordance with Section

17 of the Agreement. In no event, however, shall the term of this Agreement be extended beyond July 31, 2025.

In all other respects, the Agreement as of the Effective Date, is unchanged and remains in full force and effect. The Parties have caused this Amendment to be executed and effective as of the Effective Date.

**WESTROCK CP, LLC**

Approved as to form:

By: Robert C Marshall  
Print Name: Bob Marshall  
Print Title: Senior Counsel

**WESTROCK CP, LLC**

By: John Stakel  
Print Name: John D. Stakel  
Print Title: Senior Vice President/Treasurer

**CITY OF TACOMA: Department of Public Utilities, Director's Office**

By: [Signature]  
Print Name: Jackie Flowers  
Print Title: Director of Utilities

**CITY OF TACOMA: Department of Public Utilities, Legal Department**

Approved as to form:

By: Tom Morrill  
Print Name: Tom Morrill  
Print Title: City Deputy City Attorney

CONTRACT BETWEEN SIMPSON TACOMA KRAFT COMPANY, LLC AND THE  
CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES,  
AND GUARANTEED BY SIMPSON PAPER COMPANY

WATER SUPPLY AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of January, 2006, by and between the City of Tacoma, a first-class charter city of the State of Washington, for and on behalf of its Department of Public Utilities, Water Division (hereinafter called the "Tacoma Water") and Simpson Tacoma Kraft Company, LLC, a limited liability company organized under the laws of the State of Washington (hereinafter called the "Company").

WITNESSETH:

That the parties hereto, for and in consideration of the mutual covenants herein contained, agree as follows:

1. Definitions

As used in this Agreement, the following words shall have the following meanings:

"Annual Contract Demand" shall mean the level of demand established pursuant to Section 3A.

"Board" shall mean the Public Utility Board of the City.

"Calendar day" shall mean any one twenty-four (24) hour period beginning and ending at 8:00 a.m. or such other 24 hour period mutually agreed upon to facilitate reading of meters.

"Calendar Year" shall mean any one year comprising calendar days beginning on January 1 and ending on December 31.

"City" shall mean the City of Tacoma, Washington, a municipal corporation organized under the laws of the State of Washington.

"Company" shall mean the Simpson Tacoma Kraft Company, LLC or any successor thereto.

"Company Monthly Bill" shall mean the monthly amount for which the Company is billed and which the Company agrees to pay pursuant to the provisions of Section 5.

"Contract Demand" shall mean that amount of water determined pursuant to the provisions of Section 3.

"Daily Excess Water Usage Charge" shall mean a charge imposed on the Company under Section 5 for water used daily which exceeds one hundred and nine percent (109%) of the Annual Contract Demand, the Interim Contract Demand or the Temporary Contract Demand, whichever is in effect, multiplied by the rate for Commercial and Industrial-Large Volume Service in effect at the time such excess water is taken by the Company.

"Distribution Charge" means the monthly charge imposed on the Company pursuant to Section 5 to recover all costs of distributing water to the Company under this Agreement such as administrative, general and overhead expenses, and excluding the costs of procuring the water supply which will be collected by the Supply Charge. The initial Distribution Charge is Forty Thousand Dollars (\$40,000.00) per month in 2005 and Forty-two Thousand Eight Hundred and Eighty Dollars (\$42,880.00) in 2006 and may be revised from time to time by the Board, consistent with the calculation set forth in Exhibit A.

"Interim Contract Demand" shall mean a temporary decrease to the level of the water supplied under this Agreement established pursuant to Section 3B(i).

"Monthly Excess Water Usage Charge" shall mean a charge imposed on the Company under Section 5 for water used during a month which exceeds the product of one hundred and three percent (103%) of the Contract Demand, the Interim

Contract Demand or the Temporary Contract Demand, whichever is in effect, and the number of days in the month, multiplied by the rate for Commercial and Industrial-Large Volume Service in effect at the time such excess water is taken by the Company.

"Superintendent" shall mean the Tacoma Water Superintendent of the Department of Public Utilities.

"Supply Charge" shall mean a charge per one hundred cubic feet of delivered water, imposed on the Company pursuant to Section 5 to cover the costs incurred to procure and provide water to the Company under this Agreement, and excluding the costs of distributing water to the Company under this Agreement collected by the Distribution Charge. The Supply Charge as of the effective date of this Agreement is \$0.3703752 per one hundred cubic feet of water in 2005 and \$0.3970441 per one hundred cubic feet of water in 2006, and may be revised from time to time by the Board, consistent with the calculation set forth in Exhibit A.

"System Development Charge" means the charge that is imposed to cover the costs of serving new water supply obligations, as established or revised from time to time by the Board and Tacoma City Council by ordinance. In establishing the System Development Charge applicable to the Company under this Agreement, all funds collected from the Company through the System Development Charge that are credited against capital investment will be credited against source, transmission and storage in the same proportions as set forth in Tacoma Water's then most recent System Development Charge study, notwithstanding how such funds are treated in Tacoma Water budget.

"Temporary Contract Demand" means a temporary increase in the amount of water supplied under this Agreement established pursuant to Section 3C(ii).

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## 2. Sale and Delivery

Tacoma Water agrees to sell to the Company water of usable or potable quality from Tacoma Water's water system, and to deliver the same at the service connection located on Portland Avenue as now laid out in the City at a point approximately 1925 feet northerly from the northerly line of East 11th Street, at a reasonably constant uniform pressure of not less than eighty (80) pounds per square inch.

Nothing contained in this Agreement shall prohibit the Company from using nonpotable water, including, but not limited to, salt water or treated wastewater, in the operation of its plant.

## 3. Quantity of Water

The quantity of water to be supplied by Tacoma Water to the Company pursuant to this Agreement shall be sufficient to meet the requirements of the Company during the term of this Agreement. Except as provided in Section 3B(ii), however, Tacoma Water shall not be obligated to hold in reserve for or furnish to the Company an amount of water in excess of the Annual Contract Demand determined pursuant to this Section 3.

### A. Annual Contract Demand

The Annual Contract Demand, as of the effective date of this Agreement through December 31, 2006, shall be twenty million (20,000,000) gallons of water in any one Calendar Day. Within fifteen (15) days after the end of each Calendar Year during the term of this Agreement, (beginning with Calendar Year 2007), Tacoma Water shall determine the average daily amount of water delivered to the Company pursuant to this Agreement for the Calendar Year just ended. In determining such average daily amounts of water, Tacoma Water shall exclude from the calculation water deliveries made when a Temporary or Interim Contract Demand was in

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effect, or when deliveries were suspended pursuant to Section 5C(i) or (ii). If the average daily amount of water so determined by Tacoma Water either exceeds or is less than the Annual Contract Demand that was in effect during the preceding Calendar Year by five percent (5%) or more, then the Annual Contract Demand applicable to the Company for the Calendar Year in which such determination is made shall be the average daily amount of water (measured in millions of gallons per day) delivered to the Company in the preceding year pursuant to this Agreement, as determined by Tacoma Water pursuant to this Section 3A. Tacoma Water shall provide to the Company written notification of any revision to the Annual Contract Demand pursuant to this Section 3A, and if requested by the Company, an explanation of the calculation of the Annual Contract Demand. The Annual Contract Demand amount number when revised shall be rounded off to the nearest tenth of a million gallons.

B. Revisions to Annual Contract Demand during the Calendar Year

i. Request to Decrease Contract Demand

At any time during a Calendar Year, the Company may request that an Interim Contract Demand be established at a level lower than the then applicable Annual Contract Demand for any portion of such Calendar Year. Such request shall be made in writing, and shall state the reason for the request, the level of such Interim Contract Demand, the duration of the Interim Contract Demand and the date upon which such Interim Contract Demand would take effect. Such Interim Contract Demand shall require the written approval of the Tacoma Water Superintendent to take effect, which approval shall not be unreasonably withheld.

When an Interim Contract Demand expires and is no longer in effect, the Annual Contract Demand that was in

effect prior to the implementation of the Interim Contract Demand shall be reinstated.

ii. Request to Temporarily Increase Contract Demand

At any time during a Calendar Year, the Company may request that a Temporary Contract Demand be established at a level higher than the then applicable Annual Contract Demand by providing Tacoma Water a written request not later than ten (10) Calendar Days prior to the proposed effective date of the increased Contract Demand. The written request shall state the level of the Temporary Contract Demand and the proposed date upon which the Temporary Contract Demand will take effect. A request for a Temporary Contract Demand may extend for one or more Calendar Years, but no more than five (5) consecutive Calendar Years. Such Temporary Contract Demand increase shall only take effect if Tacoma Water reasonably in its sole discretion determines that it has adequate water supplies to provide the Company with the increased amount of water.

When the Temporary Contract Demand expires or is no longer in effect, then the Annual Contract Demand that was in effect prior to the Temporary Contract Demand shall be reinstated.

iii. Request to Permanently Increase Annual Contract Demand

At any time during a Calendar Year, the Company may make a written request for a permanent increase in the Annual Contract Demand. The written request shall state the level of the Annual Contract Demand sought by the Company, the date the increased Annual Contract Demand will take effect, and the reasons for the request. Such permanent increase in the Annual Contract Demand shall only take

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effect if Tacoma Water reasonably in its sole discretion determines that it has adequate water supplies to provide the Company with the increased amount of water.

C. System Development Charge and Revisions to Annual Contract Demand

Any increase in the Annual Contract Demand pursuant to Sections 3A or 3B(iii) that results in an Annual Contract Demand that is equal to or less than 20 MGD, or which is equal to or less than an Annual Contract Demand for which the Company has previously paid a System Development Charge, shall not be subject to a System Development Charge. Any increase in the Annual Contract Demand pursuant to Sections 3A or 3B(iii) that is in excess of 20 MGD and which exceeds any prior Annual Contract Demand for which a System Development Charge has been paid shall be subject to the System Development Charge.

Any Temporary Contract Demand increase shall not be subject to the System Development Charge. Any decrease in the Annual Contract Demand, regardless of whether such decrease is pursuant to Sections 3A or 3B(i), shall not relieve the Company of its obligation, if any, to pay a previously imposed System Development Charge.

D. Availability of Water

i. Emergency and Insufficient Water

Tacoma Water's obligation to supply water to the Company pursuant to this agreement shall be limited in the event of an emergency or lack of sufficient water supply, which shall include all legally imposed limitations on Tacoma Water for withdrawal of water from the Green River and other sources. On the other hand, a lack of sufficient water supply shall not be deemed to exist until all reasonable steps have been taken to curtail all non-essential uses of water as contained in a draft or a

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final water curtailment plan, whichever is applicable, approved by the Board.

In the event of such emergency or in the event of lack of sufficient water supply after the Curtailment Plan has been approved as referenced above, Tacoma Water, upon giving notice as required by Section 8, may temporarily change, reduce, limit the time for, or discontinue the delivery of water to the Company. In the event that Tacoma Water determines that there is such a need to limit water availability, the Company shall be obligated to reduce its consumption of water to the extent required by a draft or final water curtailment plan, whichever is applicable, approved by the Board.

ii. Repairs, Extensions and Other Work

Subject to the notice provisions of Section 8, water service to the Company also may be temporarily interrupted by Tacoma Water for the purposes of repairing, extending, or performing other work necessary to the water system.

iii. Duration of Reduced Use

Tacoma Water shall use its best efforts to minimize the duration of any mandated reduced use period applicable to the Company.

iv. Coordination with Company

With regard to any change, reduction, limitation, discontinuance or interruption in water service, Tacoma Water shall take all steps practicable and reasonable in coordination with the Company to minimize the negative impacts upon Company operations.

v. No Liability for Damage

The Company shall indemnify and hold Tacoma Water harmless from any and all claims, actions, and judgments whatsoever arising out of this Agreement,

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including claims arising by reason of accident, injury or death caused to persons or property of any kind occurring by the fault or neglect of the Company, its officers, employees, agents, licensees, or invitees, unless caused by Tacoma Water's negligence.

4. Prohibition of Resale

Water provided to the Company pursuant to this agreement shall not be resold by the Company to any other person, company or entity.

5. Water Rates

A. Monthly Water Rate Charge

i. Company Monthly Bill

The Company agrees to pay a monthly water bill composed of a combination of the following charges, as applicable under subsection ii: The Distribution Charge, the Supply Charge, and any installment payment for the System Development Charge and the greater of any incurred Daily or Monthly Excess Water Usage charges. The Company monthly bill that is composed of these charges shall be billed monthly according to the charges incurred in the previous calendar month and the billed amount shall be paid to the City by the Company on or before the 10th of each month.

ii. Components of Company Monthly Bill

The Company monthly bill will be based on charges, the components of which are explained as follows:

(a) Distribution Charge. The monthly Distribution Charge is the then applicable Distribution Charge, calculated in accordance with Exhibit A and, except as provided in Section 5C, Sections 13 or 14, that the Company is obligated to pay in each month without regard to the amount of water delivered to the Company in such month.

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(b) Supply Charge. The monthly Supply Charge is the amount of water delivered to the Company in any month as metered multiplied by the then applicable Supply Charge per one hundred cubic feet of such water, provided, however, that the Supply Charge shall not be applicable to any amount of water during a month for which the Company pays either the Daily Excess Water Usage Charge or the Monthly Excess Water Usage Charge.

(c) System Development Charge. The monthly System Development Charge is any installment payment of the System Development Charge that is applicable pursuant to section 5B below.

(d) Daily Excess Water Usage Charge. The Company shall pay the Daily Excess Water Usage Charge when applicable, provided, however, that the Company shall not pay the Daily Excess Water Usage Charge in any month in which the Monthly Excess Water Usage Charge applicable to the Company exceeds the sum of the Daily Excess Water Usage Charges for such month.

(e) Monthly Excess Water Usage Charge. The Company shall pay the Monthly Excess Water usage Charge when applicable, provided, however, that the Company shall not pay the Monthly Excess Water Usage Charge in any month in which the sum of the Daily Excess Water Usage Charges applicable to the Company exceeds the Monthly Excess Water Usage Charge for such month.

B. System Development Charge

The System Development Charge is applied to increases in the Annual Contract Demand as set forth in Section 3C above. The initial billing of any System Development Charge applicable to the Company shall be billed separately, and shall set forth the amount of any lump sum payment of such System Development Charge, the calculation

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of the System Development Charge, including the water usage and the applicable charge, and any terms or installment arrangements that are available to the Company.

C. Reduction of Company Obligation to Pay

The Company shall only be obligated to pay a portion of the monthly Distribution Charge under this Agreement as calculated below and only for the following reasons:

i. Inability to Furnish Water or Electricity

When Tacoma Water is unable to furnish water in the Contract Demand amount required by this Agreement or Tacoma Power is unable to supply electricity for the Company's needs, in accordance with the agreement between Tacoma Power and the Company.

ii. Company Inability to Operate Plant-  
Temporary Suspension of Rate.

When the Company is unable to operate its plant on account of acts of God, i.e., fire, flood, tornado, or earthquake, or on account of causes beyond the control of the Company, i.e., invasion by public enemy, insurrection or riot, bomb threats, strikes by unions other than those representing Company employees, acts of terrorism, government order to cease or curtail operation, but not including strikes or other labor problems by unions representing Company employees. The number of such periods of suspension pursuant to this Section 5C(ii) shall not be limited, provided that the total number of days of suspension during the term of this Agreement shall not exceed 180 days. If the sum of the number of days of suspension during the term hereof exceeds 180 days, then subsequent to the 180th day of suspension the obligation of the Company to pay the Distribution Charge shall resume as

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provided in Section 5 and 12 for the remainder of the term of this Agreement.

iii. Reduction of Obligation to Pay.

During any month in which the events set forth in Sections 5C(i) or (ii) above occur, and in the case of Section 5C(ii) when the 180 day suspension limit has not been exceeded, the Company shall only be obligated to pay the product of the applicable Distribution Charge for that month and a ratio calculated by dividing the sum of the number of days in the month that Company operations were not suspended pursuant to Sections 5C(i) or (ii) minus two days for plant shutdown and start-up, by the number of days in such month.

D. Ratesetting Procedures/Cost Adjustments

Subsequent to December 31, 2006, the Distribution Charge, the Supply Charge, the Daily Excess Water Usage Charge and the Monthly Excess Water Usage Charge may be adjusted at such times, in such manner, and in an amount proportional to the increase in the system wide average of the rates and charges of all other water users of Tacoma Water, as determined in accordance with Exhibit A. All adjustments to the foregoing charges shall be equal to system wide average rate increase or decrease adopted by the Utility Board for the projected rate period and shall be done in accordance with generally accepted ratesetting practices and contained in Tacoma Water's general water rate ordinance or ordinances.

Tacoma Water shall notify the Company in writing of Tacoma Water's intent to adjust rates and charges no later than one hundred twenty (120) days prior to the intended effective date of those adjustments. Tacoma Water will provide the Company with an opportunity to be heard by Tacoma Water staff on the proposed adjusted rates and

charges prior to the scheduled passage of an amendatory ordinance by the Board and, upon the written request of the Company, the Company also may have an opportunity to be heard by the Chair of the Board or his or her designee from the Board which need not be limited to one person.

E. Equivalent Customer

If at any time during the term of this Agreement, Tacoma Water sells and delivers water of similar quantity, quality and reliability subject to substantially similar terms and conditions as set forth herein to another customer at a lesser price than the price then paid by the Company, the price charged to the Company for all water thereafter delivered by Tacoma Water hereunder shall be reduced to such lower price or prices.

6. Variations in Water Consumption

The Company, in taking deliveries of water hereunder, will limit variations in its water consumption to the fullest extent reasonably possible. In no event will the Company's rate of water consumption in any one hour be more than twenty-five (25%) percent above the Contract Demand.

It is not the intention of the parties hereto that inadvertent violations by the Company of the provisions of this Section or the violation thereof at infrequent intervals by the Company shall constitute a breach of the provisions of this Agreement that warrants termination or cancellation of the Agreement. However, persistent or repeated violations thereof by the Company shall be sufficient grounds for Tacoma Water's cancellation of this Agreement or, in the alternative, installation at the expense of the Company of appliances to regulate and restrict the flow of water to the amounts permitted under this Agreement, except that such cancellation of the Agreement or installation of appliances shall occur only

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after Tacoma Water's written demand to the Company to discontinue such violation and the passage of a reasonable period of time during which the Company shall be allowed to cure the violation.

7. Meters

Tacoma Water shall maintain any and all necessary meters for measuring the amount of water delivered by Tacoma Water to the Company hereunder. Tacoma Water at its option may locate or relocate any such meter or meters upon the property now owned or hereafter to be acquired by the Company adjacent to the approximate point of the service connection described in Section 2 hereof and with fence or other protection to be erected by Tacoma Water at or near the line of the Company's property. At all times and for all purposes in connection with this Agreement, both parties shall have free access to the other's meter or meters upon reasonable notice.

8. Notice of Down Times and Interruptions

The Company and Tacoma Water shall insofar as reasonably practicable each give the other thirty (30) days' notice of the dates and anticipated duration of any maintenance, shut downs, or operations that will affect the delivery or use of water provided for in this Agreement. The parties recognize that emergencies or other operating interruptions may reduce or even eliminate the ability of a party to give notice as provided herein; in such event, the parties shall provide such notice as circumstances then reasonably allow. The parties will consult and coordinate to minimize down times and interruptions of service hereunder. Tacoma Water recognizes that the Company usually takes one to two major outages per Calendar Year, and will make reasonable efforts to schedule its down times at the same time as the Company outages.

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9. Term of Agreement

The term of this Agreement shall commence on the 1<sup>st</sup> day of August, 2005 and end on the 31st day of July, 2015, except as otherwise provided in the termination provisions set forth in Sections 6, 11, 13 and 14 of this Agreement. This term may be extended with mutual consent of both parties for two (2) five (5) year increments as follows: extension #1 - August 1, 2015 through July 31, 2020; and extension #2 - August 1, 2020 through July 31, 2025.

10. Rules and Regulations

The sale of water hereunder shall be subject to all of the provisions of the City Charter, including rate review and adjustment at 5-year intervals, and to the extent not inconsistent with this Agreement, all of the Water Rates and Regulations of Tacoma Water, codified in Title 12 of the Tacoma Municipal Code, as may hereafter be amended, concerning temporary interruptions of service, cut-off, lien for charges, and all other matters now or hereafter prescribed by general ordinance of the City relating hereto, and including the City's draft or final water curtailment plan approved by the Board. Said lien for charges shall be enforceable by termination of service and by any other means of recovery available by law to Tacoma Water, and shall extend to the faithful performance of all the terms and conditions hereof.

11. Termination of City's Obligations

Should the Company default in any payment as herein provided, strictly within the time as herein provided for, or should the Company default in the performance of any of the terms and conditions hereof, or should this Agreement be assigned by the Company without the consent and approval of the Superintendent, Tacoma Water may thereupon at its option terminate its obligations under this Agreement, and all

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rights of the Company hereunder shall thereupon immediately cease and terminate; provided, however, that no default in the Company's performance shall occur until the Company is first given written notice of the default and is then unable to cure such default within thirty (30) days of such notice or if applicable, such other period of longer time as is provided for in Section 6 of this Agreement.

#### 12. Company's Plant Closure

In the event that the Company permanently ceases to operate or permanently closes its plant, so long as this Agreement remains in effect, the City and the Company agree that the City's damages from the plant closure are equal to the amount of the Distribution Charge for the remaining term of this Agreement.

As reasonable and customary liquidated damages, the Company agrees that its obligation to pay the Distribution Charge under this Agreement shall continue even in the event that the Company waives in writing its rights to the water described in Sections 2 and 3 of this Agreement. However, upon such waiver by the Company, the City shall have the right to reallocate fixed assets and/or to sell water to others which it has otherwise reserved to the Company under this agreement and, to the extent that the City determines these assets and/or water previously held in reserve for the Company under this agreement has been beneficially redistributed, the Distribution Charge shall be reduced by the amount of such beneficial redistribution (i.e. a 50% beneficial redistribution results in a 50% reduction in the Company's Distribution Charge obligation).

The annual adjustment to the Distribution Charge will be discontinued immediately upon the City receiving written notice by the Company waiving in writing its rights to the water described in Sections 2 and 3 of this Agreement.

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13. Tacoma Water's Exclusive Right to Terminate Agreement

Tacoma Water may, upon the recommendation of nationally recognized bond counsel, terminate this entire Agreement if it determines that such Agreement results in the following:

i. Tacoma Water's inability to maintain existing or issue new bonds for its water utility the interest on which is exempt from federal income taxation; or

ii. An issuance of such bonds being unreasonably burdensome or costly as a result of application of provisions of the federal tax statutes or regulations. The above powers granted to Tacoma Water are exclusive, absolute, and solely within its discretion; provided, however, that if bonds, the interest on which is exempt from federal income taxation, are not issued by Tacoma Water within 180 days of such termination, then if agreed by the Company, this Agreement shall be reinstated as if such termination had not taken place and an adjustment, if necessary, will be made to apply the Supply Charge of this Agreement retroactively to the date of termination.

In the event of such termination, and in the absence of any further reinstatement, neither party shall have any further obligation hereunder except that the Company shall be obligated to pay any and all bills whenever issued for service provided hereunder prior to such termination.

14. Termination By The Company

A Federal or state legislative action, legislative action by the Tacoma City Council, or regulatory action that renders it impossible for the Company to continue to operate its kraft mill in Tacoma, Washington (the "Simpson Tacoma Kraft mill") will constitute a regulatory force majeure event. In the event that the Company believes that a regulatory force majeure has occurred, the Company may

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provide Tacoma Water with a written request to terminate this Agreement, which notice shall set forth the facts and circumstances that the Company believes constitutes the regulatory force majeure event, and the proposed date of termination. If Tacoma Water reasonably determines that a regulatory force majeure event has occurred, it shall approve the requested termination. If Tacoma Water reasonably determines that a regulatory force majeure event has not occurred, then Tacoma Water shall disapprove the requested termination, and the Agreement shall remain in full force and effect.

15. Conservation of Water

Both parties are committed to conserving water at the Simpson Tacoma Kraft mill, and seek to implement water conservation programs that will reduce water consumption at the Simpson Tacoma Kraft mill. In order to achieve this joint goal, Tacoma Water may make good faith efforts to facilitate funding for water conservation programs that can be implemented at the Simpson Tacoma Kraft mill, including without limitation multiple party transactions. Such good faith efforts may include making available capacity on Tacoma Water's transmission system to facilitate water exchanges in support of such conservation efforts. The Company in good faith may consider and implement water conservation programs that are facilitated by Tacoma Water.

If as a result of the successful installation of such conservation measures pursuant to such water conservation agreement between the parties, or other water conservation measures implemented by the Company, the Annual Contract Demand is reduced pursuant to Section 3(A), then at the same time the Company may suggest a revision to the percentages of Contract Demand that trigger the imposition of the Daily and Monthly Excess Water Usage Charges (at the date of

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execution, one hundred and nine percent (109%) and one hundred and three percent (103%) of the Contract Demand, respectively). The decision as to whether the recommended changes to such percentages should be implemented shall be at the sole discretion of Tacoma Water.

16. Conservation Program Development

When developing water conservation programs, Tacoma Water will notify the Company of program components relative to the Company's interests, and will provide the Company with the opportunity to provide proposals that will reduce water consumption at the Simpson Tacoma Kraft mill. All water conservation proposals submitted to Tacoma Water, including water conservation proposals submitted by the Company, will be evaluated using the same evaluation criteria, which shall include but will not be limited to cost effectiveness, quantity of water to be saved, and seasonal characteristics of the water conserved, among other matters. This Section 16 does not obligate Tacoma Water to undertake any particular level of water conservation, and all decisions relating to the scale, scope, need for and efficacy of any particular water conservation program or programs will be determined at the sole discretion of Tacoma Water and the Board.

17. Amendments

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 the parties.

Upon any revision by Tacoma Water to the Supply Charge imposed on the Company pursuant to Section 5 above, the parties shall execute an amendment revising Section 5 to reflect such Supply Charge as adopted by the City Council, prior to the date the revised Supply Charge takes effect.

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18. Right to Transfer

The Company may transfer its obligation to perform this Agreement to a subsequent purchaser of the Company or substantially all of the assets of the Company with the consent and approval by resolution of the Board.

IN WITNESS WHEREOF, the parties hereto have signed this agreement by their officers "hereunto duly authorized, the day and year first hereinabove written.

CITY OF TACOMA

SIMPSON TACOMA KRAFT COMPANY,  
LLC

By Mark Crisson  
Mark Crisson  
Director of Utilities,  
City of Tacoma

By R.P. Tennison  
R.P. Tennison  
Title: President

By John C. Kirner  
John Kirner  
Tacoma Water Superintendent

Attest:  
By Joseph R. Reed  
Secretary

Approved as to form and legality:

Ann S. Spang

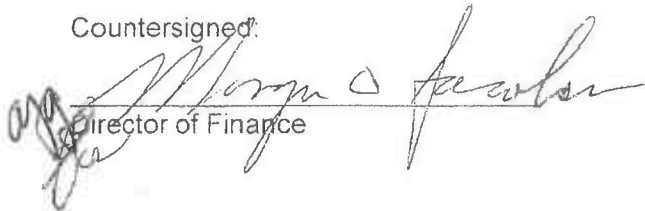
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IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

CITY OF TACOMA:


  
\_\_\_\_\_  
City Manager

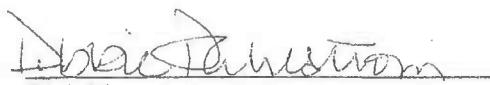
Countersigned:

  
\_\_\_\_\_  
Director of Finance

pls. see previous page  
Requesting Department Director (Tacoma Water)

Attest:

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Risk Manager

Approved as to form and legality:

pls. see previous page  
Legal Contact

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SIMPSON PAPER COMPANY GUARANTY

Simpson Paper Company, parent company to Simpson Tacoma Kraft Company, LLC, hereby guarantees the payment obligations of Simpson Tacoma Kraft Company, LLC under the foregoing water supply Agreement between the City of Tacoma and Simpson Tacoma Kraft Company, LLC.

SIMPSON PAPER COMPANY,  
Guarantor

By R.P. Tennison  
Name R.P. Tennison  
Title: President

Attest:

By Joseph R. Breed  
Name Joseph R. Breed  
Title: Secretary

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EXHIBIT A  
Distribution Charge and Supply Charge Calculations  
Rate Adjustment Procedures

1. Introduction

The parties to this Agreement believe that because of the duration of this Agreement it is important to identify the methodologies to be used to adjust the Distribution Charge and Supply Charge during the term of this Agreement. The language below and the attachments hereto provide the source of the costs and the methodology to be used to revise the Distribution Charge and the Supply Charge during the term of the Agreement.

2. Distribution Charge

The Distribution Charge will be revised at the same time and in an amount equal to the system wide average rate adjustment adopted by the City Council in the general rate proceeding for the customers of Tacoma Water. The system wide average rate adjustment will be determined as a percentage calculated as: the system wide rate revenue increase resulting from the adopted rate revision divided by the corresponding system wide rate revenue absent such adopted increase. A sample calculation using actual numbers is shown below.

Total System Wide Rate Revenues	\$80,000,000	(A)
Adopted Rate Increase	\$10,000,000	(B)
System wide Average Rate Adjustment	12.5%	(C=B/A)
Simpson Distribution Charge	\$40,000	(D)
Simpson Distribution Charge Revision	\$5,000	(E=D*C)
Revised Simpson Distribution Charge	\$45,000	(F=D+E)

3. Calculation of the Initial Distribution Charge

The initial Distribution Charge of \$40,000 per month is applicable on the effective date of this Agreement through 2005. In 2006 the Distribution Charge will be \$42,880 per month.

4. Supply Charge

The Supply Charge will be revised at the same time and in an amount equal to the system wide average rate adjustment adopted by the City Council in the general rate proceeding for the customers of Tacoma Water. The system wide average rate adjustment will be determined as a percentage calculated as: the system wide rate revenue increase resulting from the adopted rate revision divided by the corresponding system wide rate revenue absent such adopted increase. A sample calculation using actual numbers is shown below.

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Total System Wide Rate Revenues	\$80,000,000	(A)
Adopted Rate Increase	\$10,000,000	(B)
System wide Average Rate Adjustment	12.5%	(C=B/A)
Simpson Supply Charge	\$0.385 per CCF	(D)
Simpson Supply Charge Revision	\$0.048 per CCF	(E=D*C)
Revised Simpson Supply Charge	\$0.433 per CCF	(F=D+E)

##### 5. Calculation of the Initial Supply Charge

The initial Supply Charge of \$0.3703752 per CCF is applicable on the effective date of this Agreement through 2005. In 2006 the Supply Charge will be \$0.3970441 per CCF.

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