

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF AND
RAINIER VIEW JOINT RESPONSE TO DATA REQUEST

DATE PREPARED: June 25, 2012
DOCKET: UW-110054
REQUESTER: Bench

WITNESS: Amy White; Doug Fisher
RESPONDER: Amy White; Doug Fisher
TELEPHONE: (360) 664-1247; (253) 537-6634

BENCH REQUEST NO. 3:

In Paragraph 15 of the Narrative Supporting Settlement Agreement, the parties state that “Staff did a comparative analysis of the projected cost of water purchased from Tacoma (with wheeling charges) to water purchased directly from Lakewood....”

- a. Please provide the Staff produced comparative analysis in electronic format with all formulas intact.
- b. Please provide the source documents, with citations, for the cost of water included in the comparative analysis for:
 1. City of Tacoma (Tacoma) water with wheeling charges.
 2. Lakewood Water District (LWD) water.
- c. Please provide any prepared summary or discussion of the results of the analysis from either party.
- d. Please provide any correspondence between the City of Tacoma and Rainier View that are related to negotiations for the wheeling of LWD water to Rainier View’s distribution system.
- e. Provide testimony regarding the Company’s attempts to negotiate with the City of Tacoma.

RESPONSE NO. 3:

- a. (Amy White): See Attachment 3.a-1, a Staff-produced spreadsheet showing the comparison of water costs between the City of Tacoma and Lakewood Water District. Both hard copy and electronic versions have been provided.
- b. (Amy White): Please see the following four source documents:
 1. Attachment 3.b.1.-1, correspondence between City of Tacoma and Rainier View.
 2. Attachment 3.b.1.-2, extracts from the City of Tacoma water ordinance (Tacoma Municipal Code Ch. 12.10), which can be reviewed in its entirety at: <http://cms.cityoftacoma.org/cityclerk/Files/MunicipalCode/Title12-Utilities.PDF>. Water rates begin on page 12-113, and the most pertinent pages are 12-126 and 12-127. Staff reviewed this ordinance to confirm rates quoted by the Company.
 3. Attachment 3.b.1.-3, Rainier View Comparison of Rates.
 4. Attachment 3.b.2.-1, letter from Lakewood Water District to Rainier View.

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- c. (Amy White): No additional summary or discussion of the results of the numeric analysis was previously prepared as Staff felt the numbers spoke for themselves. See response to Bench Request 5.c and Attachment 5.c., Testimony of Amy White, for a discussion of the numerical comparative analysis that is Attachment 3.a.-1. The analysis shows that at different potential rates (driven by whether the City of Tacoma charges a “year-round” rate or a “summer-user-only” rate) by the City of Tacoma, the entire estimated cost of the pipeline is recovered via savings by the year 2028 at the earliest, or by 2032 at the latest. Cost recovery via savings starts from the projected 2018 start-of-operations date.
- d. (Doug Fisher): The negotiations for the Water Wheeling Agreement were conducted by telephone and exchange of draft agreements. A copy of the final Water Wheeling Agreement is Attachment 3.d.-1. The rate for wheeling was set by the City of Tacoma as the City of Tacoma’s cost to provide wheeling services, and was not negotiable. Therefore, there were no negotiations that could occur over the rate. The City of Tacoma stated that it would not enter into a wheeling agreement unless Rainier View agreed that, before water from Lakewood Water District could be wheeled to the Company, Rainier View would use the full capacity available to it from the City of Tacoma. That condition precedent to the Water Wheeling Agreement is incorporated into the Water Wheeling Agreement as Paragraph 1.2. This raised a concern about future operating costs as the City of Tacoma’s rates are already very high and have been increasing at high rates. See the City of Tacoma ordinance, Attachment 3.d.-2. Specifically, please reference City of Tacoma Water Ordinance 2011 Section 12.10.400.A. This pushed the concept of a direct main connecting Lakewood Water District and Rainier View to the forefront, rather than an item that could be deferred. Given the difference in pricing for wholesale water between the Lakewood Water District and the City of Tacoma, it is in the best interest of the customers to use Lakewood Water District water for capacity and the City of Tacoma water for peaking.
- e. (Doug Fisher): See the Testimony of Mr. Fisher, Attachment 3.e.

Attachment 3.a.-1

	A	B	C	D	E	F	G
1		Rainier View Water Company				Yellow cells are input cells	
2		UW-110054					
3		Facilities Charges - General and Lakewood Pipeline					
4		Comparison of Water Costs between COT and LWD					
5		Wheeling P/100 cu.ft.	\$0.189	Wheeling P/100 cu.ft.	\$0.189	Base/P/YR	\$66.31 \$132.630
6		< 2.5 Summer times Winter			> 2.5 Summer times Winter		
7		City of Tacoma 12.055%		City of Tacoma 12.055%		Lakewood Water Dis 7.3%	
8		October-May	June-Sept	October-May	June-Sept	October-May	June-Sept
9	Year	Constant	Constant	Peaking	Peaking		
10	2010	\$1,477	\$1,849	\$2,774	\$2,774	\$0.650	\$0.810
11	2011	\$1,707	\$2,134	\$3,206	\$3,206	\$0.650	\$0.810
12	2012	\$1,984	\$2,480	\$3,726	\$3,726	\$0.697	\$0.869
13	2013	\$2,223	\$2,779	\$4,175	\$4,175	\$0.697	\$0.869
14	2014	\$2,491	\$3,114	\$4,678	\$4,678	\$0.697	\$0.869
15	2015	\$2,791	\$3,489	\$5,242	\$5,242	\$0.748	\$0.932
16	2016	\$3,128	\$3,910	\$5,874	\$5,874	\$0.748	\$0.932
17	2017	\$3,505	\$4,381	\$6,583	\$6,583	\$0.748	\$0.932
18	2018	\$3,928	\$4,910	\$7,376	\$7,376	\$0.803	\$1.000
19	2019	\$4,401	\$5,501	\$8,265	\$8,265	\$0.803	\$1.000
20	2020	\$4,932	\$6,165	\$9,262	\$9,262	\$0.803	\$1.000
21	2021	\$5,526	\$6,908	\$10,378	\$10,378	\$0.862	\$1.073
22	2022	\$6,192	\$7,740	\$11,629	\$11,629	\$0.862	\$1.073
23	2023	\$6,939	\$8,674	\$13,031	\$13,031	\$0.862	\$1.073
24	2024	\$7,775	\$9,719	\$14,602	\$14,602	\$0.925	\$1.151
25	2025	\$8,713	\$10,891	\$16,362	\$16,362	\$0.925	\$1.151
26	2026	\$9,763	\$12,204	\$18,335	\$18,335	\$0.925	\$1.151
27	2027	\$10,940	\$13,675	\$20,545	\$20,545	\$0.992	\$1.235
28	2028	\$12,259	\$15,323	\$23,022	\$23,022	\$0.992	\$1.235
29	2029	\$13,736	\$17,170	\$25,797	\$25,797	\$0.992	\$1.235
30	2030	\$15,392	\$19,240	\$28,907	\$28,907	\$1.064	\$1.326
31	2031	\$17,248	\$21,560	\$32,392	\$32,392	\$1.064	\$1.326
32	2032	\$19,327	\$24,159	\$36,297	\$36,297	\$1.064	\$1.326
33	2033	\$21,657	\$27,071	\$40,672	\$40,672	\$1.142	\$1.422
34	2034	\$24,268	\$30,335	\$45,575	\$45,575	\$1.142	\$1.422
35	2035	\$27,193	\$33,991	\$51,069	\$51,069	\$1.142	\$1.422
36	2036	\$30,471	\$38,089	\$57,226	\$57,226	\$1.225	\$1.526
37	2037	\$34,145	\$42,681	\$64,124	\$64,124	\$1.225	\$1.526
38	2038	\$38,261	\$47,826	\$71,855	\$71,855	\$1.225	\$1.526
39	2039	\$42,873	\$53,591	\$80,517	\$80,517	\$1.315	\$1.638
40	2040	\$48,041	\$60,052	\$90,223	\$90,223	\$1.315	\$1.638
41	2041	\$53,833	\$67,291	\$101,099	\$101,099	\$1.315	\$1.638
42	2042	\$60,322	\$75,403	\$113,287	\$113,287	\$1.411	\$1.757
43	2043	\$67,594	\$84,493	\$126,944	\$126,944	\$1.411	\$1.757
44	2044	\$75,743	\$94,678	\$142,247	\$142,247	\$1.411	\$1.757
45	2045	\$84,874	\$106,092	\$159,395	\$159,395	\$1.514	\$1.885
46	2046	\$95,105	\$118,881	\$178,610	\$178,610	\$1.514	\$1.885
47	2047	\$106,570	\$133,213	\$200,141	\$200,141	\$1.514	\$1.885
48	2048	\$119,417	\$149,271	\$224,268	\$224,268	\$1.624	\$2.023
49	2049	\$133,813	\$167,266	\$251,304	\$251,304	\$1.624	\$2.023
50	2050	\$149,944	\$187,430	\$281,598	\$281,598	\$1.624	\$2.023
51	2051	\$168,020	\$210,025	\$315,545	\$315,545	\$1.743	\$2.171
52	2052	\$188,274	\$235,343	\$353,584	\$353,584	\$1.743	\$2.171
53	2053	\$210,971	\$263,714	\$396,208	\$396,208	\$1.743	\$2.171
54	2054	\$236,403	\$295,504	\$443,971	\$443,971	\$1.870	\$2.329
55	2055	\$264,902	\$331,127	\$497,492	\$497,492	\$1.870	\$2.329
56	2056	\$296,836	\$371,045	\$557,465	\$557,465	\$1.870	\$2.329
57	2057	\$332,619	\$415,774	\$624,667	\$624,667	\$2.007	\$2.499
58	2058	\$372,717	\$465,896	\$699,971	\$699,971	\$2.007	\$2.499
59	2059	\$417,648	\$522,059	\$784,352	\$784,352	\$2.007	\$2.499
60	2060	\$467,995	\$584,994	\$878,906	\$878,906	\$2.153	\$2.682
61	2061	\$524,412	\$655,515	\$984,858	\$984,858	\$2.153	\$2.682
62	2062	\$587,630	\$734,537	\$1,103,583	\$1,103,583	\$2.153	\$2.682
63	2063	\$658,468	\$823,085	\$1,236,619	\$1,236,619	\$2.311	\$2.877
64	2064	\$737,847	\$922,308	\$1,385,694	\$1,385,694	\$2.311	\$2.877
65	2065	\$826,794	\$1,033,493	\$1,552,739	\$1,552,739	\$2.311	\$2.877
66	2066	\$926,464	\$1,158,080	\$1,739,922	\$1,739,922	\$2.479	\$3.088
67	2067	\$1,038,149	\$1,297,687	\$1,949,670	\$1,949,670	\$2.479	\$3.088
68	2068	\$1,163,298	\$1,454,123	\$2,184,702	\$2,184,702	\$2.479	\$3.088
69	2069	\$1,303,534	\$1,629,417	\$2,448,068	\$2,448,068	\$2.660	\$3.313
70	2070	\$1,460,675	\$1,825,844	\$2,743,183	\$2,743,183	\$2.660	\$3.313
71	2071	\$1,636,759	\$2,045,949	\$3,073,874	\$3,073,874	\$2.660	\$3.313
72	2072	\$1,834,071	\$2,292,588	\$3,444,429	\$3,444,429	\$2.854	\$3.555
73	2073	\$2,055,168	\$2,568,960	\$3,859,655	\$3,859,655	\$2.854	\$3.555
74	2074	\$2,302,918	\$2,878,648	\$4,324,936	\$4,324,936	\$2.854	\$3.555
75	2075	\$2,580,535	\$3,225,669	\$4,846,307	\$4,846,307	\$3.063	\$3.814
76	2076	\$2,891,619	\$3,614,523	\$5,430,530	\$5,430,530	\$3.063	\$3.814
77	2077	\$3,240,203	\$4,050,254	\$6,085,180	\$6,085,180	\$3.063	\$3.814
78	2078	\$3,630,810	\$4,538,512	\$6,818,749	\$6,818,749	\$3.286	\$4.093
79	2079	\$4,068,504	\$5,085,630	\$7,640,749	\$7,640,749	\$3.286	\$4.093
80	2080	\$4,558,962	\$5,698,703	\$8,561,841	\$8,561,841	\$3.286	\$4.093
81	2081	\$5,108,545	\$6,385,681	\$9,593,971	\$9,593,971	\$3.526	\$4.391
82	2082	\$5,724,380	\$7,155,475	\$10,750,524	\$10,750,524	\$3.526	\$4.391
83	2083	\$6,414,454	\$8,018,068	\$12,046,500	\$12,046,500	\$3.526	\$4.391
84	2084	\$7,187,717	\$8,984,646	\$13,498,706	\$13,498,706	\$3.784	\$4.712
85	2085	\$8,054,196	\$10,067,745	\$15,125,975	\$15,125,975	\$3.784	\$4.712
86	2086	\$9,025,129	\$11,281,411	\$16,949,411	\$16,949,411	\$3.784	\$4.712
87	2087	\$10,113,108	\$12,641,386	\$18,992,662	\$18,992,662	\$4.060	\$5.056
88	2088	\$11,332,244	\$14,165,805	\$21,282,228	\$21,282,228	\$4.060	\$5.056
89	2089	\$12,698,346	\$15,872,932	\$23,847,800	\$23,847,800	\$4.060	\$5.056
90	2090	\$14,229,131	\$17,786,414	\$26,722,653	\$26,722,653	\$4.356	\$5.425
91	2091	\$15,944,453	\$19,930,566	\$29,944,068	\$29,944,068	\$4.356	\$5.425
92	2092	\$17,866,557	\$22,333,196	\$33,553,826	\$33,553,826	\$4.356	\$5.425
93	2093	\$20,020,370	\$25,025,463	\$37,598,739	\$37,598,739	\$4.674	\$5.821
94	2094	\$22,433,826	\$28,042,282	\$42,131,268	\$42,131,268	\$4.674	\$5.821
95	2095	\$25,138,223	\$31,422,779	\$47,210,192	\$47,210,192	\$4.674	\$5.821
96	2096	\$28,168,636	\$35,210,795	\$52,901,380	\$52,901,380	\$5.015	\$6.246
97	2097	\$31,564,365	\$39,455,457	\$59,278,642	\$59,278,642	\$5.015	\$6.246
98	2098	\$35,369,450	\$44,211,812	\$66,424,682	\$66,424,682	\$5.015	\$6.246
99	2099	\$39,633,237	\$49,541,546	\$74,432,178	\$74,432,178	\$5.382	\$6.702
100	2100	\$44,411,023	\$55,513,779	\$83,404,977	\$83,404,977	\$5.382	\$6.702

103 Extracted from: Rainier View New FC 3 | Rate Projection

	A	T	U	V	W	X	Y
1							
2							
3							
4							
5							
6							
7		Construction (Lakewood)					
8		Description	Total	RV Share			
9	Year	Lakewood - 121st	\$6,000,000	\$2,000,000			
10	2010						
11	2011	1 Cubic Feet =	7.48051945	Gallon			
12	2012	1 Gallon =	0.133680556	Cubic Feet			
13	2013	1 Mile =	5,280	Feet			
14	2014	1 ERU =	800	G/P/D			
15	2015	2,500 ERUs =	2,000,000	G/P/D			
16	2016	Population Growth (small)	1.18%	AVG (20-YR)			
17	2017	Population Growth (medium)	1.89%	AVG (20-YR)			
18	2018	Population Growth (large)	2.60%	AVG (20-YR)			
19	2019						
20	2020						
21	2021	Month	Number of Days	Cu.Ft./P/M			
22	2022	Jan	31	6,091,823			
23	2023	Feb	28	5,502,292			
24	2024	Mar	31	6,091,823			
25	2025	Apr	30	5,895,313			
26	2026	May	31	6,091,823			
27	2027	Jun	30	5,895,313			
28	2028	Jul	31	6,091,823			
29	2029	Aug	31	6,091,823			
30	2030	Sep	30	5,895,313			
31	2031	Oct	31	6,091,823			
32	2032	Nov	30	5,895,313			
33	2033	Dec	31	6,091,823			
34	2034						
35	2035	Wheeling Usage	1,470,000	G/P/D			
36	2036						
37	2037						
38	2038	Description	Total	Measurement	Month	Number of Days	Cu.Ft./P/M
39	2039	121st - 74th	6.5	miles	Jan	31	8,288,194
40	2040		34,320	Feet	Feb	28	7,486,111
41	2041				Mar	31	8,288,194
42	2042	Cost (per foot)	Total Cost		Apr	30	8,020,833
43	2043	\$150	\$5,148,000		May	31	8,288,194
44	2044	\$175	\$6,006,000		Jun	30	8,020,833
45	2045	\$200	\$6,864,000		Jul	31	8,288,194
46	2046	\$225	\$7,722,000		Aug	31	8,288,194
47	2047	\$250	\$8,580,000		Sep	30	8,020,833
48	2048				Oct	31	8,288,194
49	2049	Supplement Developer Fee			Nov	30	8,020,833
50	2050	\$	5,415,157		Dec	31	8,288,194
51	2051						
52	2052	Net Rate Base (UW-091466)				2,000,000	G/P/D
53	2053	\$	4,621,284				
54	2054						
55	2055						
56	2056						
57	2057						
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101							
102							
103	Extracted f						

Attachment 3.b.1.-1

Ward, Jim (UTC)

From: White, Amy (UTC)
Sent: Thursday, March 03, 2011 1:16 PM
To: Ward, Jim (UTC)
Subject: FW: Water Rate Ordinance

Attachment 3.b.1.-1
Docket UW-110054
Page 1 of 3

This is the correspondence between Rainier View and City of Tacoma more or less revoking the "constant customer" rate status in favor of the "peaking" rate status.

From: Richard A. Finnigan [<mailto:rickfinn@localaccess.com>]
Sent: Thursday, March 03, 2011 11:11 AM
To: White, Amy (UTC)
Subject: FW: Water Rate Ordinance

Amy, Here it is. While it is stated politely, the message is obvious. They have let Rainier View skate in the past and want to change going forward.

X-Eon-Dm: sj1-dm02
Subject: FW: Water Rate Ordinance
Date: Fri, 25 Feb 2011 10:24:35 -0800
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
Thread-Topic: Water Rate Ordinance
Thread-Index: AcvUg5QygMfgU/ziTbqyUitGEvfprwAlXsZA
From: "Bob Blackman" <Bob@RainierViewWater.com>
To: "Richard A. Finnigan" <rickfinn@localaccess.com>

Rick,
Here's the City of Tacoma's Rate Schedule.

Let me know if we need anything else.
Bob

From: Senescall, Sean [<mailto:ssenescall@ci.tacoma.wa.us>]
Sent: Thursday, February 24, 2011 4:33 PM
To: Bob Blackman
Cc: Clark, Susan; Evancho, Jane
Subject: RE: Water Rate Ordinance

Bob:
Please see the tables below for the adopted 2011 and 2012 rate schedules applicable to wholesale customers. Since they became effective on the 14th of this month, they are not available in the municipal code quite yet. You'll notice that we have two categories of wholesale service – one for wholesale users whose average summer day consumption divided by average winter day consumption is equal to or less than 2.5. For customers exceeding 2.5, the summer season peaking rate is charged for the entire year. This is designed to reflect the different unit cost of serving customers who use water only in the summer months. While Rainier View has been charged the constant use rate to date, we will be addressing the need to rebalance intra-class equity in the coming months, and one potential method is to more stringently enforce the categorization of

wholesale customers between these two groups in order to incentivize year-round consumption. We will be actively engaged with each of our wholesale customers, including Ranier View, in discussing options in the near future.

Attachment 3.b.1.-1
Docket UW-110054
Page 2 of 3

Please feel free to call or email with questions or comments.

Thanks,

Sean

Ready to Serve Charge						
Meter Size (Inches)	Inside Commencing			Outside Commencing		
	1/1/10	2/14/11	1/1/12	1/1/10	2/14/11	1/1/12
5/8	\$ 15.33	16.03	16.76	18.40	19.24	20.11
3/4	23.00	24.05	25.15	27.60	28.86	30.17
1	38.33	40.08	41.91	46.00	48.10	50.29
1-1/2	76.65	80.15	83.80	91.98	96.18	100.56
2	122.64	128.24	134.08	147.17	153.89	160.90
3	229.96	240.45	251.40	275.95	288.54	301.68
4	383.26	400.75	419.00	459.91	480.90	502.80
6	766.53	801.50	838.00	919.84	961.80	1,005.60
8	1,226.45	1,282.40	1,340.80	1,471.74	1,538.88	1,608.96
10	1,763.02	1,843.45	1,927.40	2,115.62	2,212.14	2,312.88
12	2,587.03	2,705.06	2,828.25	3,104.44	3,246.07	3,393.90

Wholesale Service - Constant Use Customer			
	Commencing		
	1/1/10	2/14/11	1/1/12
Per CCF for winter months (October-May)	\$ 1.477	1.707	1.984
Per CCF for summer months (June-September)	1.849	2.134	2.480
Wholesale Service - Summer Season Peaking Customer			
All CCF	Commencing		
	1/1/10	2/14/11	1/1/12
	\$ 2.774	3.206	3.726

Sean Senescall | Tacoma Water
Rates and Financial Planning
Direct: (253) 502-8913
Cell: (253) 377-5348
Fax: (253) 502-8694 | www.tacomawater.com

From: Clark, Susan
Sent: Thursday, February 24, 2011 3:15 PM
To: Senescall, Sean
Subject: FW: Water Rate Ordinance

Hi Sean – Thanks for helping me respond to Bob’s request! Susan

From: Bob Blackman [mailto:Bob@RainierViewWater.com]
Sent: Thursday, February 24, 2011 3:02 PM
To: Clark, Susan
Subject: Water Rate Ordinance

Attachment 3.b.1.-1
Docket UW-110054
Page 3 of 3

Susan,

Could you tell me where I can get a copy of the proposed wholesale water rates for 2011-2012? We have a meeting with the Washington Utilities and Transportation Commission regarding a proposed rate increase and we need to project future expenses.

Thanks
Bob

Rick Finnigan
(360) 956-7001
(360) 587-3852 (fax)

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Attachment 3.b.1.-2

TITLE 12

Utilities

TITLE 12

UTILITIES

Chapters¹:

- 12.01 Utility Charges
- 12.02 Franchises
- 12.04 Collection of Charges by Agents
- 12.05 Electric Energy – Other Utilities
- 12.06 Electric Energy - Regulations and Rates
- 12.07 Electric Energy - Interchange of Surplus Power
- 12.08 Wastewater and Surface Water Management - Regulation and Rates
- 12.09 Solid Waste, Recycling, and Hazardous Waste
- 12.10 Water - Regulations and Rates
- 12.11 Emergency Curtailment of Electric Energy
- 12.12 Transit System - Rates, Fares and Charges
- 12.13 CLICK! Network Cable TV Products

¹ Belt Line: Compensation – See Section 1.12.500 (on file in City Clerk's office).
Personnel Rules – See Sections 1.24.970 – 1.24.975.
Statutory authority to operate – RCW 80.40.060.
Garbage Collection – See Chapter 5.20.

Chapter 12.10
WATER - REGULATIONS AND RATES

Sections:

- 12.10.010 Rules established.
- 12.10.020 Definitions.
- 12.10.030 Water service inside/outside City limits.
- 12.10.035 Ability to supply water within City limits.
- 12.10.040 Application for service.
- 12.10.045 Services and meters.
- 12.10.050 Establishment of service account and request for turn-on.
- 12.10.060 Billing.
- 12.10.110 Turn-on and/or – Unauthorized use.
- 12.10.115 Turn-off, turn-on - Responsibility and liability.
- 12.10.120 Turn-off, turn-on - Condemned buildings.
- 12.10.125 Damage of water service installation.
- 12.10.130 Termination of service.
- 12.10.150 Interruption of service.
- 12.10.170 Ownership of water mains and appurtenances.
- 12.10.180 Operation of private water systems.
- 12.10.200 Private contract charges.
- 12.10.220 Cross connections.
- 12.10.250 Water service construction charges.
- 12.10.275 Property-side (private) in public rights-of-way.
- 12.10.300 Fire hydrant installation and relocation.
- 12.10.301 Fire hydrant services fee.
- 12.10.302 System capacity flow testing.
- 12.10.305 Fire hydrant use (non-fire fighting).
- 12.10.310 System development charge (“SDC”).
- 12.10.315 Water main charge.
- 12.10.350 Premises not abutting a permanent water main.
- 12.10.400 Rates - Inside and outside City limits.
- 12.10.485 City not liable for damages.
- 12.10.490 Protection of public health.
- 12.10.495 South Tacoma Groundwater Protection.
- 12.10.500 Waivers - By Superintendent.
- 12.10.505 Customer service policies - Additional rules and regulations.
- 12.10.515 Violations - Penalties - Enforcement.
- 12.10.520 Severability.
- 12.10.525 Interference with and/or damage to City water system.

12.10.010 Rules established.

This chapter is established for the regulation of water utility service by the municipal water supply system of the City of Tacoma. (Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.020 Definitions.

For purposes of this chapter, the following words or phrases shall have the meaning set forth hereinbelow:

“Actual cost” or “cost” of any work performed for any person or other agency or City department by the Division includes the direct cost of all labor plus fringe benefits, the direct cost of all materials plus materials overhead, the direct cost of equipment used in connection with the work, all other direct costs incurred in connection with the work, plus administrative and supervisory cost.

“Accessory dwelling unit” refers to a second subordinate dwelling added to a single-family dwelling on a single parcel of property with provisions for independent cooking, living, sanitation, and sleeping.

“Assessable unit of frontage” is defined as set forth in Chapter 35.44 of the Revised Code of Washington (or as amended).

“Authorized deposit waiver” means an approved option for residential and commercial customers to waive paying a deposit, which is normally required for electric, water, and/or commercial solid waste customers who do not meet the established

A. Standard charges:

1. The monthly ready to serve charge shall be in accordance with the following schedule for residential, commercial/industrial, commercial/industrial large volume, parks and irrigation, public facilities, and wholesale service.

Ready to Serve Charge				
Meter Size (Inches)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
5/8	\$16.03	\$16.76	\$19.24	\$20.11
3/4	\$24.05	\$25.15	\$28.86	\$30.17
1	\$40.08	\$41.91	\$48.10	\$50.29
1-1/2	\$80.15	\$83.80	\$96.18	\$100.56
2	\$128.24	\$134.08	\$153.89	\$160.90
3	\$240.45	\$251.40	\$288.54	\$301.68
4	\$400.75	\$419.00	\$480.90	\$502.80
6	\$801.50	\$838.00	\$961.80	\$1,005.60
8	\$1,282.40	\$1,340.80	\$1,538.88	\$1,608.96
10	\$1,843.45	\$1,927.40	\$2,212.14	\$2,312.88
12	\$2,705.06	\$2,828.25	\$3,246.07	\$3,393.90

2. The schedule of rates for water used shall be as follows and billed to the nearest CCF (100 cubic feet or approximately 748 gallons):

Residential Service				
Range in CCF (100 cubic feet)	Rate per CCF			
	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption during the winter months of October through and including May	\$1.308	\$1.368	\$1.570	\$1.642
For the first five CCF of water consumption per month during the summer months of June through and including September	\$1.308	\$1.368	\$1.570	\$1.642
Rate per CCF				
Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
	For each CCF of water consumption over five CCF during the summer months of June through and including September	\$1.635	\$1.710	\$1.963

Commercial and Industrial - General Service				
Range in CCF (100 cubic feet)	Rate per CCF			
	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12

For each CCF of water consumption	\$1.436	\$1.497	\$1.724	\$1.797
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Commercial and Industrial - Large Volume Service. Customers may qualify for this rate based on an established consumption history greater than 65,000 CCF annually.

Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption	\$1.298	\$1.381	\$1.558	\$1.658

Parks and Irrigation Service

Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption	\$1.850	\$1,990	\$2.220	\$2.388

B. Schedule of charges within the City of Fircrest:

1. The monthly ready to serve charge shall be in accordance with the following schedule for residential, commercial/industrial, commercial/industrial large volume, parks and irrigation, public facilities, and wholesale service.

Ready to Serve Charge - Fircrest		
Meter Size (Inches)	Commencing	
	2/14/11	1/1/12
5/8	\$20.66	\$21.60
3/4	\$31.00	\$32.41
1	\$51.66	\$54.01
1-1/2	\$103.31	\$108.01
2	\$165.29	\$172.82
3	\$309.92	\$324.03
4	\$516.53	\$540.06
6	\$1,033.07	\$1,080.12
8	\$1,652.91	\$1,728.18
10	\$2,376.06	\$2,484.27
12	\$3,486.61	\$3,645.39

2. The schedule of rates for water used shall be as follows and billed to the nearest CCF (100 cubic feet or approximately 748 gallons):

Residential Service - Fircrest		
Range in CCF (100 cubic feet)	Rate per CCF	
	Commencing	
	2/14/11	1/1/12
For each CCF of water consumption during the winter months of October through and including May	\$1.686	\$1.764
For the first five CCF of water consumption per month during the summer months of June through and including September	\$1.686	\$1.764

Attachment 3.b.1.-3

AVOIDED COST ANALYSIS

Assume Rainier View needs 1.5 million gallons per day (mgpd) due to a combination of growth and one or more existing sources have to be taken off line.

Both the City of Tacoma and Lakewood W.D. (at least for the cash basis model used by Lakewood) use the same rate design: Summer use season is defined as June through September and winter use season is October through May.

Summer season = 122 days
Winter season = 243 days

Tacoma rates*	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Summer	\$1.667	\$1.849	\$2.134	\$2.480
Winter	\$1.332	\$1.477	\$1.707	\$1.994

*rates are per 100 cubic feet and are taken from City of Tacoma ordinance.
(Tacoma Municipal Code **12.10 Water - Regulations and Rates**)

Tacoma rates projected**

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
S	\$2.88	\$3.36	\$3.90	\$4.54	\$5.28	\$6.15
W	\$2.31	\$2.68	\$3.12	\$3.63	\$4.23	\$4.92

**rates are per 100 cubic feet and are projected based on rate of increase between 2009 and 2012 of 16.33% per year.

Lakewood rates#	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Summer	\$0.81	\$0.81	\$0.81	\$0.89
Winter	\$0.61	\$0.61	\$0.61	\$0.67

#rates are per 100 cubic feet and are taken from Lakewood's announcement of rates for 2009 through 2011 under the contract and as projected by a 3% rate of inflation per year to arrive at 2012 rates.

Lakewood rates projected###

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
S	\$0.89	\$0.89	\$0.98	\$0.98	\$0.98	\$1.08
W	\$0.67	\$0.67	\$0.74	\$0.74	\$0.74	\$0.81

###rates are per 100 cubic feet and use the 3% rate of inflation described above.

Summer--2005 units/day x 122 days = 244,610 units
Winter--2005 units per day x 243 days = 487,215 units

A unit is 100 cubic feet. 1.5 mgpd = 2005 units

2018 Difference (Tacoma rate minus Lakewood rate):

Summer	\$5.07/unit = \$1,240,173
Winter	\$4.11/unit = \$2,002,454
Annual total	\$3,242,627

Project cost estimate = \$11,573,000

Avoided cost recovery = 3.6 years at 1.5 mgpd

Avoided cost recovery = 4.9 years at 1.0 mgpd

Note, With using 1 mgpd or more from Lakewood, the Lakewood contract calls for moving to the "utility" model, which would mean Lakewood's rate would be lower than set forth above and the recovery would be quicker.

Attachment 3.b.2.-1



COMMISSIONERS
L. R. Ghilarducci, Jr.
W. W. Philip
J.S. Korsmo, Jr.
GENERAL MANAGER:
Randall M. Black

March 8, 2011

Mr. Rick Finnigan
2112 Black Lake Blvd SW
Olympia, WA 98512

Dear Rick:

As a follow-up to our conversation on March 2, 2011, you requested that the District provide an estimate of the cost (cash outflow) for purchasing water beginning in 2018 with a consumption amount of 161,700 gallons/day (or 216 CCF/day). As you recall, the District has provided two methods for calculating the rate structure utilized to invoice the water; the cash basis method and the utility basis method. As described in our May 18, 2007 letter (copy enclosed) to our wholesale customers, the cash basis method for pricing the water is intended for those purveyors that want to secure the water now but will not need the water until the distant future.

Our review of the pricing models indicates the change between the currently used cash basis method to the utility basis method occurs when the average daily demand of all the customers reaches approximately 2.3 MGD. Given your assumption of projected take of 161,700 gallons/day in 2018, we are assuming the District will still be using the cash basis method for pricing the water since we will not exceed the 2.3 MGD consumption break point.

The variable/volume charge is presently set at \$.65/CCF for the winter months (Oct-May) and \$.81/CCF for the summer months (Jun-Sep) until June 2012 then adjusted every three years thereafter. Assuming inflation increases by 3%/year from 2012 to 2018 (six years) the new variable/volume charge would be \$.80/CCF in the winter and \$1.00/CCF for the summer months.

The fixed charge would remain the same as now, \$66,315/year for one MGD, assuming that Rainier View pays their portion of the wholesale transmission main and booster station upfront as indicated by Rainier View in the past.

If you have any further questions please contact me.

Sincerely,

David S. Logan
Finance Director

Enclosure

Attachment 3.d.-1

WATER WHEELING AGREEMENT

This Agreement ("Agreement" or "Wheeling Agreement") dated the 26th day of January, 2010 for reference purposes only is entered into by and between Lakewood Water District, a water-sewer district existing pursuant to Title 57 RCW ("District" or "Lakewood"), Rainier View Water Company, Inc., a Washington corporation ("Rainier"), and the City of Tacoma, Department of Public Utilities, Water Division, a political subdivision of the State of Washington ("Tacoma" or "Tacoma Water") (individually a "Party" and collectively the "Parties") for the purposes set forth in this Agreement.

RECITALS

Whereas, Rainier has entered into an agreement dated the 29th day of July, 2009, with Lakewood for the wholesale purchase of water by Rainier from Lakewood ("Wholesale Agreement"), a copy of which is attached hereto as Exhibit 1; and

Whereas Tacoma has an existing wholesale water sales agreement with Rainier dated January 27, 2003, ("Tacoma/Rainier Agreement") pursuant to which Rainier has certain independent obligations to take wholesale water from Tacoma;

Whereas, the water systems of Rainier and Lakewood do not interconnect, so that water from Lakewood must be delivered to Rainier through a water transmission and distribution system owned and operated by Tacoma, which does connect to Lakewood's water system and Rainier's water system; and

Whereas Tacoma is willing to accept water from Lakewood and deliver it to Rainier upon the terms and conditions of this Agreement, and Rainier is willing to receive water from Tacoma upon such terms and conditions; now, therefore,

In consideration of the terms and conditions set forth in this Agreement, the Parties agree:

1. Term and Water Transactions. For a period of twenty (20) years from the date of this Agreement ("Term"), Tacoma shall receive potable water from Lakewood at an intertie with Lakewood's water distribution system located at 121st Street E. and Aqueduct Drive E. ("Lakewood Intertie") in a quantity not to exceed two million (2,000,000) gallons per day and at flows not to exceed one thousand three hundred eighty-nine (1,389) gallons per minute as measured by Lakewood's meter at the Lakewood Intertie, and Tacoma shall then deliver potable water to Rainier at the same quantity and instantaneous basis at an intertie with Rainier's water distribution system located at 176th St. E. and just east of 70th Ave. E. ("Tacoma Intertie"). Prior to expiration of said Term, the Parties shall make good faith efforts to negotiate a renewal and extension of this Agreement on terms and conditions mutually agreeable to the Parties and to provide a term consistent with any renewal term of the Wholesale Agreement.

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1.1 Lakewood shall not have the obligation to provide water to Tacoma for wheeling to Rainier under this Agreement until Lakewood completes a pump station located at 121st Street E. and Aqueduct Drive E. which the Parties expect to occur on or about May 1, 2010. Lakewood shall provide Tacoma and Rainier ninety (90) days written notice of Lakewood's intention to provide Tacoma water supply for the purposes of the implementation of this Agreement. Lakewood shall provide only those volumes of water under this Agreement that it is directed to provide by Rainier.

1.2 As measured at the Tacoma Intertie, water delivered to Rainier by Tacoma under this Agreement shall be in excess of any water delivered to Rainier by Tacoma under the Tacoma/Rainier Agreement. Tacoma shall have no obligation to deliver water to Rainier under this Agreement until Rainier shall have first taken, in any given 24 hour period, 1.47 million gallons (MGD) from Tacoma pursuant to the Tacoma/Rainier Agreement. Any water taken by Rainier through the Tacoma intertie in a twenty-four hour period that exceeds 1.47 MGD to a maximum of an additional 2 MGD shall be deemed to be under this Agreement.

1.3 During the Term of this Agreement, and subject to the provisions of Section 14 and Section 15 herein, if Lakewood desires to deliver water to the Lakewood Intertie for a wholesale customer other than Rainier, Lakewood shall submit to Tacoma a written request to do so and such request must be delivered to Tacoma at least sixty (60) days prior to the date Lakewood intends to begin such water delivery or deliveries. Said request must clearly delineate the amount of water intended to be delivered for each such wholesale customer of Lakewood in a calendar month. No such delivery or deliveries shall commence without Tacoma's prior written consent. If Tacoma consents, a separate agreement governing the proposed wheeling activity for each such additional wholesale customer shall be executed.

2. Construction of Lakewood Intertie. The cost for materials, design and installation of the Lakewood Intertie will be the responsibility of Lakewood. The Lakewood Intertie will be subject to reasonable conditions included on the permit which Lakewood must obtain from Tacoma to construct and own facilities within Tacoma's pipeline right-of-way. Lakewood will own and maintain the Lakewood intertie up to the isolation valve upstream of Tacoma's pipeline.

3. Water Wheeling. All water delivered to Tacoma under this Agreement is for further transmission to Rainier, and Tacoma shall have no title thereto nor shall Tacoma divert such water to its own use for any reason without Rainier's prior permission. Tacoma is not undertaking a supply obligation with respect to Rainier, nor is it underwriting or guaranteeing the contractual obligation of Lakewood to supply water to Rainier. Tacoma reserves the right, upon ten (10) business days prior notice, to temporarily suspend wheeling operations including, but not limited to, receipt of water from Lakewood or delivery of water to Rainier, as necessary for scheduled maintenance of Tacoma's transmission or distribution facilities, provided that such suspension of water wheeling due to scheduled maintenance during the May through

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October time frame will be as mutually agreed upon. Tacoma reserves the right to immediately suspend wheeling activities in the event of an emergency for the duration of such emergency; provided, Tacoma will make best efforts to provide notice of such emergency suspension to Lakewood and Rainier as soon as is practicable.

4. Payment. In addition to Rainier's obligation to pay Lakewood for water supply under the Wholesale Agreement, Rainier shall pay Tacoma a wheeling charge in the amount of \$0.189 (eighteen and nine-tenths cents) per hundred cubic feet (ccf) for water received from Tacoma; which amount shall be equal to water delivered to Tacoma by Lakewood. The wheeling charge shall be valid for the original term of this Agreement. Rainier shall further pay to Tacoma a monthly ready to serve charge to cover billing and administrative expenses per Tacoma's water rate ordinance (Chapter 12.10, TMC), as the same may from time to time be amended during the original term of this Agreement. In the event the gross revenues received by Tacoma for the water wheeling activities hereunder are taxed by the City of Tacoma, State of Washington or any other entity, Rainier shall be responsible for and shall promptly pay all such tax. After the original term of this Agreement, the wheeling charge may be revised to reflect changes in Tacoma's cost of transmission and distribution service to Rainier, but only after Rainier has had an opportunity of at least one hundred eighty (180) days from receipt of notice of the proposed change in the rate to review the proposed change and comment thereon. The wheeling charge shall be based upon monthly meter readings taken from Lakewood's meter located at the Lakewood Intertie and confirmed at the Tacoma Intertie. In the event that the sum of the monthly water wheeling quantities for a calendar year as measured at the Tacoma intertie is not equal to the quantities measured at the Lakewood intertie a true up will occur. In February of the immediately following year, this true up of the meter readings will be carried out by the Parties. Any under or overcharges disclosed by this true up shall be promptly corrected in the form of water credits or debits. The Tacoma meter shall be calibrated annually and the results shall be shared among the Parties within ten (10) days after calibration. Should Rainier desire additional meter calibration of the Tacoma meter located at the Tacoma Intertie, such additional meter calibration shall be at Rainier's expense.

5. Water Quality. Water delivered to Tacoma from Lakewood shall meet or exceed applicable federal and state rules and regulations governing water quality, except in emergencies. Such delivered water shall further be supplied within the following operating ranges, unless otherwise agreed to in writing by the Parties:

<u>Water Quality Parameter</u>	<u>Acceptable Range</u>
pH (pH units)	7.5 - 8.2
Free chlorine (milligrams/liter)	0.5 - 1.0
Fluoride (milligrams/liter)	0.8 - 1.3

The quality of water delivered to Rainier by Tacoma shall meet or exceed applicable federal and state rules and regulations governing water quality, except in emergencies. If Rainier is required to or so desires, water compatibility tests will be performed by Rainier and Rainier shall pay for the cost of such tests.

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6. Monthly Billings. Each month Tacoma shall provide Rainier with meter readings showing the amount of water delivered by Tacoma to Rainier under this Agreement along with an invoice for payment for the water delivered. Billings for water wheeled and payments thereof shall be made by regular mail. Alternatively, billings may be made by email and payments by wire transfer. Rainier may dispute the accuracy of a monthly invoice by providing written notice to Tacoma within thirty (30) days of the date of invoice that specifies the nature of the dispute and by paying any undisputed amount. Tacoma shall consider the disputed invoice within thirty (30) days following receipt of such notice and shall advise Rainier of Tacoma's position regarding the disputed invoice. If the dispute is not resolved to Rainier's satisfaction, Rainier shall pay the disputed amount or submit the dispute to arbitration as provided herein within thirty (30) days of Tacoma's decision. Disputed amounts shall not bear interest until thirty (30) days after Tacoma's decision or the arbitrator's decision, whichever decision is later.
7. Alternative Dispute Resolution. Any dispute arising out of the terms and conditions of this Agreement, except for a billing dispute, shall be submitted for mediation to JAMS of Tacoma. If mediation is unsuccessful, the dispute shall be submitted for arbitration to JAMS of Tacoma. Billing disputes may be submitted to arbitration directly without mediation. Arbitration shall be conducted in accordance with Chapter 7.04A, RCW; provided, the parties to the arbitration may conduct discovery pursuant to the Superior Court Rules of Civil Procedure. The arbitrator's decision shall be final and shall award reasonable attorney's fees and costs of arbitration to the prevailing party. Requests for reconsideration or modification may be submitted as provided by Superior Court Rules of Civil Procedure. The arbitrator's decision shall be reduced to judgment as provided by Chapter 7.04A, RCW.
8. Further Approvals. To the extent required to implement this Agreement, each Party shall amend its comprehensive water system plan and obtain State approvals for the interties referenced herein.
9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon successors of interest and assigns of the Parties. Neither this Agreement nor any obligations to perform hereunder may be voluntarily assigned by a Party without the other Party's written consent.
10. Amendment. This Agreement may be modified only by further written agreement executed by the Parties.
11. Notices.
- 11.1 Except as otherwise directed herein, day to day operational communications may be delivered by electronic mail to the following operational personnel and email addresses (as the same may be updated by written notice per Section 11.2 below:

To Lakewood:
Roger Nottage, Superintendent
rnottage@lakewood-water.dist.org

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To Rainier:

Chuck Warner, Operations Manager
chuck@rainerviewwater.com

and

Bob Blackman, Chief Operations Officer
bob@rainerviewwater.com

To Tacoma:

Glen George, Water Supply Principal Engineer for Operations
ggeorge@cityoftacoma.org

11.2 All other notices relating to this Agreement shall be personally delivered or sent to the following addresses, certified mail, return receipt requested, unless the other Party is previously notified in writing of a change in address:

To Lakewood:

11900 Gravelly Lake Drive SW
Lakewood, WA
For mailing purposes:
PO Box 99729
Lakewood, WA 98946

And to (which will not constitute notice):

John W. Milne
777 - 108th Avenue N.E., Suite 1900
For mailing purposes:
PO Box 90016
Bellevue, WA 98009

To Rainier:

5410 189th St. E
Puyallup, WA
For mailing purposes:
PO Box 44427
Tacoma, WA 98448

And to (which alone shall not constitute notice):

Richard A. Finnigan
2112 Black Lake Blvd SW
Olympia, WA 98512

To Tacoma:

Linda McCrea
3628 South 35th St
Tacoma, WA
For mailing purposes:
PO Box 11007
Tacoma, WA 98409

And to (which alone shall not constitute notice):

Tacoma Public Utilities, Legal Dept.
3628 South 35th St
PO Box 11007
Tacoma, WA 98409

12. Indemnity and Hold Harmless/Limitation on Damages.

12.1 Each Party agrees to indemnify the other Parties and hold them harmless from and against any loss, cost, damage, or expense of any kind and nature, including reasonable attorneys' fees, arising out of injury to person or damage to property in any manner caused by the negligent act or omission or by the intentional misconduct of the indemnifying Party in the performance of its work pursuant to or in connection with this Agreement.

12.2 Each Party agrees that this indemnification applies to any claim or injury or damage to the persons or property of that Party's employees. As to such claims, each Party waives any right of immunity which it may have under industrial insurance (Title 51 RCW and any amendment thereof or substitution therefore). THIS WAIVER IS SPECIFICALLY NEGOTIATED BY THE PARTIES AND IS SOLELY FOR THEIR BENEFIT. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY CONTAINED IN THIS AGREEMENT, ONE PARTY'S TOTAL LIABILITY HEREUNDER TO THE OTHER PARTIES SHALL NOT EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO TACOMA WATER IN THE TWELVE MONTH PERIOD PRECEDING THE DATE SUCH CLAIM FOR LIABILITY AROSE. IN NO EVENT WILL A PARTY OR ITS RESPECTIVE OFFICIALS, OFFICERS, EMPLOYEES, AGENTS OR TAX/RATE PAYERS BE LIABLE TO ANOTHER PARTY OR PARTIES TO THIS AGREEMENT OR TO ANY OTHER PERSON OR ENTITY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO, DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, THIS AGREEMENT OR ANY SERVICES OR PRODUCTS PROVIDED OR TO BE PROVIDED

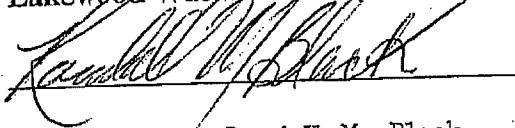
HEREUNDER, INCLUDING, BUT NOT LIMITED TO, INTERRUPTION OF SERVICE, LOSS OF REVENUE OR PROFIT, LOSS OF TIME OR BUSINESS, OR ANY SIMILAR LOSS, WHETHER LIABILITY IS ASSERTED IN CONTRACT, IN TORT OR UNDER ANY OTHER LEGAL OR EQUITABLE THEORY OR BASIS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

13. No Partnership or Joint Venture. This Agreement is intended to be and is a contract for transmission services and no provision hereof shall be construed to make the Parties partners or joint venturers. No Party is the agent of any of the other Parties nor shall any Party be held liable for the acts of the other Parties on a theory of agency or any other representative capacity. Nothing herein shall create a cause of action in favor of a third party against any Party.
14. First Right of Refusal. As additional consideration for entering into this Agreement, Tacoma shall have a right of first refusal to purchase excess supply of water that Lakewood has available for wholesale sale during the Term hereof. The terms and conditions of such right of first refusal are set forth in Exhibit 2, attached hereto and fully incorporated herein by this reference.
15. No Precedent. The Parties hereto acknowledge and expressly agree that acceptance and execution of this Agreement shall not (a) establish any legal or equitable right, obligation, or expectation whatsoever for, upon, or by any Party to enter into any future agreement(s) with each other and/or third parties pertaining to the delivery of water, by wheeling arrangement or otherwise, nor (b) prohibit any Party hereto from entering into any future agreements with each other and/or third parties pertaining to the delivery of water, by wheeling arrangement or otherwise. The foregoing shall not apply to Tacoma's right of first refusal pursuant to Section 14 herein during the Term of this Agreement.
16. Survival/Severability. If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable.
17. Authority. The individuals executing this Agreement on behalf of their respective Party represent and warrant that they have the authority and are authorized to do so on behalf of their respective Party.
18. Early Termination. Rainier may terminate this Agreement without penalty on at least one (1) year's prior written notice to the other Parties.

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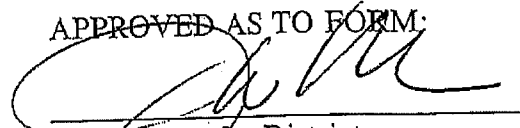
IN WITNESS WHEREOF, the Parties have accepted and executed this Agreement effective as of the latest date signed by all Parties below.

Lakewood Water District ("Lakewood")

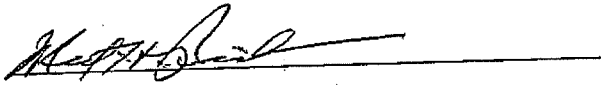

Printed Name: Randall M. Black

Its: General Manager
Dated: 1/14/2010

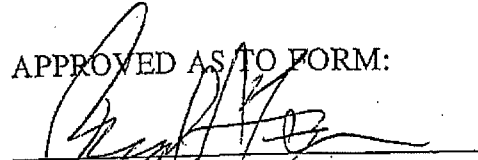
APPROVED AS TO FORM:


By Attorney for District

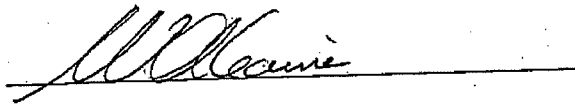
Rainier View Water Company ("Rainier")


Printed Name: Neil Richardson
Its: President
Dated: 1/26/2010

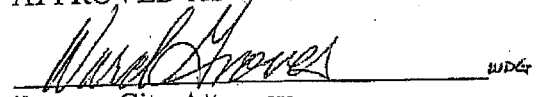
APPROVED AS TO FORM:


By Attorney for Rainier


City of Tacoma,
Department of Public Utilities ("Tacoma")


Printed Name: William A. Gaines
Its: Utilities Director/CEO
Dated: 2/10/10


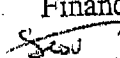
APPROVED AS TO FORM:


Deputy City Attorney

APPROVED:


for John Kirner, Tacoma Water Superintendent

Approved:


Finance


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EXHIBIT 1

(July 29, 2009 Wholesale Agreement between Lakewood and Rainier)

ORIGINAL

AGREEMENT FOR WHOLESALE SUPPLY OF WATER

This Agreement ("Agreement") for the wholesale supply of water between the Lakewood Water District, a special purpose municipal corporation ("District") and Rainier View Water Company, Inc., a Washington corporation ("Customer"), is effective as set forth in 2.9, below (individually a "Party" and collectively the "Parties").

1. RECITALS.

1.1. The District, pursuant to Title 57 RCW, supplies potable water to customers within its boundaries through a public water system. The District's public system is comprised of source of supply (wells with attendant water rights), storage, transmission, and distribution mains. The District's water supply is in excess of its present and reasonably foreseeable future demand.

1.2 Customer is organized under the laws of the State of Washington as a corporation and is a public service company as defined in RCW 80.04.010 which supplies potable water to customers subscribing to its service within its service area.

1.3 Customer is in need of additional supply to meet expected demand within its service area.

1.4 The District's comprehensive plan allows it to serve Customer.

1.5 The District is willing to supply Customer with wholesale water on the terms and conditions provided for herein, and Customer is willing to purchase wholesale water from the District on such terms and conditions.

2. AGREEMENT.

The *Parties* agree to the following terms and conditions.

2.1 DEFINITIONS.

For purposes of this Agreement the capitalized and italicized terms shall mean:

2.1.1 "*Capital Improvements.*" Improvements, upgrades, and replacements constructed or installed in whole or in part by the District to provide wholesale water to *Customer* including reservoirs, primary and secondary transmission mains, interties, controls and

ORIGINAL

communication equipment, wells, well pumps, booster pumps, and water treatment. *Capital Improvements*, when constructed, are *System Wholesale Facilities*, *Customer Wholesale Facilities*, or *Joint Facilities*. *Capital Improvements* include any equipment with a service life of one year or more.

2.1.2 "*Capital Improvement Cost.*" The original cost of *Capital Improvements*, including amounts paid for: (1) preparing planning studies, engineering plans and specifications, and acquiring permits and franchises for the *Capital Improvements*, including those costs incurred by the *District* prior to execution of this Agreement; (2) work performed under contracts for construction, installation, and inspection of the *Capital Improvements*; (3) recorded pay and expenses of employees of the *District* directly and indirectly related to the design, construction, installation, and inspection of the *Capital Improvements*, including capitalized *District G&A*, and including costs incurred prior to execution of this Agreement; (4) materials, equipment, and supplies directly related to the *Capital Improvements*; (5) acquiring and condemning land, easements, and rights-of-way for or related to the *Capital Improvements*; (6) professional services related to the financing, planning, acquisition, construction, installation, and inspection of the *Capital Improvements* or for negotiating, resolving, or litigating any disputes related thereto; (7) reasonable expenses incurred to mitigate the impact of the *Capital Improvements* upon the natural or physical environment, including but not limited to expenses for landscaping, buffering, and wetland mitigation; (8) other expenses reasonably related to the planning, design, construction, and construction management of the *Capital Improvements*.

2.1.3 "*Cash Basis.*" The *District's* cost of water determined according to the principles established in Section 2.6.3C except that all Wholesale Customer related annual bond or loan debt service and repayment obligations to the *District* for principal and interest shall be included in the annual cost calculation, which will include a fixed charge and a volume charge, and the return on rate base and annual depreciation expense shall be excluded.

2.1.4 "*Coverage.*" The number of times by which gross annual revenues less *Maintenance and Operation Cost* and *G&A* exceed annual debt service. The *District's Coverage* shall never be less than that required by *District* bond covenants.

2.1.5 "*Customer.*" Rainier View Water Company, Inc., a Washington corporation that is purchasing wholesale water from the *District*, including *Customer's* agents or designees.

2.1.6 "*Customer Meters.*" Meters that will measure the quantity and flow of water provided to *Customer* by the *District*. The locations of *Customer Meters* are identified on Exhibit B. Whenever the *District* delivers water through a third party, the *Customer Meters* may be a combination of a *District* meter located at an intertie with a third party and a *Customer Meters* located at an intertie with a third party.

ORIGINAL

2.1.7 "*District.*" The Lakewood Water District, a special purpose municipal corporation located in Pierce County, including its agents or designees.

2.1.8 "*Existing Water Rights.*" That portion of permits, certificates, or claims of the *District* originally obtained to serve only the *District's* retail customers that has been allocated to *Wholesale Customers*. *Existing Water Rights* are shown on Exhibit A.

2.1.9 "*GPM,*" "*GPD,*" "*MGD.*" Gallons Per Minute; Gallons Per Day; Million Gallons per Day.

2.1.10 "*General and Administrative Cost,*" "*G&A.*" The *District's* general and administrative, supervisory and other indirect costs, including financial (budgeting, accounting, bookkeeping) data processing, clerical, management and administration, personnel, and non-capitalized professional services, including engineering and financial planning. State revenue related excise and B&O taxes, and any other costs not assigned to *Maintenance and Operation Cost*; but excluding any local government utility tax or franchise fee.

2.1.11 "*Internal System.*" (1) With respect to the *Customer*, all present and future reservoirs, primary and secondary transmission mains, interties, controls and communication equipment, wells, well pumps, booster pumps, and water treatment owned, operated, and maintained by *Customer*; and (2) With respect the *District*, all present and future reservoirs, primary and secondary transmission mains, interties, controls and communication equipment, wells, well pumps, booster pumps, and water treatment owned, operated, and maintained by the *District*, excluding any *Wholesale Facilities* and separate stand-alone satellite systems owned or operated by the *District*.

2.1.12 "*Joint Facilities.*" That portion of the present and future *District's Internal System* that benefits *Wholesale Customers* or are necessary to supply wholesale water to *Customer*, including improvements, upgrades, and replacements.

2.1.13 "*Leased Water.*" Water leased or purchased by the *District* and used for the purpose of supplying *Wholesale Customers*.

2.1.14 "*Maintenance and Operation Cost.*" All direct and indirect costs and expenses incurred by the *District* in treating and supplying water, including leased or purchased water, and complying with applicable regulatory requirements, including supply, treatment, pumping, labor, utilities, equipment, tools, materials, inspection, insurance, and non-capitalized equipment leases, repair and rehabilitation, and the markup provided for herein.

2.1.15 "*Party,*" "*Parties.*" The *District* and/or the *Customer*.

ORIGINAL

2.1.16 "*Supply Schedule.*" A mechanism to enable the *District* to provide the *Total Water Requirement* when it is needed by the *Customer* by accommodating both the *District's* need to plan for and develop supply and infrastructure and the *Customer's* need for an increasing supply. The *Supply Schedule* will identify maximum quantities of water that the *District* will supply to *Customer* during specific periods of time during the term of this Agreement.

2.1.17 *Total Annual Revenue Requirement.* The *District's* cost of water determined according to the principles established in Section 2.6.3.C of this Agreement.

2.1.18 "*Total Water Requirement.*" 2,000,000 MGD, the daily maximum quantity of water the *District* will supply to *Customer* during the term of this Agreement. The *Total Water Requirement* is used for allocating cost under this Agreement.

2.1.19 "*Water Right.*" Any water right (permit or certificate) obtained by the *District* for the purpose of acquiring water to supply *Wholesale Customers* and put to use for that purpose.

2.1.20 "*Water Right Cost.*" The original cost incurred by the *District* to secure the *Water Right*, including amounts paid for: (1) preparing planning studies, engineering plans and specifications, and acquiring permits and franchises, including those costs incurred by the *District* prior to execution of this Agreement; (2) recorded pay and expenses of employees of the *District* directly and indirectly related to securing the *Water Right*, including capitalized *District G&A*, and including costs incurred prior to execution of this Agreement; (3) materials, equipment, and supplies directly related to securing the *Water Right*; (4) professional services related to the financing, planning, acquisition of the *Water Right*, or for participating in administrative proceedings with respect to securing the *Water Right*, or negotiating, resolving, or litigating any disputes related thereto; (5) reasonable expenses incurred to mitigate the impact of the *Water Right* upon the natural or physical environment; and (6) other expenses reasonably related to the acquisition of the *Water Right*.

2.1.21 "*Wholesale Customers.*" All water purveyors that purchase wholesale water from the *District*, excluding the Town of Steilacoom, under agreements identical to or substantially similar to this Agreement.

2.1.22 *Wholesale Facilities.*" All water supply and transmission facilities, including, but not limited to, wells, water lines, storage facilities, and transmission mains owned, operated, and maintained by the *District* for the sole purpose of supplying *Wholesale Customers*. *Wholesale Facilities* that serve all *Wholesale Customers* are *System Wholesale Facilities*. *Wholesale Facilities* that serve one or more but not all *Wholesale Customers* are *Customer Wholesale Facilities*. When the term *Wholesale Facilities* is used in this Agreement, that term includes both *System and Customer Wholesale Facilities*.

ORIGINAL

2.1.23 "Wholesale Water." The total quantity of water available from *District* for sale to current or prospective *Wholesale Customers*, including, but not limited to, water allocated by the *District* and designated for sale as *Wholesale Water* from its *Existing Water Rights* or from the *Water Right* or from *Leased Water*. Whenever the term "quantity of *Wholesale Water*" is used for the purpose of allocating cost, the term refers to *MGD*. As authorized by the *District's* Board of Commissioners, the volume designated as *Wholesale Water* shall be not less than six (6) *MGD*.

2.2 SUPPLY AND PURCHASE OF WATER

2.2.1 So long as this Agreement is in effect, the *District* shall plan for, develop, treat, and annually supply to *Customer* potable water in an amount not to exceed *Customer's Total Water Requirement* according to the *Supply Schedule* and to the terms and conditions herein, subject to acts of God or other events beyond the reasonable control of the *District* or *Customer*. The *District's* obligation to provide *Customer* with wholesale water is limited by the following *Supply Schedule*:

		<u>QA</u>		<u>QI</u>	
A. Present to 6/30/2012	Quantity	500,000	GPD	500	GPM
B. 7/1/2012 to 6/30/2015	Quantity	1,000,000	GPD	1,000	GPM
C. 7/1/2015 to 6/30/2018	Quantity	1,500,000	GPD	1,339	GPM
D. 7/1/2018 and thereafter	Quantity	2,000,000	GPD	1,389	GPM

2.2.2 *Customer* shall pay for its share of the cost of water as provided herein: Before *Customer* begins to take water from the *District*, *Customer* shall pay only for the fixed portion of the *Customer's Total Water Requirement*. After *Customer* begins taking water from the *District* and so long as this Agreement is in effect, *Customer* shall purchase water from the *District* and pay for the *Customer's Total Water Requirement* and water supply received by customer according to the *Supply Schedule* and the terms and conditions herein, subject to acts of God or other events beyond the reasonable control of the *District* or *Customer*. On an annual basis in a letter of understanding between the *Wholesale Customers* and *District*, the *District* may allow for a temporary upward modification of the *Supply Schedule*.

2.2.3 This Agreement shall remain in effect for fifty (50) years, subject to automatic renewal for additional twenty (20)-year periods unless either *Party* notifies the other *Party* not less than five years before the expiration date of any twenty (20)-year period of its intent to terminate the agreement, provided that with respect to the *District* the meaning of the term "termination" shall be limited to the right to open the agreement to renegotiation. However, if the *District* is assumed or acquired by a third party, then *Customer* may terminate this Agreement no sooner than ten (10) years from the effective date of this Agreement. If *Customer* chooses to exercise this right of early termination, then the party assuming or acquiring the *District* shall pay to *Customer* an amount equal to the total *Capital Improvement Cost* paid by

ORIGINAL

Customer plus interest at the *District's* average weighted cost of debt, times the number of years remaining on the agreement on the date the right of early termination is exercised, divided by fifty (50) years. Along with the notice of early termination, *Customer* shall submit to the third party an invoice with supporting documentation for the amount claimed. The invoice shall be due and payable within thirty (30) days of its date, and thereafter the unpaid balance shall bear interest at twelve (12) percent per annum.

2.2.4 So long as this Agreement remains in effect, the *Customer* shall not enter into any other agreements to sell water to another water purveyor without first obtaining the written consent of the *District*, which consent shall not be unreasonably withheld, or delayed or conditioned; provided, that in no event shall *Customer* sell water outside the place of use assigned to the *Water Right* or to any other water rights held by *Customer*, including water rights for *Leased Water*.

2.2.5 So long as this Agreement remains in effect, the *District* shall not enter into any other agreements to supply water to another purveyor that will impair the *District's* ability to supply *Customer's Total Water Requirement*.

2.3 CONDITIONS OF SERVICE—The *District*.

2.3.1 Except as provided in paragraph 2.3.4 and 2.3.7, the *District* shall provide the normal flow identified in the *Supply Schedule* with required minimum hydraulic gradient at interties with *Customer's Internal System* of not more than one thousand three hundred eighty nine (1,389) *GPM* and emergency flow of not more than the *GPM* available as measured by *Customer Meters*. Flows for additional interties shall be established by separate agreement. Cost incurred to change normal flow shall be borne by the party requesting the change.

2.3.2 Except as provided in paragraphs 2.3.4 and 2.3.7, the *District* shall provide continuous service to *Customer*, to the extent feasible, in the same manner and extent that it provides service to its direct service customers.

2.3.3 Restrictions placed upon *Customer's* water use to address conservation shall be adopted and applied consistent with restrictions placed upon the *District's* direct service customers unless the Washington Utilities and Transportation Commission (or successor agency) must approve such action as part of *Customer's* tariff. The *District* may implement emergency or conservation measures, and *Customer* agrees to comply with such measures. The *District* and *Customer* shall establish a working group to develop an emergency response plan and a water shortage plan that will identify the measures to be imposed to respond to emergencies or shortages, the mechanisms for imposing and repealing such measures, and penalties for failure to comply therewith. The *District* may impose unilateral measures until the *District* and

ORIGINAL

Customer(s) approve such plans. The *District* or *Customer(s)* may convene the working group for the purpose of reviewing adopted plans, proposing amendments thereto, or monitoring implementation of plans; provided, that any amendments must have the concurrence of the *District*.

2.3.4 The *District* may interrupt or reduce delivery of water to *Customer*, if the *District*, acting in good faith, determines that system emergencies or maintenance and repair so require. An emergency shall include a natural act or act of man that renders the *District* incapable of supplying its retail customers or leaves the *District* without adequate water supply to supply its own customers. Except for emergencies, the *District* shall give *Customer* reasonable written notice of interruption or reduction, the reason therefore, and the likely duration thereof. In the event of an emergency or maintenance and repair requiring interruption of service, the *Parties* shall pursue restoration of service cooperatively and with the exercise of due diligence. The *District* agrees to supply wholesale water pursuant to this Agreement with the same degree of reliability and certainty of supply as water provided by the *District* to its existing customers. *Customer* acknowledges that during an emergency situation or a planned outage the *District* may temporarily be unable to meet all or part of its wholesale service commitment. If the *District* has a planned outage, the *District* shall give *Customer* a minimum of seven (7) days advance notice in writing of such planned outage. The *District* and *Customer* will work together to identify mutually acceptable dates for planned outages.

2.3.5 Except as provided in paragraph 2.3.7, the quality and content of water supplied to *Customer* at the *Customer Meters* under this Agreement shall comply with or exceed applicable federal, state, and local rules and regulations governing water quality applicable to the *District*, except in cases of emergency. In the case of an emergency that affects the quality of water delivered to *Customer*, *District* shall notify *Customer* as soon as possible with as much information as is available to *District*. Further, *District* shall use its best possible efforts to remedy the cause of the emergency as soon as possible and shall make every effort to deliver water to *Customer* that complies with or exceeds applicable federal, state and local rules and regulations governing water quality applicable to the *District*.

2.3.6 A minimum hydraulic gradient for each intertie connection shall comply with Department of Health (DOH)-approved project report and construction document criteria. Except as provided in paragraph 2.3.7, the *District* shall use its best efforts to supply water from its system to *Customer* at the intertie connection(s) at not less than the minimum hydraulic gradient pressure identified in DOH-approved project reports and to the extent possible under emergencies or maintenance and repair periods at the inlet side of *Customer Meters* of 30 psi. The hydraulic gradient for additional *Customer Meters* shall be established by separate agreement. Cost incurred to change the hydraulic gradient shall be borne by the party requesting the change.

2.3.7 Whenever the *District* delivers water through a third party's water system, the *District's* obligations under paragraphs 2.3.1, 2.3.2, 2.3.5, and 2.3.6 are satisfied when the water supplied to that third party meets the requirements of those paragraphs. *Customer* releases

District from any claim for damages or injury sustained as a result of the third party or its water system failing to meet the requirement of paragraphs 2.3.1, 2.3.2, 2.3.5, and 2.3.6.

2.4 CONDITIONS OF SERVICE—*Customer*.

2.4.1 *Customer's* demand upon the *District's* water supply shall not exceed the *Total Water Requirement* at the rates of flow provided for in paragraph 2.3.1.

2.4.2 *Customer* shall limit retail sales of water to customers within its current or future service area as described in the *Customer's* water comprehensive plan; provided that, *Customer* shall not be prohibited from providing service to retail customers outside of its service area so long as *Customer* does not exceed the supply limitations of this Agreement.

2.4.3 *Customer* shall not interconnect any part of its *Internal System* with any other municipal or private water system without the prior written consent of the *District* (prior oral consent in an emergency), which consent shall not be unreasonably withheld, delayed or conditioned. Interconnections in place as of the date of this Agreement and identified in Exhibit B are deemed approved.

2.4.4 *Customer* at its expense shall install, own, and operate *Customer Meters*; provided that, the selection of meters will be subject to the prior approval of the *District*. *Customer Meters* shall be calibrated annually in the presence of *District* representatives and shall be maintained to be accurate within 2 percent plus or minus. The *District* shall have free and unlimited access to *Customer Meters* for inspection and testing at the *District's* expense. The *District* shall read *Customer Meters* monthly and bill *Customer* for water supplied according to the terms of this Agreement; provided, however, that whenever the *District* delivers water through another water system, the wheeling agreement shall establish meter-reading procedures for billing for water supplied according to the terms of this Agreement.

2.5. CAPITAL IMPROVEMENTS.

2.5.1 The *District* agrees to construct and recover the cost of the *Capital Improvements* as provided herein.

2.5.2 The *Capital Improvement Cost* of *Wholesale Facilities* shall be borne entirely by *Wholesale Customer* through rates and/or cash payments from *Wholesale Customer*; provided that the *Capital Improvement Cost* of a *System Wholesale Facility* shall be allocated among *Wholesale Customers* according to the *Total Water Requirement* of the *Customer* divided by *Wholesale Water*, and the *Capital Improvement Cost* of a *Customer Wholesale Facility* shall be allocated only to the *Customer* that benefits from the facility, provided, that whenever more than one *Customer* benefits from the *Customer Wholesale Facility*, the costs shall be allocated between those benefited *Customers* in the same manner as for *System Wholesale Facilities*.

ORIGINAL

2.5.3 The *Capital Improvement Cost* of *Joint Facilities* shall be allocated as follows:

A. The *Capital Improvement Cost* of existing *Joint Facilities* shall be allocated between the *District* and *Wholesale Customers* according to the ratio of the quantity of *Wholesale Water* that has been designated to *Wholesale Customers* over the maximum quantity of water authorized by all *District* water rights; provided, however, the portion of *Capital Improvement Cost* of *Joint Facilities* that are existing transmission mains to be allocated to *Wholesale Customers*, net of accumulated depreciation, shall be determined by multiplying the cost of all *District* mains recorded on the *District's* books, less the cost of all *District* mains used exclusively for *Wholesale Facilities* or shared with Town of Steilacoom, times the ratio of the lineal feet of mains eight inches and greater over the total lineal feet of all *District* mains, less the lineal feet of all mains used exclusively for *Wholesale Facilities* or shared with Town of Steilacoom.

B. The *Capital Improvement Cost* of a planned *Joint Facility* shall be allocated between the *District* and *Wholesale Customers*, after the facility is constructed, according to the ratio of the quantity of *Wholesale Water* designated to *Wholesale Customers* over the maximum quantity of water authorized by all *District* water rights.

C. The portion of the *Capital Improvement Cost* of *Joint Facilities* shall be allocated to the *Customer* according to the ratio of *Total Water Requirement* of *Customer* over the quantity of *Wholesale Water*.

2.5.4. The *Water Right Cost* shall be allocated among *Wholesale Customers* according to the ratio of the *Total Water Requirement* of a *Customer* over *Wholesale Water*.

2.5.5 The *District* reserves the right to issue bonds and other obligations in accordance with applicable law.

2.5.6 If the *District* is required by growth, accident, emergency, failure, or applicable law or regulation to improve, upgrade, replace, or expand the *Water Right, Wholesale Facilities, or Joint Facilities*, or to provide a higher level of water treatment, *Customer* shall share in those future *Capital Improvement Costs* as provided in paragraphs 2.5.2, 2.5.3, or 2.5.4.

2.5.7 *Capital Improvements* shall be constructed as public works projects awarded pursuant to law. The *District* shall design, construct, and maintain the *Capital Improvements* according to accepted water utility standards. The *District* shall administer the

ORIGINAL

planning, design, construction, and construction management of the *Capital Improvements* to the best of its ability. Any construction change order changing the scope of a project or increasing the estimated *Capital Improvement Cost* of a project by 5 percent or \$50,000.00, whichever is greater, shall be approved only after consultation with *Wholesale Customers*.

2.6 COST OF WATER.

2.6.1 The *Capital Improvement Cost* and *Water Right Cost* shall be allocated among *Wholesale Customers* as provided in Section 2.5. The *District* shall price the water as provided in this Section 2.6.

2.6.2 From the date of this Agreement until modified as provided herein, water will be priced according to the *Cash Basis* of cost recovery to be included in the *Total Annual Revenue Requirement*, but the price will never be less than the price established by the *Cash Basis* in year one of this Agreement. The *Cash Basis* shall be composed of two pricing components (1) a fixed charge based on the *Customer Total Water Requirement* and (2) a unit charge per 100 cubic fee (CCF). The *Cash Basis* of cost recovery shall continue until *District* can sell to all *Wholesale Customers* sufficient water to recover the *District's Total Annual Revenue Requirement* for three consecutive years. Thereafter, water shall be priced as provided in Section 2.6.3C and *Customer's* wholesale water rate shall be composed of: (1) a fixed charge to recover depreciation, a return on Rate Base, and *G&A*; and (2) a unit charge per 100 cubic feet (CCF) of *Customer's* consumption to recover *Leased Water* cost and *Maintenance and Operation Cost*, including a mark up of 10 percent.

2.6.3 The following shall determine the wholesale water rate to be paid to the *District* by *Customer* after the *Cash Basis* of cost recovery is discontinued:

A. The *District* will treat *Customer* as a customer separate from the *District's* direct service customers;

B. All costs of serving *Customer* will be recovered by a combination of annual fixed charges and water volume charge to the *Customer*; and

C. The cost of serving *Customer* shall include depreciation expense, Return on Rate Base, *Maintenance and Operation*, and *G&A* components determined as follows:

1. *G&A* shall be an annual cost per connection established by multiplying total *G&A* by two-thirds, dividing that by the total number of water service connections, with *Customer* counted as one connection, plus one-third of annual *G&A* divided by the prior year's total *District Internal System* consumption, plus the projected increase in current year's total

ORIGINAL

consumption for *Customer*, multiplied by *Customer's* projected current consumption as provided by *Customer* to *District* no later than December 31 of each year.

2. Annual depreciation shall be determined dividing the original *Capital Improvement Cost* recorded on the *District's* books by the *District's* standard application of estimated life of that facility or for that class of water assets.

3. Return on Rate Base shall be determined as follows:

a. *Wholesale Facilities.* The *Capital Improvement Cost*, net of accumulated depreciation, allocable to *Customer* less any upfront cash payment made by *Customer*, multiplied by 6 percent.

b. *Joint Facilities.* The *Capital Improvement Cost* net of accumulated depreciation multiplied by 6 percent per year from the date of this Agreement.

c. *Water Right.* The *Water Right Cost* allocable to Wholesale *Customer* multiplied by 12 percent per year for 20 years after the Agreement date and thereafter multiplied by 9 percent per year.

d. *Existing Water Rights.* The *Water Right Cost* per MGD will be the same as the Abitibi water right cost per MGD multiplied by 9 percent per year.

4. *Maintenance and Operation Cost* of *Joint Facilities* and *Wholesale Facilities* shall be annually determined separately, totaled, and increased by 10 percent per the *District's* fiscal year.

a. The *Maintenance and Operation Cost* of *Joint Facilities* shall be determined as follows:

i. *Pumping, Treatment, and Storage Costs.* The annual *District* pumping, storage, and treatment costs divided by the prior year's total *District Internal System* consumption, plus the projected increase in current year total consumption for *Wholesale Customers*, multiplied by *Customer's* projected current year's total consumption as provided by *Customer* to *District* no later than December 31 of each year.

ORIGINAL

ii. **Transmission Costs.** The annual *District* transmission and distribution costs multiplied by the ratio of the lineal feet of mains eight inches and greater, less the lineal feet of mains used exclusively for *Wholesale Facilities* or shared with Town of Steilacoom, divided by the prior year's total *District Internal System* consumption, plus the projected increase in current year's total consumption for *Wholesale Customers*, multiplied by *Customer's* projected current year's consumption as provided by *Customer* to *District* no later than December 31 of each year.

b. The annual *District Maintenance and Operation Cost* of *Wholesale Facilities* shall be allocated among *Wholesale Customers* according to the ratio of the *Customer's* projected current year's consumption over the projected current year's consumption of all *Wholesale Customers* as provided by *Customer* to *District* no later than December 31 of each year.

5. **Leased Water Cost.** The *District's* annual cost for *Leased Water* shall equal 10 percent times the average cost per *MGD* of the Abitibi water right purchase times the quantity of *Leased Water* measured in terms of *MGD* or the actual cost of *Leased Water* per *MGD* plus a 10 percent mark-up, whichever is greater.

D. The *District* will recalculate the *G&A* costs and *Maintenance and Operation* costs annually by using the current year's total consumption and *District's* annual costs; and, in the following year, the fixed charge portion of *Customer's* wholesale water rate shall be increased or decreased accordingly.

2.6.4. A. The *District* shall install telemetry systems at the *Customer Meters* for the purpose of monitoring delivery of water to *Customer*. Such telemetry shall be operational when the *District* commences to supply *Customer* with water under this Agreement. The *District* shall advise the *Customer* whenever *Customer's* demand for water threatens to exceed the limits of the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement*. Upon receipt of such notice, the *Customer* shall operate its system so that peaking demand shall be satisfied from *Customer's* water supply and not from water supplied under this Agreement. The *District* shall notify *Customer* when *Customer's* demand no longer threatens to exceed the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement*.

ORIGINAL

B. If, in any calendar month, the Customer exceeds the limits of the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement* (an "Exceedence"), the *District* shall hand deliver written notice of such Exceedence to *Customer*. If after three days from the notice such Exceedence continues, the *District* shall hand deliver a second notice of Exceedence. If after three days from the second notice the Exceedence continues, then, in addition to a 100 percent surcharge on the unit charge component of the wholesale water rate payable on all water used in excess of the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement*, the *Customer* shall pay to the *District* an amount equal to 75 percent of the prior year's total annual payment (which includes both the unit charge and the fixed charge) to the *District* for wholesale water.

C. In any calendar year that a *Customer* exceeds the quantity limitation of the *Supply Schedule* times 365 or its *Total Water Requirement* times 365, as applicable, the *Customer's* wholesale water rates shall be subject to a surcharge on the exceedence of 100 percent of the unit charge component of the wholesale water rate.

D. *Customer* shall reimburse the *District* for any penalties imposed on the *District* for using more water than allowed by *District* water rights arising from *Customer's* use of water in excess of the use provided for herein.

2.6.5 The *District* has adopted Resolution No. B-1284 that establishes financial policies and a Rehabilitation and Repair Account, Account No. 136. The *District* agrees that it will not modify its financial policies in a manner detrimental to *Customer* nor discontinue Account No. 136 without making adequate provision for its obligation to fund its share of depreciation as provided herein. The *District* will establish in Account No. 136 a sub-account entitled "Wholesale Customer's R&R" for the purpose of recording funded depreciation and into which the *District* shall deposit, at a minimum the annual depreciation expense recovered from *Customer* through rates. Amounts deposited into the "Wholesale Customer's R&R" sub-account shall be restricted to payment for repair and rehabilitation projects for the *Wholesale* and *Joint Facilities*, and unavailable to the *District* by way of interfund transfer or loan; provided, that the *District* may invest such funds as prescribed by law. The return on such investment shall be deposited to the "Wholesale Customer's R&R" sub-account and credited against revenue requirements for the *Wholesale* and *Joint Facilities*. Within the "Wholesale Customer's R&R" sub-account, the *District* may establish additional sub-accounts for each *Customer*. Funding of the "Wholesale Customer's R&R" account shall begin only after all other revenue requirement cost and rate of return elements are recovered in wholesale rate revenues in whole.

At the option of *Customer*, on or before the effective date of the dissolution of the *District*, its merger or consolidation with another special purpose district, or its assumption by a city, funds received from *Customer* and deposited into the "Wholesale Customer R&R" sub-account shall be deposited into an account established by *Customer* and restricted by for the duration of this Agreement to payment of *Customer's* share of *Wholesale* and *Joint Facilities*

ORIGINAL

rehabilitation and repair projects. Thereafter, *Customer's* portion of rates allocated to depreciation expense shall be deposited therein and restricted for payment of *Wholesale* and *Joint Facilities* rehabilitation and repair projects. If *Customer* chooses to terminate the agreement as provided in 2.2.3, the funds in the "Wholesale Customer R&R" shall be refunded as provided in 2.2.3.

2.6.6 The *District* shall establish a "Customer Cash Payment Capital Account" to deposit cash payments made by the *Customer* in advance of costs incurred by the *District* for serving the *Customer*. The "Customer Cash Payment Account" will be a separate bank account for the sole purpose of depositing these funds at a local banking institution. This account will earn interest monthly and will be deposited on a monthly basis. Each year that the *District* earns revenue for annual depreciation and return on rate base, the *District* will reduce both the "Customer Cash Payment Capital Account" and the *Customer's* annual fixed charge respectively by the same amount and record earned revenue for the *District*. If the *Customer* is delinquent in paying its wholesale water bill to the *District* for 60 days or more, the *District* may apply any cash balance in the "Customer Cash Payment Capital Account" to the *Customer's* wholesale water bill to cure the delinquency.

When *Wholesale Facilities* are constructed, funds in the "Customer Cash Payment Capital Account" may, at the discretion of the *Customer*, be used to offset the *Capital Improvement Costs* of the new facility. The offset shall be determined by multiplying the *Capital Improvement Costs* by the ratio of the *Total Water Requirement* of the *Customer* over the *Total Water Requirement* of all *Wholesale Customers*. Money withdrawn from the "Customer Cash Payment Capital Account" to fund capital projects shall reduce the *Capital Improvement Costs* allocated to *Wholesale Customers* to calculate Return on Rate Base. Annual depreciation of a *Wholesale Facility* will be computed on the total *Capital Improvement Cost* of that *Wholesale Facility* without any deduction for cash payments made by *Wholesale Customers*. If *Customer* chooses to terminate the agreement as provided in 2.2.3, the funds in the "Customer Cash Payment Capital Account" shall be refunded as provided in 2.2.3.

2.6.7 Before the *District* recovers its cost according to the utility basis of calculating the *Total Annual Revenue Requirement*, the *District* will recover its cost according to the *Cash Basis* of cost recovery as provided in Section 2.6.2. A *Customer* that prepays all or any portion of its share of a wholesale capital project shall have its annual fixed charge reduced in an amount equal to the percentage that the cash payment reduces the *Customer's* share of the capital construction cost times the directly assigned annual debt service payments included in the annual fixed cost payable by *Customer*; provided, that the reduction in the fixed costs can be applied only to the portion of the annual fixed cost applicable to a specific capital project or group of projects.

2.6.8 Once the *District* recovers its cost according to the utility basis of calculating the *Total Annual Revenue Requirement*, as provided in Section 2.6.3, the annual fixed charge of *Wholesale Customers* making cash payments shall be reduced in an amount equal to

ORIGINAL

the reduction in the Return on Rate Base of those *Wholesale Customers* not making cash payments; and the annual fixed charge of a *Customer* not making cash payments shall be increased in an amount equal to that *Customer's* reduction in return on rate base.

2.7 INTERNAL SYSTEMS.

2.7.1 Each *Party* shall own, maintain, and operate its *Internal System* at its sole expense, except as provided herein. Each *Internal System* shall be maintained and operated with the highest practicable standards and practices in construction, operation, and maintenance, with particular attention to cross-connection control, water quality, and efficient and economical utility operation. Either *Party* may notify the other of conditions within the other's *Internal System* that constitute violations of law, regulation, or permit. Each *Party* shall cooperate with the other to rectify such conditions. If by reason of the *Customer's* act or failure to act, the *District* is penalized for failure to maintain or operate the *Wholesale Facilities* as required by applicable law or regulation, *Customer* shall indemnify the *District* for the penalty and all costs, including reasonable attorney's fees associated with investigating and defending against such penalty.

2.7.2 *Customer* hereby grants to *District* the right to attach that portion of the revenues of *Customer* equivalent to any unpaid balance for the charges described in paragraph 2.6 which are (a) at least sixty (60) days past due and *Customer* has not disputed the amounts due, or (b) any amounts due which were disputed by *Customer* and the dispute has been resolved against *Customer* under the dispute resolution provisions of this Agreement and the dispute is finalized under a final, non-appealable determination. This contract right will be subordinate to any security interest or liens of any third party commercial lender or lenders which has, or in the future will have, provided *Customer* one or more loans to fund the capital construction and/or operations of *Customer*. The *District* agrees to execute any documents subordinating its security granted herein to a third party lender as may be reasonably required or requested by such third party lender. In order to secure *District's* contract right to attach *Customer's* revenues for any unpaid balance as provided herein, *Customer* covenants and agrees that it shall maintain a debt to asset ratio of no greater than sixty percent (60% or .6), provided that if *Customer* exceeds the debt to asset ratio of .6, *Customer* shall have the right and opportunity to cure such breach of the permitted maximum debt to asset ratio no later than by the end of the calendar year when such breach occurred. The debt to asset ratio will be calculated by dividing the total debt obligations of *Customer* to third parties by the result of subtracting accumulated depreciation from utility plant as shown on *Customer's* balance sheet.

Total debt
(utility plant – accumulated depreciation)

On or before June 30 of each year, *Customer* shall provide to *District* a copy of its annual report as filed with the Washington Utilities and Transportation Commission containing the *Company's* balance sheet for the year ending prior to the filing of the annual report. *Customer* agrees that it shall provide *District* with at least sixty (60) days advance written notice that it

ORIGINAL

intends to enter into a debt obligation that will cause *Customer* to exceed the debt to asset ratio of .6 if that event should occur, provided, however, if *Customer* reasonably determines that *Customer* needs to enter into a debt obligation on an emergency basis to maintain its financial viability and such debt obligation will cause the *Customer* to exceed the debt to asset ratio of .6, *Customer* shall provide District with written notice of such debt obligation as soon as reasonably possible. *Customer* acknowledges that the *District* has the right to collect billings as set forth in RCW 57.08.081 as it now exists or may be amended (not including the lien provisions of RCW 57.08.081). If a conflict exists between the terms of the statute and the terms of this Agreement, the terms of the Agreement shall control.

2.7.3 The *District* shall establish rates and collect fees and charges for water service sufficient to pay for the maintenance and operation of its *Internal System*, and the principal and interest on any and all *District* revenue obligations that constitute a charge against the revenue of the *District's Internal System*.

2.7.4 The *District* shall keep full and complete books of accounts in compliance with current standards required by the State Auditor. Either *Party* may request independent audits by a public accounting firm at that *Party's* expense.

2.8 ADMINISTRATION.

2.8.1 The *District* shall, if necessary, amend its comprehensive plan and/or water rights to authorize it to serve *Customer*. The *District*, as planning authority for the water supply requirements of this contract, shall examine and investigate water supplies suitable and adequate for its present and reasonable future needs, including any wholesale supply requirements. The *District* shall prepare and adopt a plan for acquiring and supplying such water, including provision for water and water rights, real property, and facilities required for storage and transmission and delivery of water.

The *District* shall establish an operation committee to be composed of all *Wholesale Customers*. The committee shall advise the *District* on all matters related to wholesale water supply, participate in the preparation of emergency plan(s), review and comment upon the *District's* comprehensive plan(s), review and comment upon planning for, design of, and cost of *Capital Improvements*; provided however, the *District's* decisions concerning *Capital Improvements* shall be final and not subject to arbitration.

2.8.2 Each *Party* shall purchase and maintain insurance for its *Internal System* equal to or greater than coverage in force for such system as of the date of this Agreement.

2.8.3 The *District* shall bill *Customer* for water supplied by monthly invoice due and payable within thirty (30) days of the date thereof. Delinquent and unpaid

ORIGINAL

balances shall bear interest at 12 percent per annum. Each monthly bill shall be composed of 1/12th of the estimated annual fixed cost plus a unit charge on volume used during the billing period. *Customer* may dispute the accuracy of a monthly invoice by providing written notice to the *District* within thirty (30) days of the date of invoice that specifies the nature of the dispute and by paying any undisputed amount. The *District* shall rule on the dispute in a timely fashion, and *Customer* shall pay the disputed amount or submit the dispute to arbitration as provided herein within thirty (30) days of the *District's* decision. Disputed amounts shall not bear interest until thirty (30) days after the *District's* decision or the arbitrator's decision.

2.8.4 Except as otherwise provided in this Agreement, in the event of any dispute arising under this Agreement between the *District* and *Customer*, the Parties agree to negotiate in good faith concerning the resolution of such dispute. If such dispute cannot be resolved by negotiation between the *District* and *Customer* within thirty (30) days of the date of notice from one to the other of the existence of the dispute, then the *District* and *Customer* agree to submit the matter to mediation using a commercial mediation service. The costs of the mediator shall be borne one-half (1/2) each by the *District* and *Customer*. The *District* and *Customer* shall be responsible for their internal costs and attorney's fees in any such mediation. If mediation is unsuccessful, the dispute shall be arbitrated by JAMS of Tacoma.

Arbitration, shall be conducted in accordance with Title 7.04A RCW; provided, the *Parties* may conduct discovery pursuant to the Superior Court Rules of Civil Procedure. The arbitrator's decision shall be final and shall award reasonable attorney's fees and costs of arbitration to the prevailing party. Requests for reconsideration or modification may be submitted as provided by Superior Court Rules of Civil Procedure. The arbitrator's decision shall be reduced to judgment as provided by Title 7.04A RCW. The provisions of this paragraph do not apply to arbitration of a billing dispute, which shall be conducted informally.

2.8.5 This Agreement shall inure to the benefit of and be binding upon successors of interest and assigns of the *Parties*. Neither this Agreement nor obligations to perform hereunder may be assigned voluntarily by either *Party* without the other *Party's* written consent. The *Parties* do not intend to confer rights or benefits upon any third party. This Agreement is complete and contains the entire understanding of the *Parties*, and it may be modified only by a writing executed by the *Parties*.

2.8.6 Unless otherwise provided in this Agreement, all notices relating to this Agreement shall be sent to the following addresses, certified mail, return receipt requested, unless the other *Party* is previously notified in writing:

ORIGINAL

To the *District*:
General Manager
Lakewood Water District
P.O. Box 99729
Lakewood, WA 98496-0729

11900 Gravelly Lake Dr. SW
Lakewood, WA 98499

With a copy to (which alone shall not
constitute notice):

John W. Milne
777 - 108th Ave. NE
Bellevue, WA 98009

To *Customer*:
Rainier View Water Company
P.O. Box 44427
Tacoma, WA 98448
Attn: Operations Manager

5410 189th Street E
Puyallup, WA 98375

With a copy to (which alone shall not constitute notice):

Richard A. Finnigan
2112 Black Lake Blvd SW
Olympia, WA 98512

Billings for water supplied and payments thereof may be made by regular mail.

2.8.7 Each *Party* agrees to indemnify the other and hold it harmless from and against any loss, cost, damage, or expense of any kind and nature, including reasonable attorney's fees arising out of injury to person or damage to property in any manner caused by the negligence or omission of the *Party* in the performance of its work pursuant to or in connection with this Agreement.

2.8.8 This Agreement is intended to be and is a contract for the purchase and sale of a commodity, and no provision hereof shall be construed to make the *Parties* partners

ORIGINAL

or joint venturers. Neither *Party* is the agent of the other nor shall either *Party* be held liable for the acts of the other on a theory of agency or any other representative capacity.

2.9 CONDITIONS/EFFECTIVE DATE.

This Agreement is expressly conditioned upon and shall become effective on the occurrence of the latest of the following conditions, provided *District* shall have the right by written notice to the *Customer* to terminate this Agreement if the conditions are not satisfied or waived by *Customer* within one hundred twenty (120) days of the Effective Date of this Agreement:

2.9.1 Approval and execution of this Agreement by the *Parties* by appropriate action of the respective *Party's* Board of Commissioners or Board of Directors and signature by a duly authorized representative on behalf of each *Party*.

2.9.2 Approval of this Agreement and the recovery of costs incurred by *Customer* under this Agreement by the Washington Utilities and Transportation Commission.

2.9.3 Execution of an agreement for the wheeling of water from the *District* to the *Customer* on terms and conditions acceptable to *Customer* and any necessary third parties.

2.9.4 Execution of any contracts that may be needed for construction of transmission mains between *District* and *Customer* on terms and conditions satisfactory to *Customer*.

2.9.5 Washington State Department of Health approval of a Comprehensive Plan amendment or new Comprehensive Plan, as appropriate for *Customer*, that recognizes the *District* as a source of water supply and approves any interties and other facilities that may be required, including any transmission mains.

2.10 CONSTRUCTION/DISPUTE RESOLUTION.

2.10.1 The terms and conditions of this Agreement shall be construed in accordance with the spreadsheet attached hereto as Exhibit 1, which sets out the methodology that is contained in this Agreement for the calculation of payments from the *Customer* to the *District* under this Agreement. The calculation of the payments by *Customer* is illustrated on Exhibit 1 using the *District's* financial records for 2008. The Parties are relying on Exhibit 1 as a construction guide to demonstrate how the terms and conditions set forth in this Agreement apply to the financial relationship between *Customer* and *District*.

ORIGINAL

2.10.2 It is the intent of the *District* and *Customer* that this Agreement be construed to provide a permanent and reliable source of water for *Customer* consistent with the terms and conditions of this Agreement. All terms and conditions in this Agreement shall be construed in light of this statement of intent.

2.11 PERFORMANCE NOT REQUIRED/EFFECT.

2.11.1 Notwithstanding anything in this Agreement to the contrary, the *Customer* shall be excused from its payment obligations under this Agreement to the extent that it is prevented to do so by force of law or the *District* is prevented by a final, non-appealable order of a Washington State agency or by a final, non-appealable decision or decisions of a Washington State or Federal court or courts from delivering *Wholesale Water* to the *Customer* as required under the *Wholesale Customers' Supply Schedules*. In such case, *Customer* and *District* agree to negotiate an equitable treatment of any payments made by *Customer* for construction costs (but not of variable costs for water consumed by *Customer* and *Customer's end users*).

2.11.2 In any case other than the prevention of *Customer* or *District* or both from performing this Agreement as set out in 2.11.1, above, if a provision or provisions of this Agreement is (are) determined by a court of competent jurisdiction in a final, non-appealable, determination, to be unenforceable, the *District* and *Customer* agree to reform the provisions of this Agreement to allow the Agreement to be performed as closely as possible to the original intent of this Agreement. If this Agreement can be substantially performed without the provision or provisions determined to be unenforceable, then this Agreement shall continue without the offending provision or provisions. However, if this Agreement cannot be substantially performed without the provision or provisions found to be unenforceable, the *District* and *Customer* shall negotiate substitute provisions that will accomplish the essential purpose of this Agreement.

2.12 EFFECTIVE DATE.

This Agreement shall be effective upon the date by which each *Party* has approved and signed this Agreement ("Effective Date").

2.13 RESCISSION, TERMINATION AND SUPERSEDEAS OF MAY 21, 2009 AGREEMENT.

The Parties recognize and acknowledge that the Parties previously approved, executed and entered into an agreement entitled "Agreement for Wholesale Supply of Water" dated May 21, 2009 addressing the terms and conditions under which the *District* would provide wholesale water supply to the *Customer* (the "May 21, 2009 Agreement"). However, following the approval and execution of the May 21, 2009 Agreement by the Parties, and prior to the

ORIGINAL

performance of any of the May 21, 2009 Agreement's terms and conditions, the Parties determined that several terms and conditions of the May 21, 2009 Agreement required modification and correction. Therefore, effective upon the Effective Date of this Agreement, the Parties agree that the May 21, 2009 Agreement is hereby rescinded, terminated and superseded by this Agreement and shall have no legal force and effect.

LAKWOOD WATER DISTRICT
("District")

M. Stiland
President/Commissioner

W. W. Phillips
Vice President/Commissioner

John J. Karsney
Secretary/Commissioner

Dated: 7/29/09

RAINIER VIEW WATER COMPANY
("Customer")

Neil H. Richardson
By: Neil H. Richardson
Its: PRESIDENT

George L. Lee
Attest:

Dated: 07/27/09

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EXHIBIT 2

TERMS AND CONDITIONS OF RIGHT OF FIRST REFUSAL AGREEMENT

EXHIBIT 2

TERMS AND CONDITIONS OF RIGHT OF FIRST REFUSAL AGREEMENT

1. Right of First Refusal.

1.1 Grant of Right of First Refusal. From time to time, the Board of Commissioners of Lakewood may determine by resolution that Lakewood has water resources in excess of its present and anticipated or projected requirements ("Lakewood's Excess Water"). In such event, Lakewood shall not sell Lakewood's Excess Water without first giving written notice to Tacoma Water of the terms, conditions, provisions and details of a bona fide offer received by Lakewood from a third party, arms length purchaser (the "Purchaser") to purchase Lakewood's Excess Water and without first providing Tacoma Water with the right and option to purchase Lakewood's Excess Water on the same terms, conditions and provisions as those being offered by the Purchaser for the purchase of Lakewood's Excess Water (the "Right of First Refusal"). The Term of this Right of First Refusal shall run concurrently with the Term of the Water Wheeling Agreement to which this Exhibit 2 is attached and any extensions thereof mutually agreed to by the District and Tacoma. (the "First Right Period"). For purposes of this Right of First Refusal the following provisions shall be applicable:

1.1.1 Receipt of an Offer. If during the First Right Period, Lakewood receives a bonafide offer from a Purchaser to purchase Lakewood's Excess Water that contains terms, conditions and provisions that are acceptable to Lakewood (the "Offer"), then Lakewood shall send written notification to Tacoma Water of the Offer (the "Notice") in the manner specified in Subsection 1.1.5 hereof. The Notice shall include: (i) the identity of the Purchaser, (ii) the amount of Lakewood's Excess Water that is proposed to be sold and purchased pursuant to the Offer, and (iii) all material terms, conditions and provisions of the Offer, and (iv) a copy of the Offer from the Purchaser, so that Tacoma Water may evaluate the proposed transaction. For purposes of this Right of First Refusal Agreement, it is understood and agreed that the terms and conditions of any Offer shall be in substantially the same form and content as set forth in the sample Agreement For Wholesale Supply of Water form attached hereto as Exhibit 2-A.

1.1.2 Acceptance Time. Tacoma Water shall have a period of forty-five (45) days after the delivery of the Notice within which to deliver written notice to Lakewood of Tacoma Water's exercise of the right to purchase Lakewood's Excess Water in strict accordance with the terms, conditions and provisions of the Offer (the "Acceptance"). Time is of the essence in Tacoma Water's delivery of the Acceptance of the terms of the Offer and its agreement to purchase the Excess water in strict accordance with the Offer.

1.1.3 Lack of Timely Acceptance. In the event that Tacoma Water does not deliver the Acceptance of the Offer, thereby exercising Tacoma Water's Right of First Refusal granted in Section 1.1 hereof within forty-five (45) days after the delivery of the Notice, there shall be a conclusive presumption that Tacoma Water elected to NOT exercise the Right of First Refusal to purchase Lakewood's Excess Water pursuant to the Offer, in which event Lakewood may complete the sale of Lakewood's Excess Water to the Purchaser, on the same terms set forth in the Offer.

1.1.4 Notice of Acceptance. In the event that Tacoma Water does deliver the Acceptance of the Offer, thereby exercising Tacoma Water's Right of First Refusal within forty-five (45) days after the delivery of the Notice stating its intent to purchase Lakewood's Excess Water in full compliance with the terms, conditions and provisions of the Offer, then in such event, Lakewood shall not sell Lakewood's Excess Water to the Purchaser, but instead shall sell Lakewood's Excess Water to Tacoma Water in full compliance with the terms, conditions and provisions of the Offer.

1.1.5 Notice Procedure. Any notice to be given pursuant to the terms of this Agreement to any of the parties hereto (including the Notice and the Acceptance) shall be in writing and shall be delivered by sending a copy of any the Notice or the Acceptance to the addressee thereof according to the same notice procedure set forth in Section 11.2 of the Water Wheeling Agreement to which this Exhibit 2 is attached.

ORIGINAL

Delivery of the Notice or the Acceptance shall be deemed to have been completed upon the earlier of any of the following: (i) If the Notice or the Acceptance is given by personal delivery, it shall be deemed effective and received on the date of actual delivery of the Notice or the Acceptance to the person or entity specified or their authorized agent; and (ii) If the Notice or the Acceptance is given by certified U.S. Mail, it will be deemed effective and received three (3) days after it is deposited in the U.S. Mail, in the manner required herein. Any party may change the address to which notices are to be given by giving prior written notice of such change of address to the other party.

1.2 Modification or Change of Offer-Renewal of Right. In the event that Tacoma Water declines to exercise its Right of First Refusal after receipt of the Notice, and, in the event that thereafter, Lakewood and the Purchaser agree to any material change in any terms, conditions or provisions of the Offer (an "Amended Offer"), then Tacoma Water's Right of First Refusal shall reapply to the Amended Offer and Lakewood must again deliver to Tacoma Water a new "Notice" of the terms of the Amended Offer and in such event Tacoma Water shall again have the right to exercise the Right of First Refusal to acquire Lakewood's Excess Water, in the manner specified in this Section 1, in which event Tacoma Water shall have forty-five (45) days following the delivery of the Notice of the Amended Offer within which to accept the Amended Offer by delivering the Acceptance in the manner specified in Subsection 1.1.2 hereof thereby notifying Lakewood of Tacoma Water's exercise the right to purchase Lakewood's Excess Water pursuant to the terms of the Amended Offer .

1.3 Binding Effect, Enforcement. The terms of this Right of First Refusal shall be deemed a binding and non-extinguishable covenant, running with the title to Lakewood's Excess Water for the benefit of Tacoma Water and binding upon Lakewood for the First Right Period only.

1.4 Specific Performance. In the event of any uncured default, the Parties acknowledge that it may be difficult to measure the resulting damages and that damages may not provide a complete or adequate remedy. Accordingly, the non-defaulting Party, in addition to damages and any other relief sought or recovered, shall be entitled to seek injunctive relief and specific performance.

1.5 Assignment. The Right of First Refusal granted by Lakewood pursuant to this Paragraph 1 shall not be assignable by Tacoma Water and Lakewood shall not be obligated to sell Lakewood's Excess Water to any assignee of Tacoma Water.

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EXHIBIT 2-A

FORM AGREEMENT FOR WHOLESALE SUPPLY OF WATER

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EXHIBIT 2-A

**AGREEMENT FOR
WHOLESALE SUPPLY OF WATER**

This Agreement for the wholesale supply of water between the Lakewood Water District, a special purpose municipal corporation ("District") and _____, a Washington nonprofit corporation ("Customer"), is effective this ____ day of 200__.

1. RECITALS.

1.1. The District, pursuant to Title 57 RCW, supplies potable water to customers within its boundaries through a public water system. The District's public system is comprised of source of supply (wells with attendant water rights), storage, transmission, and distribution mains. The District's water supply is in excess of its present and reasonably foreseeable future demand.

1.2 Customer is organized under the laws of the State of Washington as a nonprofit corporation to supply potable water to customers within its boundaries.

1.3 Customer is in need of additional supply to meet expected demand within its service area.

1.4 The District's comprehensive plan allows it to serve Customer.

1.5 The District is willing to supply Customer with wholesale water on the terms and conditions provided for herein, and Customer is willing to purchase wholesale water from the District on such terms and conditions.

2. AGREEMENT.

The *Parties* agree to the following terms and conditions.

2.1 DEFINITIONS.

For purposes of this Agreement the capitalized and italicized terms shall mean:

2.1.1 "*Capital Improvements.*" Improvements, upgrades, and replacements constructed or installed in whole or in part to provide wholesale water to *Customer* including reservoirs, primary and secondary transmission mains, interties, controls and communication

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equipment, wells, well pumps, booster pumps, and water treatment. *Capital Improvements and Equipment* when constructed are either *Wholesale Facilities* or *Joint Facilities*. *Capital Improvements* include any equipment with a service life of one year or more.

2.1.2 "*Capital Improvement Cost.*" The original cost of *Capital Improvements*, including amounts paid for: (1) preparing planning studies, engineering plans and specifications, and acquiring permits and franchises for the *Capital Improvement*, including those costs incurred by the *District* prior to execution of this Agreement; (2) work performed under contracts for construction, installation, and inspection of the *Capital Improvement*; (3) recorded pay and expenses of employees of the *District* directly and indirectly related to the design, construction, installation, and inspection of the *Capital Improvement*, including capitalized *District G&A*, and including costs incurred prior to execution of this Agreement; (4) materials, equipment, and supplies directly related to the *Capital Improvement*; (5) acquiring and condemning land, easements, and rights-of-way for or related to the *Capital Improvement*; (6) professional services related to the financing, planning, acquisition, construction, installation, and inspection of the *Capital Improvement* or for negotiating, resolving, or litigating any disputes related thereto; (7) reasonable expenses incurred to mitigate the impact of the *Capital Improvement* upon the natural or physical environment, including but not limited to expenses for landscaping, buffering, and wetland mitigation; (8) other expenses reasonably related to the planning, design, construction, and construction management of the *Capital Improvement*.

2.1.3 "*Cash Basis.*" The *District's* cost of water determined according to the principles established in Section 2.6.3C, excluding any return on rate base.

2.1.4 "*Coverage.*" The number of times by which gross annual revenues less *Maintenance and Operation Cost* and *G&A* exceed annual debt service. The *District's Coverage* shall never be less than that required by *District* bond covenants.

2.1.5 "*Customer.*" _____, a Washington _____ corporation that is purchasing wholesale water from the *District*, including *Customer's* agents or designees. "*Customers.*" All water purveyors that purchase wholesale water from the *District*, excluding the Town of Steilacoom, under agreements identical to or substantially similar to this Agreement.

2.1.6 "*Customer Meters.*" Meters that will measure the quantity and flow of water provided to *Customer* by the *District*. The locations of *Customer Meters* are identified on Exhibit B. Whenever the *District* delivers water through a third party, the *Customer's Meter* may be a combination of a *District* meter located at an intertie with a third party and a *Customer's* meter located at an intertie with a third party.

ORIGINAL

2.1.7 "*District.*" The Lakewood Water District, a special purpose municipal corporation located in Pierce County, including its agents or designees.

2.1.8 "*Existing Water Rights.*" Permits, certificates, or claims of the *District* originally obtained to serve only the *District's* retail customers. *Existing Water Rights* are shown on Exhibit A.

2.1.9 "*GPM,*" "*GPD,*" "*MGD.*" Gallons Per Minute; Gallons Per Day; Million Gallons per Day.

2.1.10 "*General and Administrative Cost,*" "*G&A.*" The *District's* general and administrative, supervisory and other indirect costs, including financial (budgeting, accounting, bookkeeping) data processing, clerical, management and administration, personnel, and non-capitalized professional services, including engineering and financial planning. State revenue related excise and B&O taxes, and any other costs not assigned to *Maintenance and Operation Cost*; but excluding any local government utility tax or franchise fee.

2.1.11 "*Internal System.*" (1) With respect to the *Customer*, all present and future reservoirs, primary and secondary transmission mains, interties, controls and communication equipment, wells, well pumps, booster pumps, and water treatment owned, operated, and maintained by *Customer*; and (2) With respect the *District*, all present and future reservoirs, primary and secondary transmission mains, interties, controls and communication equipment, wells, well pumps, booster pumps, and water treatment owned, operated, and maintained by the *District*, excluding any *Wholesale Facilities* and separate stand-alone satellite systems owned or operated by the *District*.

2.1.12 "*Joint Facilities.*" That portion of the present and future *District's Internal System* that benefit *Customer* or are necessary to supply wholesale water to *Customer*, including improvements, upgrades, and replacements.

2.1.13 *Leased Water.* Water leased or purchased by the *District* and used for the purpose of supplying *Customer(s)*.

2.1.14 "*Maintenance and Operation Cost.*" All direct and indirect costs and expenses incurred by the *District* in treating and supplying water, including leased or purchased water, and complying with applicable regulatory requirements, including supply, treatment, pumping, labor, utilities, equipment, tools, materials, inspection, insurance, and non-capitalized equipment leases, repair and rehabilitation, and the markup provided for herein.

ORIGINAL

2.1.15 "Party," "Parties." The *District* and/or the *Customer*.

2.1.16 "Supply Schedule." A mechanism to enable the *District* to provide the *Total Water Requirement* when it is needed by the *Customer* by accommodating both the *District's* need to plan for and develop supply and infrastructure and the *Customer's* need for an increasing supply. The *Supply Schedule* will identify maximum quantities of water that the *District* will supply to *Customer* during specific periods of time during the term of this Agreement.

2.1.17 *Total Annual Revenue Requirement*. The *District's* cost of water determined according to the principles established in Section 2.6.3.C of this Agreement.

2.1.18 "Total Water Requirement." _____ MGD, the daily maximum quantity of water the *District* will supply to *Customer* during the term of this Agreement. The *Total Water Requirement* is used for allocating cost under this Agreement.

2.1.19 "Water Right." Any water right (permit or certificate) obtained by the *District* for the purpose of acquiring water to supply *Customer(s)* and put to use for that purpose.

2.1.20 "Water Right Cost." The original cost incurred by the *District* to secure the *Water Right*, including amounts paid for: (1) preparing planning studies, engineering plans and specifications, and acquiring permits and franchises, including those costs incurred by the *District* prior to execution of this Agreement; (2) recorded pay and expenses of employees of the *District* directly and indirectly related to securing the *Water Right*, including capitalized *District G&A*, and including costs incurred prior to execution of this Agreement; (3) materials, equipment, and supplies directly related to securing the *Water Right*; (4) professional services related to the financing, planning, acquisition of the *Water Right*, or for participating in administrative proceedings with respect to securing the *Water Right*, or negotiating, resolving, or litigating any disputes related thereto; (5) reasonable expenses incurred to mitigate the impact of the *Water Right* upon the natural or physical environment; and (6) other expenses reasonably related to the acquisition of the *Water Right*.

2.1.21 *Wholesale Facilities*." All water supply and transmission facilities, including, but not limited to, wells, water lines, storage facilities, and transmission mains owned, operated, and maintained by the *District* for the sole purpose of supplying *Customers*.

2.1.22 "Wholesale Water." The total quantity of water available from *District* for sale to current or prospective *Customers*, including, but not limited to, water allocated by

ORIGINAL

the *District* and designated for sale as *Wholesale Water* from its pre-existing water rights or from the *Water Right* or from *Leased Water*. Whenever the term "quantity of *Wholesale Water*" is used for the purpose of allocating cost, the term refers to *MGD*.

2.2 SUPPLY AND PURCHASE OF WATER

2.2.1 So long as this Agreement is in effect, the *District* shall plan for, develop, treat, and annually supply to *Customer* potable water in an amount not to exceed *Customer's Total Water Requirement* according to the *Supply Schedule* and to the terms and conditions herein, subject to acts of God or other events beyond the reasonable control of the *District* or *Customer*. The *District's* obligation to provide *Customer* with wholesale water is limited by the following *Supply Schedule*:

		<u>QA</u>		<u>QI</u>	
A. Present to 12/31/2007	Quantity	_____	GPD	_____	GPM
B. 1/1/2008 to 12/31/2017	Quantity	_____	GPD	_____	GPM
C. 1/1/2018 and thereafter	Quantity	_____	GPD	_____	GPM

2.2.2 So long as this Agreement is in effect, and regardless of *Customer's* actual use of water, *Customer* shall purchase water from the *District* and pay for the *Customer's Total Water Requirement* according to the *Supply Schedule* and the terms and conditions herein, subject to acts of God or other events beyond the reasonable control of the *District* or *Customer*. On an annual basis in a letter of understanding between the *Customer(s)* and *District*, the *District* may allow for a temporary upward modification of the *Supply Schedule*.

2.2.3 This Agreement shall remain in effect for twenty (20) years, subject to automatic renewal for additional twenty (20)-year periods unless either *Party* notifies the other *Party* not less than two years before the expiration date of any twenty (20)-year period of its intent to terminate the agreement, provided that with respect to the *District* the meaning of the term "termination" shall be limited to the right to open the agreement to renegotiation. However, if the *District* is assumed or acquired by a third party, then *Customer* may terminate this Agreement no sooner than ten years from the effective date of this Agreement. If *Customer* chooses to exercise this right of early termination, then the party assuming or acquiring the *District* shall pay to *Customer* an amount equal to the total *Capital Improvement Cost* paid by *Customer* plus interest at the *District's* average weighted cost of debt, times the number of years remaining on the agreement on the date the right of early termination is exercised, divided by twenty (20) years. Along with the notice of early termination, *Customer* shall submit to the third party an invoice with supporting documentation for the amount

ORIGINAL

claimed. The invoice shall be due and payable within thirty (30) days of its date, and thereafter the unpaid balance shall bear interest at 12 percent per annum.

2.2.4 So long as this Agreement remains in effect, the *Customer* shall not enter into any other agreements to sell water to another water purveyor without first obtaining the written consent of the *District*, which consent shall not be unreasonably withheld; provided, that in no event shall *Customer* sell water outside the place of use assigned to the *Water Right* or to any other water rights, including water rights for *Leased Water*.

2.2.5 So long as this Agreement remains in effect, the *District* shall not enter into any other agreements to supply water to another purveyor that will impair the *District's* ability to supply *Customer's Total Water Requirement*.

2.3 CONDITIONS OF SERVICE—The *District*.

2.3.1 Except as provided in paragraph 2.3.7, the *District* shall provide normal flow at interties with *Customer's Internal System* of not more than _____ GPM and emergency flow of not more than _____ GPM as measured by *Customer's Meters*. Flows for additional interties shall be established by separate agreement. Cost incurred to change normal flow shall be borne by the party requesting the change.

2.3.2 Except as provided in paragraph 2.3.7, the *District* shall provide continuous service to *Customer*, to the extent feasible, in the same manner and extent that it provides service to its direct service customers.

2.3.3 Restrictions placed upon *Customer* to address conservation shall be adopted and applied consistent with restrictions placed upon the *District's* direct service customers. The *District* may implement emergency or conservation measures, and *Customer* agrees to comply with such measures. The *District* and *Customer* shall establish a working group to develop an emergency response plan and a water shortage plan that will identify the measures to be imposed to respond to emergencies or shortages, the mechanisms for imposing and repealing such measures, and penalties for failure to comply therewith. The *District* may impose unilateral measures until the *District* and *Customer(s)* approve such plans. The *District* or *Customer(s)* may convene the working group for the purpose of reviewing adopted plans, proposing amendments thereto, or monitoring implementation of plans; provided, that any amendments must have the concurrence of the *District*.

2.3.4 The *District* may interrupt or reduce delivery of water to *Customer*, if the *District*, acting in good faith, determines that system emergencies or maintenance and repair so require. An emergency shall include a natural act or act of man that renders Lakewood Water District incapable of supplying its retail customers or leaves the District

ORIGINAL

without adequate water supply to supply its own customers. Except for emergencies, the *District* shall give *Customer* reasonable written notice of interruption or reduction, the reason therefore, and the likely duration thereof. In the event of an emergency requiring interruption of service, the *Parties* shall pursue restoration of service cooperatively and with the exercise of due diligence.

2.3.5 Except as provided in paragraph 2.3.7, the quality and content of water supplied to *Customer* at the *Customer's Meter* under this Agreement shall comply with or exceed applicable federal, state, and local rules and regulations governing water quality applicable to the *District*, except in cases of emergency.

2.3.6 A minimum hydraulic gradient for each intertie connection shall be a criteria for the *District's* and *Customer's* comprehensive water planning. Except as provided in paragraph 2.3.7, the *District* shall use its best efforts to supply water from its system to *Customer* at the intertie connection(s) at not less than the minimum hydraulic gradient pressure at the inlet.

ORIGINAL

side of *Customer's Meters* of 30 psi. The hydraulic gradient for additional *Customer Meters* shall be established by separate agreement. Cost incurred to change the hydraulic gradient shall be borne by the party requesting the change.

2.3.7 Whenever the *District* delivers water through a third party's water system, the *District's* obligations under paragraphs 2.3.1, 2, 5, and 6 are satisfied when the water supplied to that third party meets the requirements of those paragraphs. *Customer* releases *District* from any claim for damages or injury sustained as a result of the third party or its water system failing to meet the requirement of paragraphs 2.3.1, 2, 5, and 6.

2.4 CONDITIONS OF SERVICE—*Customer*.

2.4.1 *Customer's* demand upon the *District's* water supply shall not exceed the *Total Water Requirement* at the rates of flow provided for in paragraph 2.3.1.

2.4.2 *Customer* shall limit retail sales of water to customers within its current or future service area as described in the *Customer's* water comprehensive plan; provided that, *Customer* shall not be prohibited from providing service to retail customers outside of its service area so long as *Customer* does not exceed the supply limitations of this Agreement.

2.4.3 *Customer* shall not interconnect any part of its *Internal System* with any other municipal or private water system without the prior written consent of the *District* (prior oral consent in an emergency), which consent shall not be unreasonably withheld. Interconnections in place as of the date of this Agreement and identified in Exhibit B are deemed approved.

2.4.4 *Customer* at its expense shall install, own, and operate *Customer's Meters*; provided that, the selection of meters will be subject to the prior approval of the *District*. *Customer's Meters* shall be calibrated annually in the presence of *District* representatives and shall be maintained to be accurate within 2 percent plus or minus. The *District* shall have free and unlimited access to *Customer's Meters* for inspection and testing at the *District's* expense. The *District* shall read *Customer's Meters* monthly and bill *Customer* for water supplied according to the terms of this Agreement; provided, however, that whenever the *District* delivers water through another water system, the wheeling agreement shall establish meter-reading procedures for billing for water supplied according to the terms of this Agreement.

2.5. *Capital Improvements*.

ORIGINAL

2.5.1 The *District* agrees to construct the *Capital Improvements* and pay for them as provided herein.

2.5.2 The *Capital Improvement Cost* of *Wholesale Facilities* shall be borne entirely by *Customer(s)* through rates and/or cash payments from *Customer(s)*; provided that the *Capital Improvement Cost* of a *Wholesale Facility* shall be allocated among *Customers* according to the *Total Water Requirement* of the *Customer* divided by the *Total Water Requirement* of all *Customers* using that facility.

2.5.3 The *Capital Improvement Cost* of *Joint Facilities* shall be allocated as follows:

A. The *Capital Improvement Cost* of existing *Joint Facilities* shall be allocated between the *District* and *Customer(s)* according to the ratio of the quantity of *Wholesale Water* that has been purchased by *Customer(s)* over the maximum quantity of water authorized by all *District* water rights; provided, however, the portion of *Capital Improvement Cost* of *Joint Facilities* that are existing transmission mains to be allocated to *Customer(s)*, net of accumulated depreciation, shall be determined by multiplying the cost of all *District* mains recorded on the *District's* books, less the cost of all *District* mains used exclusively for *Wholesale Facilities* or shared with Town of Steilacoom, times the ratio of the lineal feet of mains eight inches and greater over the total lineal feet of all *District* mains, less the lineal feet of all mains used exclusively for *Wholesale Facilities* or shared with Town of Steilacoom.

B. The *Capital Improvement Cost* of a planned *Joint Facility* shall be allocated between the *District* and *Customer(s)*, after the facility is constructed, according to the ratio of the quantity of *Wholesale Water* purchased by the *Customer* over the quantity of *Wholesale Water* purchased by the *District* and *Customer(s)*.

C. The portion of the *Capital Improvement Cost* of *Joint Facilities* allocated to *Customers* shall be allocated among *Customer(s)* according to the ratio of *Total Water Requirement* of *Customer* over the quantity of *Wholesale Water*.

2.5.4. The *Water Right Cost* shall be allocated as follows:

ORIGINAL

A. The *Water Right Cost* shall be allocated to the *District* and to the *Customer(s)* according to the ratio of the quantity of water authorized by the *Water Right* purchased by the *Customer(s)* over the quantity of water authorized by the *Water Right*.

B. The *Water Right Cost* shall be allocated among *Customers* according to the ratio of the *Total Water Requirement* of a *Customer* over the total quantity of water authorized by the *Water Right* purchased by *Customers*.

2.5.5 The *District* reserves the right to issue bonds and other obligations in accordance with applicable law.

2.5.6 If the *District* is required by growth, accident, emergency, failure, or applicable law or regulation to improve, upgrade, replace, or expand the *Water Right*, *Wholesale Facilities*, or *Joint Facilities*, or to provide a higher level of water treatment, *Customer* shall share in those future *Capital Improvement Costs* as provided in paragraphs 2.5.2, 2.5.3, or 2.5.4.

2.5.7 *Capital Improvements* shall be constructed as public works projects awarded pursuant to law. The *District* shall design, construct, and maintain the *Capital Improvements* according to accepted water utility standards. The *District* shall administer the planning, design, construction, and construction management of the *Capital Improvements* to the best of its ability. Any construction change order changing the scope of a project or increasing the estimated *Capital Improvement Cost* of a project by 5 percent or \$50,000.00, whichever is greater, shall be approved only after consultation with *Customer(s)*.

2.6 COST OF WATER.

2.6.1 The *District* shall bill *Customer* for water supplied by monthly invoice due and payable within thirty (30) days of the date thereof. Delinquent and unpaid balances shall bear interest at 12 percent per annum.

2.6.2 From the date of this Agreement until modified as provided herein, water will be priced according to the *Cash Basis* of cost recovery, but the price will never be less than the price established by the *Cash Basis* in year one of this Agreement. The *Cash Basis* of cost recovery shall continue until *District* can sell to all *Customer(s)* sufficient water to recover the *District's Total Annual Revenue Requirement* for three consecutive years. Thereafter, water shall be priced as provided in Section 2.6.3C and *Customer's* wholesale water rate shall be composed of: (1) a fixed charge to recover depreciation, a return on Rate

ORIGINAL

Base, and *G&A*; and (2) a unit charge per 100 cubic feet (CCF) of *Customer's* consumption to recover *Leased Water* cost and *Maintenance and Operation Cost*, including a mark up.

2.6.3 The following principles shall determine the wholesale water rate to be paid to the *District* by *Customer* after the *Cash Basis* of cost recovery is discontinued:

A. The *District* will treat *Customer* as a customer separate from the *District's* direct service customers;

B. All costs of serving *Customer* will be recovered by water rates charged to the *Customer*; and

C. The cost of serving *Customer* shall include depreciation, return on rate base, *Maintenance and Operation*, and *G&A* components determined as follows:

1. *G&A* shall be an annual cost per connection established by multiplying total *G&A* by two-thirds, dividing that by the total number of connections, with *Customer* counted as one connection, plus one-third of annual *G&A* divided by the prior year's total *District Internal System* consumption, plus the projected increase in current year's total consumption for *Customers*, multiplied by *Customer's* projected current consumption as provided by *Customer(s)* to *District* no later than December 31 of each year.

2. Annual depreciation shall be determined dividing the original *Capital Improvement Cost* recorded on the *District's* books by the *District's* standard application of estimated life of that facility.

3. Return on Rate Base shall be determined as follows:

a. *Wholesale Facilities*. The *Capital Improvement Cost*, net of accumulated depreciation, allocable to *Customer* less any cash payment made by *Customer*, multiplied by 6 percent.

b. *Joint Facilities*. The *Water Right Cost*, net of accumulated depreciation, allocable to *Customers* multiplied by 6 percent.

c. *Water Right*. The *Capital Improvement Cost* multiplied by 12 percent for twenty (20) years from the date of this Agreement and thereafter multiplied by 9 percent.

ORIGINAL

d. *Existing Water Rights.* The *Water Right Cost* for the Abitibi water right multiplied by 9 percent.

4. *Maintenance and Operation Cost of Joint Facilities and Wholesale Facilities* shall be determined separately, totaled, and then subjected to a 10 percent markup.

a. The *Maintenance and Operation Cost of Joint Facilities* shall be determined as follows:

i. *Pumping, Treatment, and Storage Costs.* The annual *District* pumping, storage, and treatment costs divided by the prior year's total *District Internal System* consumption, plus the projected increase in current year total consumption for *Customers*, multiplied by *Customer's* projected current year's total consumption as provided by *Customer(s)* to *District* no later than December 31 of each year.

ii. *Transmission Costs.* The annual *District* transmission and distribution costs multiplied by the ratio of the lineal feet of mains eight inches and greater, less the lineal feet of mains used exclusively for *Wholesale Facilities* or shared with Town of Steilacoom, divided by the prior year's total *District Internal System* consumption, plus the projected increase in current year's total consumption for *Customers*, multiplied by *Customer's* projected current year's consumption as provided by *Customer(s)* to *District* no later than December 31 of each year.

b. The annual *District Maintenance and Operation Cost of Wholesale Facilities* shall be allocated to *Customer(s)* and then allocated among *Customers* according to the ratio of the *Customer's* projected current year's consumption over the projected current year's consumption of all *Customers* as provided by *Customer(s)* to *District* no later than December 31 of each year.

ORIGINAL

5. *Leased Water* cost. The *District's* annual, average invested cost per MGD of the Abitibi water supply multiplied by 6 percent.

2.6.4. A. The *District* shall install telemetry systems at the *Customer Meters* for the purpose of monitoring delivery of water to *Customer*. Such Telemetry shall be operational when the *District* commences to supply *Customer* with water under this Agreement. The *District* shall advise the *Customer* whenever *Customer's* demand for water threatens to exceed the limits of the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement*. Upon receipt of such notice, the *Customer* shall operate its system so that peaking demand shall be satisfied from *Customer's* water supply and not from water supplied under this Agreement. The *District* shall notify *Customer* when *Customer's* demand no longer threatens to exceed the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement*.

B. If, in any calendar month, the *Customer* exceeds the limits of the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement* (an "Exceedence"), the *District* shall hand deliver written notice of such Exceedence to *Customer*. If after three days from the notice such Exceedence continues, the *District* shall hand deliver a second notice of Exceedence. If after three days from the second notice the Exceedence continues, then, in addition to a 100 percent surcharge on the unit charge component of the wholesale water rate payable on all water used in excess of the quantity limitation in the *Supply Schedule* or *Customer's Total Water Requirement*, the *Customer* shall pay to the *District* an amount equal to 75 percent of the prior year's total annual payment (which includes both the unit charge and the fixed charge) to the *District* for wholesale water.

C. In any calendar year that a *Customer* exceeds the quantity limitation of the *Supply Schedule* times 365 or its *Total Water Requirement* times 365, as applicable, the *Customer's* wholesale water rates shall be subject to a surcharge on the exceedence of 100 percent of the unit charge component of the wholesale water rate.

D. *Customer* shall reimburse the *District* for any penalties imposed on the *District* for using more water than allowed by *District* water rights arising from *Customer's* use of water in excess of the use provided for herein.

2.6.5 The *District* has adopted Resolution No. B-1284 that establishes financial policies and a Rehabilitation and Repair Account, Account No. 136. The *District* agrees that it will not modify its financial policies in a manner detrimental to *Customer* nor discontinue Account No. 136 without making adequate provision for its obligation to fund its share of depreciation as provided herein. The *District* will establish in Account No. 136 a sub-account

ORIGINAL

entitled "Wholesale Customer's R&R" for the purpose of recording funded depreciation and into which the *District* shall deposit, at a minimum the annual depreciation expense recovered from *Customer* through rates. Amounts deposited into the "Wholesale Customer's R&R" sub-account shall be restricted to payment for repair and rehabilitation projects for the *Wholesale* and *Joint Facilities*, and unavailable to the *District* by way of interfund transfer or loan; provided, that the *District* may invest such funds as prescribed by law. The return on such investment shall be deposited to the "Wholesale Customer's R&R" sub-account and credited against revenue requirements for the *Wholesale* and *Joint Facilities*. Within the "Wholesale Customer's R&R" sub-account, the *District* may establish additional sub-accounts for each *Customer*. Funding of the "Wholesale Customer's R&R" account shall begin only after all other revenue requirement cost and rate of return elements are recovered in wholesale rate revenues in whole.

At the option of *Customer*, on or before the effective date of the dissolution of the *District*, its merger or consolidation with another special purpose district, or its assumption by a city, funds received from *Customer* and deposited into the "Wholesale Customer R&R" sub-account shall be deposited into an account established by *Customer* and restricted by for the duration of this Agreement to payment of *Customer's* share of *Wholesale* and *Joint Facilities* rehabilitation and repair projects. Thereafter, *Customer's* portion of rates allocated to depreciation expense shall be deposited therein and restricted for payment of *Wholesale* and *Joint Facilities* rehabilitation and repair projects. If *Customer* chooses to terminate the agreement as provided in 2.2.3, the funds in the "Wholesale Customer R&R" shall be refunded as provided in 2.2.3.

2.6.6 The *District* shall establish a "Customer Cash Payment Capital Account" to deposit cash payments made by the *Customer* in advance of costs incurred by the *District* for serving the *Customer*. The "Customer Cash Payment Account" will be a separate bank account for the sole purpose of depositing these funds at a local banking institution. This account will earn interest monthly and will be deposited on a monthly basis. Each year that the *District* earns revenue for annual depreciation and return on rate base, the *District* will reduce both the "Customer Cash Payment Capital Account" and the *Customer's* annual fixed charge respectively by the same amount and record earned revenue for the *District*. If the *Customer* is delinquent in paying its wholesale water bill to the *District* for 60 days or more, the *District* may apply any cash balance in the "Customer Cash Payment Capital Account" to the *Customer's* wholesale water bill to cure the delinquency.

When *Wholesale Facilities* are constructed, funds in the "Customer Cash Payment Capital Account" may, at the discretion of the *Customer*, be used to offset the *Capital Improvement Costs* of the new facility. The offset shall be determined by multiplying the *Capital Improvement Costs* by the ratio of the *Total Water Requirement* of the *Customer* over

ORIGINAL

the *Total Water Requirement* of all *Customers*. Money withdrawn from the "Customer Cash Payment Capital Account" to fund capital projects shall reduce the *Capital Improvement Costs* allocated to *Customer(s)* to calculate return on Rate Base. Annual depreciation of a *Wholesale Facility* will be computed on the total *Capital Improvement Cost* of that *Wholesale Facility* without any deduction for cash payments made by *Customer(s)*. If *Customer* chooses to terminate the agreement as provided in 2.2.3, the funds in the "Customer Cash Payment Capital Account" shall be refunded as provided in 2.2.3.

2.6.7 Before the *District* recovers its cost according to the utility basis of calculating the *Total Annual Revenue Requirement*, the *District* will recover its cost according to the *Cash Basis* of cost recovery as provided in Section 2.6.2. A *Customer* that prepays all or any portion of its share of a wholesale capital project shall have its annual fixed charge reduced in an amount equal to the percentage that the cash payment reduces the *Customer's* share of the capital construction cost times the directly assigned annual debt service payments included in the annual fixed cost payable by *Customer*; provided, that the reduction in the fixed costs can be applied only to the portion of the annual fixed cost applicable to a specific capital project or group of projects.

2.6.8 Once the *District* recovers its cost according to the utility basis of calculating the *Total Annual Revenue Requirement*, as provided in Section 2.6.3, the annual fixed charge of *Customers* making cash payments shall be reduced in an amount equal to the reduction in the return on rate base of those *Customers* not making cash payments; and the annual fixed charge of a *Customer* not making cash payments shall be increased in an amount equal to that *Customer's* reduction in return on rate base.

2.7 INTERNAL SYSTEMS.

2.7.1 Each *Party* shall own, maintain, and operate its *Internal System* at its sole expense, except as provided herein. Each *Internal System* shall be maintained and operated with the highest practicable standards and practices in construction, operation, and maintenance, with particular attention to cross-connection control, water quality, and efficient and economical utility operation. Either *Party* may notify the other of conditions within the other's *Internal System* that constitute violations of law, regulation, or permit. Each *Party* shall cooperate with the other to rectify such conditions. If by reason of the *Customer's* act or failure to act, the *District* is penalized for failure to maintain or operate the *Wholesale Facilities* as required by applicable law or regulation, *Customer* shall indemnify the *District* for the penalty and all costs, including reasonable attorney's fees associated with investigating and defending against such penalty.

2.7.2 *Customer* shall pay the charges described in paragraph 2.6 out of the revenues of *Customer's Internal System*. *Customer's* payments to the *District* pursuant to this

ORIGINAL

Agreement and payments otherwise required or provided for by this Agreement shall be maintenance and operation expenses of *Customer's Internal System*, prior to and superior to any debt or charge or lien of any revenue bond or other obligation issued by *Customer* that is payable from the revenues of its *Internal System*. *Customer* shall establish rates and collect fees and charges for water service sufficient to pay for the maintenance and operation of its *Internal System*, including payments to the *District*, and the principal and interest on any and all *Customer* debt obligations.

2.7.3 The *District* shall establish rates and collect fees and charges for water service sufficient to pay for the maintenance and operation of its *Internal System*, and the principal and interest on any and all *District* revenue obligations that constitute a charge against the revenue of the *District's Internal System*.

2.7.4 The *District* shall keep full and complete books of accounts in compliance with current standards required by the State Auditor. Either *Party* may request independent audits by a public accounting firm at that *Party's* expense.

2.8 ADMINISTRATION.

2.8.1 The *District* shall, if necessary, amend its comprehensive plan and/or water rights to authorize it to serve *Customer*. The *District*, as planning authority for the water supply requirements of this contract, shall examine and investigate water supplies suitable and adequate for its present and reasonable future needs, including any wholesale supply requirements. The *District* shall prepare and adopt a plan for acquiring and supplying such water, including provision for water and water rights, real property, and facilities required for storage and transmission and delivery of water.

The *District* shall establish an operation committee to be composed of all *Customers*. The committee shall advise the *District* on all matters related to wholesale water supply, participate in the preparation of emergency plan(s), review and comment upon the *District's* comprehensive plan(s), review and comment upon planning for, design of, and cost of *Capital Improvements*; provided however, the *District's* decisions concerning *Capital Improvements* shall be final and not subject to arbitration.

2.8.2 Each *Party* shall purchase and maintain insurance for its *Internal System* equal to or greater than coverage in force for such system as of the date of this Agreement.

2.8.3 *Customer* grants to the *District* a right of first refusal to acquire *Customer's Internal System* in lieu of a sale to a third-party purchaser on terms and conditions acceptable to the *Parties*.

ORIGINAL

2.8.4 Each monthly bill shall be composed of 1/12th of the estimated annual fixed cost plus a unit charge on volume during the billing period. *Customer* may dispute the accuracy of a monthly invoice by providing written notice to the *District* within thirty (30) days of the date of invoice that specifies the nature of the dispute and by paying any undisputed amount. The *District* shall rule on the dispute in a timely fashion, and *Customer* shall pay the disputed amount or submit the dispute to arbitration as provided herein within thirty (30) days of the *District's* decision. Disputed amounts shall not bear interest until thirty (30) days after the *District's* decision or the arbitrator's decision.

2.8.5 Except as otherwise provided in this Agreement, a dispute arising out of the terms and conditions of this Agreement, except for a billing dispute, shall be submitted for mediation to a mediator agreed to by the *Parties*. If mediation is unsuccessful, the dispute shall be arbitrated by JAMS of Tacoma.

Arbitration, shall be conducted in accordance with Title 7.04 RCW; provided, the *Parties* may conduct discovery pursuant to the Superior Court Rules of Civil Procedure. The arbitrator's decision shall be final and shall award reasonable attorney's fees and costs of arbitration to the prevailing party. Requests for reconsideration or modification may be submitted as provided by Superior Court Rules of Civil Procedure. The arbitrator's decision shall be reduced to judgment as provided by Title 7.04 RCW. The provisions of this paragraph do not apply to arbitration of a billing dispute, which shall be conducted informally.

2.8.6 This Agreement shall inure to the benefit of and be binding upon successors of interest and assigns of the *Parties*. Neither this Agreement nor obligations to perform hereunder may be assigned voluntarily by either *Party* without the other *Party's* written consent. The *Parties* do not intend to confer rights or benefits upon any third party. This Agreement is complete and contains the entire understanding of the *Parties*, and it may be modified only by a writing executed by the *Parties*.

2.8.7 Unless otherwise provided in this Agreement, all notices relating to this Agreement shall be sent to the following addresses, certified mail, return receipt requested, unless the other *Party* is previously notified in writing:

To the *District*:
General Manager
P.O. Box 99729
Lakewood, WA 98496-0729

To *Customer*:

Billings for water supplied and payments thereof may be made by regular mail.

ORIGINAL

2.8.8 Each *Party* agrees to indemnify the other and hold it harmless from and against any loss, cost, damage, or expense of any kind and nature, including reasonable attorney's fees arising out of injury to person or damage to property in any manner caused by the negligence or omission of the *Party* in the performance of its work pursuant to or in connection with this Agreement.

2.8.9 This Agreement is intended to be and is a contract for the purchase and sale of a commodity, and no provision hereof shall be construed to make the *Parties* partners or joint venturers. Neither *Party* is the agent of the other nor shall either *Party* be held liable for the acts of the other on a theory of agency or any other representative capacity.

LAKESWOOD WATER DISTRICT CUSTOMER

President/Commissioner

Vice President/Commissioner

Secretary/Commissioner

Attest:

ORIGINAL

Attachment 3.d.-2

Chapter 12.10

WATER - REGULATIONS AND RATES

Sections:

- 12.10.010 Rules established.
- 12.10.020 Definitions.
- 12.10.030 Water service inside/outside City limits.
- 12.10.035 Ability to supply water within City limits.
- 12.10.040 Application for service.
- 12.10.045 Services and meters.
- 12.10.050 Establishment of service account and request for turn-on.
- 12.10.060 Billing.
- 12.10.110 Turn-on and/or - Unauthorized use.
- 12.10.115 Turn-off, turn-on - Responsibility and liability.
- 12.10.120 Turn-off, turn-on - Condemned buildings.
- 12.10.125 Damage of water service installation.
- 12.10.130 Termination of service.
- 12.10.150 Interruption of service.
- 12.10.170 Ownership of water mains and appurtenances.
- 12.10.180 Operation of private water systems.
- 12.10.200 Private contract charges.
- 12.10.220 Cross connections.
- 12.10.250 Property-side (private) in public rights-of-way.
- 12.10.275 Water service construction charges.
- 12.10.300 Fire hydrant installation and relocation.
- 12.10.301 Fire hydrant services fee.
- 12.10.302 System capacity flow testing.
- 12.10.305 Fire hydrant use (non-fire fighting).
- 12.10.310 System development charge ("SDC").
- 12.10.315 Water main charge.
- 12.10.350 Premises not abutting a permanent water main.
- 12.10.400 Rates - Inside and outside City limits.
- 12.10.485 City not liable for damages.
- 12.10.490 Protection of public health.
- 12.10.495 South Tacoma Groundwater Protection.
- 12.10.500 Waivers - By Superintendent.
- 12.10.505 Customer service policies - Additional rules and regulations.
- 12.10.515 Violations - Penalties - Enforcement.
- 12.10.520 Severability.
- 12.10.525 Interference with and/or damage to City water system.

12.10.010 Rules established.

This chapter is established for the regulation of water utility service by the municipal water supply system of the City of Tacoma. (Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.020 Definitions.

For purposes of this chapter, the following words or phrases shall have the meaning set forth hereinbelow:

"Actual cost" or "cost" of any work performed for any person or other agency or City department by the Division includes the direct cost of all labor plus fringe benefits, the direct cost of all materials plus materials overhead, the direct cost of equipment used in connection with the work, all other direct costs incurred in connection with the work, plus administrative and supervisory cost.

"Accessory dwelling unit" refers to a second subordinate dwelling added to a single-family dwelling on a single parcel of property with provisions for independent cooking, living, sanitation, and sleeping.

"Assessable unit of frontage" is defined as set forth in Chapter 35.44 of the Revised Code of Washington (or as amended).

"Authorized deposit waiver" means an approved option for residential and commercial customers to waive paying a deposit, which is normally required for electric, water, and/or commercial solid waste customers who do not meet the established criteria, as defined in the Tacoma Public Utilities Customer Service Policies. Waiver options are available for home or property owners; customers who are purchasing the property and/or home; and customers who are renting, leasing, or leasing with an option to purchase the property.

"Board" means the Public Utility Board of the Department of Public Utilities of the City of Tacoma.

"CCF" means 100 cubic feet of water (one unit or approximately 748 gallons).

"City" means the City of Tacoma.

"Commercial service" means water service to a business or businesses engaged in the manufacture and/or sale of a commodity or commodities, or the rendering of a service, including hotels, motels, hospitals, and schools.

"Contract business partner" refers to the person or persons who have sole financial responsibility with the City.

"Council" means the City Council of the City of Tacoma.

"County" means the county in which service is being provided.

"Cross connection" is any actual or potential physical connection between a public water system or the consumer's water system and any source of non-

Tacoma Municipal Code

potable liquid, solid, or gas that could contaminate the potable water supply by backflow.

“Customer” means all persons obtaining water service from the Division.

“Customer Service Policies” means the Customer Service Policies for the Division, as may be amended.

“Director” means the Director of the Department of Public Utilities of the City of Tacoma.

“Division” means the Water Division of the Department of Public Utilities of the City of Tacoma, and may also include the Department of Public Utilities.

“Fraud” means any act to deceive or defraud the Division including, but not limited to, false identity, failure to provide verifiable identification or obtaining water service and not making appropriate payments for said service.

“Frontage” refers to “frontage of property served” and shall mean the front footage of property to be served, or the short buildable side (50 LF minimum) abutting the water main. For properties not abutting the main, it shall mean the shortest buildable side (50 LF minimum).

“Industrial service” means water service to a business enterprise engaged in the manufacture of products, materials, equipment, machinery, and supplies on a substantial or major scale.

“Multiple dwelling units” means residential duplexes, triplexes, fourplexes, apartment buildings, condominiums, mobile home parks, trailer courts, or similar types of multiple dwelling unit arrangements on one parcel of land.

“Parks and irrigation service” means water service to a public park or irrigation customer with seasonal use for recreational, landscaping, and horticultural purposes or other similar uses. Irrigation shall include outdoor residential and commercial sprinkler services.

“Person” means all persons and all private and public entities, including districts, cities, towns, counties, and political subdivisions of the state, Native American tribes, partnerships, and corporations, whether acting by themselves or by a servant, agent, or employee. The singular number shall be held and construed to include the plural and the masculine pronoun to include the feminine.

“Premises” means public or private property, home, building, apartment house, condominium, trailer court, mobile home park, a group of adjacent buildings utilized under one ownership on one parcel

of property and under a single control with respect to use of water and responsibility for payment therefor.

“Regular working hours” means 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding City holidays.

“Residential service” means water service to a single-family or multi-family dwelling using water for domestic use, or a single-family dwelling permitted to operate a business on the same premises.

“Service installation” means all piping and fittings from the main to and including the water meter assembly. All piping beyond the meter assembly is the customer's responsibility and is not considered a part of the service installation.

“Superintendent” means the Superintendent of the Water Division of the Department of Public Utilities of the City of Tacoma.

“System” means all water source, supply, and quality facilities, transmission pipelines and storage facilities, pumping plants, distribution mains and appurtenances, vehicles, and materials storage facilities.

“Tampering” means to alter, hinder, or obstruct the operation or maintenance of any water facility(ies) and/or their appurtenance(s), or failure to take reasonable care when operating any water facility(ies) and/or their appurtenance(s).

“Temporary water service” means water service obtained from a water main not abutting the parcel served or from a transmission or supply pipeline, or any main 2” or less in diameter.

“Treasurer” means the City Treasurer of the City of Tacoma. (Ord. 27570 § 1; passed Dec. 19, 2006; Ord. 27522 § 1; passed Aug. 29, 2006; Ord. 27299 § 1; passed Dec. 7, 2004; Ord. 26800 § 1; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.030 Water service inside/outside City limits.

These regulations are applicable to the Division and its customers both inside and outside the City limits, except as provided in Section 12.10.400 (Rates - Inside and outside City limits), or as otherwise specifically delineated. (Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.035 Ability to supply water within City limits.

All persons wishing to construct any residential premises within the City limits shall be supplied with residential service by the Division subject to the provisions of this chapter and pursuant to

RCW 19.27.097. (Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.040 Application for service.

Applications for water service, hydrant permits, and work to be performed by the Division's staff shall be made at the Division's Permit Counter in the Public Utilities Administration Building or at such other place or places as the Superintendent may designate, by the owner or authorized agent. The application, when approved by the Division, shall constitute a contract whereby the applicant agrees as a condition of water service to comply with this chapter and the rules and regulations of the Division referred to in this chapter or as the same may be revised or amended by the Division from time to time. (Ord. 27522 § 2; passed Aug. 29, 2006; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.045 Services and meters.

Each premises shall be served water by a Division-installed, separate water service and meter.

The Superintendent shall have the right to refuse or discontinue water service in any situation where it is discovered that applicable codes or City standards have not been satisfied.

Each new water service connection shall require payment of the water service construction charge in accordance with Section 12.10.250 and system development charge in accordance with Section 12.10.310. Premises that have not contributed to the cost of a permanent distribution water main shall also pay the applicable water main charge in accordance with Section 12.10.315 or 12.10.350. (Ord. 26800 § 2; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.050 Establishment of service account and request for turn-on.

A turn-on charge, as set forth in Chapter 12.01 of this code, will establish a service account.

The customer shall be responsible for all charges on the account. The account shall remain active and accrue charges until the customer notifies the Department's Customer Service Section to close the account, unless the account is delinquent. Water surcharge accounts and fire service accounts cannot be closed without Water Division authorization.

The person establishing a water service account shall be required to make a cash deposit or meet one of the authorized deposit waiver options with the City Treasurer as set under Utility Board resolution. Such deposit may be applied upon delinquent bills owed the City Division and shall be applied to that portion first incurred. A change in the amount of the deposit

or security may be required of any customer who changes his or her status of service. The acceptance of a cash deposit or security by the City shall not constitute a bar to the enforcement of the City's lien or termination rights. (Ord. 27522 § 3; passed Aug. 29, 2006; Ord. 26800 § 3; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.060 Billing.

A statement of charges for water service shall be mailed to the customer and is due and payable at the City Treasurer's office or at such places designated in the Tacoma Public Utilities Customer Service Policies on or before the tenth day after the statement has been mailed and shall become delinquent thereafter. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 4; passed Aug. 29, 2006; Ord. 26800 § 4; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.110 Turn-on and /or Unauthorized use.

A. If water service, with an established service account, is turned off by the Division for cause and later the water service to said premises is turned on without Division approval, upon discovery, a penalty of \$100 shall be assessed and said water service may be disconnected by the Division at the water main in the street.

B. Unauthorized use and/or tampering with any division appurtenance (except for fire hydrants which are covered in Section 12.10.305) may result in , a penalty of \$500 being assessed. If unauthorized use or tampering involves a water service and/or meter then said service may be disconnected by the Division at the water main in the street. Penalty is in addition to any fees for repair of damages as noted in Section 12.10.125.

Water service will not be reconnected in either subsection A or subsection B above until:

(1) payment for all water consumed to date and the monthly meter charges as established or estimated by the division are made to the City; (2) the Division costs incurred related to disconnecting and reconnecting the service pipe are paid; and (3) the Division costs incurred related to repairing customer-caused damages are paid per Section 12.10.125. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 2; passed Dec. 19, 2006; Ord. 27522 § 5; passed Aug. 29, 2006; Ord. 26800 § 5; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.115 Turn-off, turn-on – Responsibility and liability.

The City shall not be liable for any damage to any person or property that may result from the turn-off

Tacoma Municipal Code

or turn-on of the water service or from the service being left on when the premises may be unoccupied.

By requesting water service from the City, the customer assumes the responsibility for the flow and use of the water on his or her premises. Therefore, if water is desired to be turned off during remodeling, periods of freezing, or for other reasons, the customer agrees to turn off the water at the valve on his or her premises and the Division's turn-off valve shall not be relied upon for said purposes.

A customer's unpaid water service charges, penalties, and any cost to repair customer-caused damages to the water meter and appurtenances shall be paid at the time of application for turn-on, or a satisfactory arrangement for payment made with the City before water service to the premises is turned on.

(Ord. 26800 § 6; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.120 Turn-off, turn-on – condemned buildings.

Whenever a premises supplied with water has been found by the appropriate authorities to be unsafe, dangerous to human life or unfit for human habitation, and notice of such finding has been received by the Division from said authorities, the Superintendent shall cause the domestic water service to such premises to be turned off. Water service to such premises shall not be restored until the owner and/or agent has secured a release or clearance from said authorities. (Ord. 27570 § 3; passed Dec. 19, 2006; Ord. 26048 § 1; passed Mar. 25, 1997; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.125 Damage of water service installation or Division facilities.

The contract business partner will be liable to the Division for damages to the water service installation and any damages that are caused directly or indirectly as a result of its actions.

The cost to repair damages shall be paid prior to reconnection as set forth below:

	Effective 1/19/09
1" Meter & smaller	\$200
1-1/2" Meter & larger	Actual Cost (Time & Material)
Other than Meters (i.e. hydrant, main, blowoff)	Actual Cost (Time & Material)

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 4; passed Dec. 19, 2006; Ord. 27522 § 6; passed Aug. 29, 2006)

12.10.130 Termination of service.

Delinquency and nonpayment of one or more water service charges or customer-caused damage to the water meter and appurtenances shall be sufficient cause for termination of service by turning off the water service or reducing the flow of water to the premises. Water service shall not be turned on again until all costs incurred by the Division, plus charges and penalties are paid, or satisfactory arrangements for payment of delinquent charges and penalties has been made with the Division.

In accordance with Section 12.10.495, the Superintendent may discontinue water service to a customer determined to be in violation of the applicable provisions of the South Tacoma Groundwater Protection District (TMC 13.09).

Upon discovery of fraud, water service shall be terminated immediately and shall not be restored until the matter is resolved satisfactory to the Superintendent, or his or her designee.

All charges for water or water service shall be the personal obligation of the customer applying for or signing for and/or receiving such service and, in addition thereto, the City shall have all the lien rights granted by state laws against the premises where such service is furnished. The Superintendent shall have the absolute authority, except as limited by said state laws, to refuse to furnish service to, to discontinue service to, or to refuse to resume service to any applicant or customer on account of the failure to pay delinquent bills owing the City by such person, whether such bills cover service at the premises sought to be served or other locations.

In addition to the other authority in this chapter (or other laws) to discontinue water service or reduce flow to a customer, the Superintendent, or his or her designee, is hereby authorized to discontinue or reduce flow to a customer's premises when the customer fails to make a cash deposit or meet one of the authorized deposit waiver options with the City Treasurer as approved by Utility Board resolution.

Except as set forth in TMC 12.10.130 and 12.10.150, termination of water service to a premises shall not occur until:

1. The City has provided or attempted to provide the customer reasonable notice of the intent to terminate water service; and
2. The customer has been offered the opportunity of a hearing before a hearing officer, with the exception of Health Department directed orders which are undisputable.

Reasonable notice may be accomplished by mailing such notice to the customer using the United States

Postal Service. (Ord. 27570 § 5; passed Dec. 19, 2006; Ord. 27522 § 7; passed Aug. 29, 2006; Ord. 27299 § 2; passed Dec. 7, 2004; Ord. 27024 § 1; passed Dec. 10, 2002; Ord. 26800 § 7; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.150 Interruption of service.

A. In case of emergency, risk of damage to property, either public or private, or whenever public health, safety, or equitable distribution or conservation due to water shortage demands, the Director or Superintendent may authorize the Division to change, reduce or limit the time for, or temporarily discontinue the use of water for any or all customers. The water service may also be temporarily interrupted during the time necessary for purposes of making repairs, extensions, or doing other necessary work on the system. Before so requiring the changing, reducing, limiting or temporary discontinuance of the use of water, the Division will attempt to notify, insofar as practicable, all water customers affected. The City shall not be responsible for any damage resulting from any interruption, change, or failure of the water supply.

B. The Public Utility Board is authorized to approve, adopt, and/or amend a Water Shortage Response Plan ("Plan") applicable to all classes of customers, which Plan is consistent with the standards in this section. Any person who violates the adopted Plan or directives issued pursuant to the Plan, including a wholesale customer who fails to adopt similar use limitations, shall be subject to immediate reduction or discontinuance of service by the Division without notice or a hearing opportunity. All Water Shortage Response Plans previously adopted by the Public Utility Board are hereby approved and ratified. (Ord. 27522 § 8; passed Aug. 29, 2006; Ord. 27299 § 3; passed Dec. 7, 2004; Ord. 26800 § 7; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.170 Ownership of water mains and appurtenances.

The Division shall own, operate, and maintain all Division approved and accepted water mains and related appurtenances in established city, county, and state rights-of-way or other utility rights-of-way, including recorded easements. Any person responsible for the construction of such mains and related appurtenances shall transfer ownership to the Division upon final acceptance. No one may operate, remove, change, or connect to any part thereof without the approval of the Division. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 9; passed Aug. 29, 2006; Ord. 27299 § 4; passed Dec. 7, 2004; Ord. 26800 § 8; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.180 Satellite system management.

The Division may operate and maintain private distribution mains and other water system components outside of its service area in conjunction with its own facilities, provided an approved agreement has been entered into between the Division and the owners of such mains and components. (Ord. 26800 § 9; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.200 Private contract charges.

Extension of a permanent water main may be constructed by private contract. The developer of the privately financed project will be responsible for all costs and expenses incurred by the Division for preparation of plans and specifications, construction inspection, testing, flushing, sampling of the mains, and other related work necessary to complete the new water main construction to Division standards and specifications. The engineering charge for the preparation of plans and specifications will be estimated by the Division and will include all applicable permit fees. The developer will be required to pay a deposit in the amount of the estimated cost and sign an agreement acknowledging that they are responsible to pay all actual time and materials costs associated with the project. The actual costs for the work will be billed against the developer's deposit. Should the actual costs for engineering the project exceed the deposit amount; the developer will be required to pay the balance prior to receiving the plans and specifications. Prior to construction, a second deposit in the estimated amount for construction inspection, testing, sampling and hydrant painting will be due to the Division. Upon completion of the project, the developer will either be refunded the unused amount of the deposit or billed for the cost overrun. Included in the deposits described above is a \$50 per fire hydrant in the project for painting.

The developer will be responsible for protecting Division facilities, including yokes and boxes, until final acceptance by the Division. After final acceptance of the project, the responsibility for the stub, yoke, box, and meter will belong to each property owner who will be charged accordingly for any damage. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 10; passed Aug. 29, 2006; Ord. 27024 § 2; passed Dec. 10, 2002; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.220 Cross connections.

The installation or maintenance of any uncontrolled cross connection that may endanger the quality of the public water supply of the City is prohibited. Any such cross connection now existing or hereafter installed is hereby declared unlawful and shall be

Tacoma Municipal Code

abated immediately. The control and/or elimination of cross connections shall be in accordance with the applicable sections of the Washington Administrative Code ("WAC") the Tacoma Municipal Code, and the Policies and/or procedures approved by the Division. Failure to comply with Division cross connection control requirements may result in a penalty of \$100 per occurrence, installation of an approved backflow prevention assembly at the water meter at the expense of the customer, and/or termination of water service. For purposes of this section, an occurrence is defined as failure to install, test, repair, and/or replace a required backflow prevention assembly upon written notification by the Division delivered by hand or registered mail. Responsibility for backflow assembly testing and payment of all penalties and/or fees are the responsibility of the customer receiving the water service. The Division will assign a test due date for each backflow prevention assembly and will make every effort to provide notice to the customer of the testing due date. Annual backflow assembly testing will be required by the Division established due date regardless of the actual date previous tests were performed. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 11; passed Aug. 29, 2006; Ord. 26800 § 11; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.250 Water service construction charges.

All water service installations shall be constructed by the Division. For all service installations, the owner or applicant shall pay in advance the fixed charge or a deposit in the amount of the Division's estimated cost for the proposed work. For all estimated work the requestor will be required to sign a time and materials agreement noting their acceptance of the responsibility to pay the actual charges. The amount charged for work performed on an estimated basis will be actual costs to the Division, including overhead cost of installation of Automated Meter Reading ("AMR") equipment when applicable. If the actual cost is less than the estimated cost, the customer will be refunded the difference. Should the cost of the installation exceed the deposit amount, the additional amount will be billed to the customer that signed the time and materials agreement accepting the responsibility for actual charges. Failure to pay charges may result in, but not be limited to, termination of water service.

All required City, county, state, and/or other permits and fees are in addition to the charges listed below.

A. Water service construction charges on existing mains shall be as set forth below. In extraordinary circumstances where the Division determines that the fixed charges are not adequate to cover the actual

costs, the water service construction charge will be based upon actual costs to the Division, including overhead and taxes.

	Effective 1/19/09
3/4-inch" Service & 5/8-inch" Meter	\$2,325
3/4-inch" Service & 3/4-inch" Meter	\$2,400
1-inch" Service & 5/8-inch" Meter	\$2,400
1-inch Service & 3/4-inch Meter	\$2,450
1-inch" Service & 1-inch" Meter	\$2,550
Meter exchange from 5/8" to 3/4"	\$ 625
Meter exchange from 3/4" to 5/8"	\$ 325

Service construction charges for services larger than 1-inch will be estimated based upon actual costs to the Division, including overhead. Service construction charges for water meters 3-inches and larger, or as required by the Division, will include the cost of installation of AMR equipment in accordance with the most current requirements. AMR is also required on all wholesale meters.

All services and meters applied for shall be installed within two years of the application. Those customers who have not requested their water service and meter be installed within the two-year period will be required to pay the difference in all current charges and the charges paid at time of application, including the system development charge ("SDC").

Where a service stub was previously installed at the option of the Division, activation of that service shall require payment of all current fees and charges including service construction charge in effect at the time of application for service.

B. Installation of Services and Meters on New Mains. Domestic service for residential will require the installation of 3/4-inch services and 5/8-inch meters. The developer requesting services and meters for use other than domestic service for residential will be required to provide additional information on the proposed use. Plan review will be required to determine sizing requirements.

Stub Only	Effective 1/19/09
a. 3/4-inch Service stubs installed after successful samples and pressure tests.	\$750/service
b. 1-inch Service stubs installed after successful samples and pressure tests.	\$800/service
Meter, Yoke and Box	Effective
a. 5/8-inch Meter, yoke and box installed when requested.	\$400/meter plus the SDC

b. 3/4-inch Meter, yoke and box installed when requested.	\$450/meter plus the SDC
Meter Only	Effective 1/19/09
a. 5/8-inch Meter installed when requested	\$175/meter plus the SDC
b. 3/4-inch Meter installed when requested.	\$225/meter plus the SDC

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 6; passed Dec. 19, 2006; Ord. 27522 § 12; passed Aug. 29, 2006; Ord. 27299 § 5; passed Dec. 7, 2004; Ord. 27024 § 5; passed Dec. 10, 2002; Ord. 26800 § 12; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.275 Property-side (private) in public rights-of-way.

A. When a customer requests a service and meter installation for a property not abutting a water main and the public entity having jurisdiction over the right-of-way does not allow privately owned water lines in the right-of-way then the customer must obtain easements from the adjacent property owners for installation of their property side pipe. Recorded copies of said easements must be provided to the Division before installation of the requested service and meter can occur.

Where a public entity requires that a customer's existing property-side (private) pipes be removed from public rights-of-way, the following four options are available to the customer:

1. The customer may arrange for a private contractor to install a new water main in the right-of-way using the private contract process noted in Section 12.10.200. The main would be designed by the Division and installed by the contractor, at the expense of the customer. Following the construction of the water main in the right-of-way, the customer's service and meter will be transferred to the new main at no charge.
2. The customer may organize with adjacent property owners to form a Local Improvement District ("LID") to install a new water main in the right-of-way. The design and construction process is similar to Option 1 above, but the project is financed and repaid over time through the Division, through the LID process.
3. The customer may obtain easements from adjacent property owners to allow relocation of its property-side (private) pipes out of the right-of-way into the easement obtained. In this option, the customer must provide verification to the Division that the easement

has been recorded prior to the installation of the service and meter.

4. The Customer may arrange for the Division to design and install the necessary water main and appurtenances using the time and materials process. The Division will estimate all costs associated with design and construction of the proposed water main and appurtenances and the customer will be required to make a deposit in the estimated amount. If the final costs are more than the estimate the customer will be required to pay the balance, if the costs are less the difference will be refunded. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 7; passed Dec. 19, 2006; Ord. 27522 § 13; passed Aug. 29, 2006)

12.10.300 Fire hydrant installation and relocation.

Fire hydrant installation and/or relocation shall be performed by the Division at the customer's expense. A deposit shall be paid to the Division in the amount of the Division's estimate of the cost to install or relocate a fire hydrant. If the actual cost is less than the estimated cost, the customer will be refunded the difference. Should the cost of installation exceed the deposit amount, the customer will be billed the additional amount.

All costs to acquire the necessary City, county, state, and/or other permits to accomplish the installation or relocation are in addition to the above costs. (Ord. 27522 § 14; passed Aug. 29, 2006; Ord. 27299 § 6; passed Dec. 7, 2004; Ord. 27024 § 4; passed Dec. 10, 2002; Ord. 26800 § 13; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.301 Fire hydrant services fee.

Pursuant to the Washington State Supreme Court decision in Lane v. City of Seattle, 164 Wn.2d 875 (2008), all costs associated with providing fire hydrant services and the necessary components, infrastructure, and maintenance required to supply sufficient water for fire suppression shall be charged and collected from the general governments where the fire hydrants are located. The cost of providing fire hydrant services shall be calculated on a per hydrant basis. The applicable general government shall be invoiced for such costs on a monthly basis. The annual per hydrant cost is \$267.98. (Ord. 27970 Ex. A; passed Feb. 1, 2011)

12.10.302 System capacity flow testing.

To determine the capacity of a water system at a particular location for the purpose of a supply for automatic fire sprinkler systems or for other reasons, the Division can conduct a fire flow test using two (2) or more fire hydrants. The fire flow test shall be

Tacoma Municipal Code

conducted by the Division upon request and after payment of a fee in the amount of \$350. The fee shall cover the cost of performing the flow test and any necessary system cleanup created by the increased water velocities during the test. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 15; passed Aug. 29, 2006)

12.10.305 Fire hydrant use (non-fire fighting).

When water service is supplied through the use of a fire hydrant, other than for fire fighting, the proposed use must be disclosed and a permit must be obtained from the Division authorizing the hydrant use. A charge for all costs associated with hydrant and water usage shall be collected by the Division. A fire hydrant meter or a water service and meter may be required under certain circumstances as determined by the Division.

The use of the Division's hydrant without a current permit, using a restricted hydrant or failing to conform to the Division's hydrant operating procedures will result in a penalty of \$1,000 in addition to all other hydrant use charges. Refusal to pay the penalties and charges may be cause for the Division to refuse future hydrant use by the violator and/or discontinue service to the benefited premises.

Persons using a fire hydrant will be responsible for all damages to Division facilities and/or other private facilities that may result from the use of said hydrant. If the person refuses to pay the cost for all damages associated with fire hydrant use, the Division may refuse future service to the customer and/or discontinue water service to the benefited premises.

Applications for fire hydrant use for periods greater than six consecutive months for the purpose of supplying water to a business may require the business to purchase a water service connection of adequate size to accommodate the proposed water usage as determined by the Division. Water service construction charges, SDC, and main charges shall be as specified in TMC 12.10.250, 12.10.310, and 12.10.315.

Fire hydrant use permits in Category 1 and 2 are good for a maximum of one year or until the backflow protection documentation expires, whichever comes first. Upon expiration a new permit application will be required and a new permit fee is due. Hydrant Permit charges will be as follows:

HYDRANT USE CATEGORY AND FEE SCHEDULE

Category	Fee
Category #1 ** Fixed (Single) Site Construction Project	Permit Fee \$100 Meter Deposit for Hydrant \$1,000* Permittee is required to submit meter reads on a monthly basis. Monthly Water Use Charge at the Inside/Outside Commercial Rate plus the Ready to Serve Charge for a 2-Inch Meter Penalty for Unauthorized Use \$1,000
* Deposit to be refunded by the Division after return of the meter and appurtenances. All costs for hydrant and/or meter repairs/replacement caused by improper operation or theft of said equipment shall be deducted from the deposit. Refund of deposit will be initiated after payment of closing/final water bill. Costs exceeding the deposit amount will be billed to customer. ** Subcontractor would be allowed to use same permit as general contractor provided subcontractor meets all cross-connection requirements and name is disclosed at issuance of permit.	
Category #2 * Multiple-Site Hydrant Use (Approved Hydrant Locations)	Permit Fee \$100 Monthly Water Use Charge at the Inside/Outside Commercial Rate (based on estimated consumption**) plus the Ready to Serve Charge for a 2-inch Meter Penalty for Unauthorized Use \$1,000
* Subcontractor would be allowed to use same permit as general contractor provided subcontractor meets all cross-connection requirements and name disclosed at issuance of permit. ** Both general and subcontractors are required to submit a monthly log sheet of estimated water consumption per truck	
Category #3 Short-Term (one day and minimal) Use	\$50 per truck per day* Penalty for Unauthorized Use \$1,000
* Approved hydrant only	

A Division-approved backflow protection assembly shall be installed by the person requesting the use of a fire hydrant. The assembly shall be accompanied by a current backflow assembly test report. The test report shall remain on the site for the duration of the hydrant use. The Division reserves the right to terminate any hydrant permit at any time for security and/or water quality control reasons. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 16; passed Aug. 29, 2006; Ord. 27299 § 7; passed Dec. 7, 2004; Ord. 27024 § 5; passed Dec. 10, 2002)

12.10.310 System development charge ("SDC").

A. A system development charge ("SDC") shall be levied for each new water service connection to the City water system, for a service upgrade requiring a larger meter, or for any existing service with 3-inch and larger meters that exceeds 150 percent of their highest maximum annual daily average water use. The SDC fee is based on an equitable share of the cost of the entire existing water system and future facilities necessary to accommodate projected growth. This fee is established pursuant to RCW 35.92.025, the City Charter, and this chapter. SDCs are considered contributions for or in aid to construction, and shall be accounted for accordingly. Customer water consumption amounts on and after May 9, 1999, the original effective date of Ordinance No. 26408, will be examined to determine whether additional SDC amount is owed to the Department.

B. For retail meters 5/8-inch through 2-inches, the charge will be based on customer class and meter size.

Tacoma Municipal Code

For meters larger than 2-inches, the SDC shall be determined based on the customer's anticipated water use as shown below:

Meter Size	Inside City Residential Charges		Inside City Commercial/Industrial Charges	
	Effective			
	1/1/03	1/1/04	1/1/03	1/1/04
5/8-inch	\$ 1,443	\$ 1,485	\$ 1,928	\$ 1,984
3/4-inch	2,166	2,229	2,894	2,978
1-inch	3,610	3,715	4,823	4,963
1-1/2-inch	7,218	7,427	9,647	9,927
2-inch	11,548	11,883	15,433	15,881
3-inch & Larger	Individually calculated based on consumption			

Meter Size	Outside City Residential Charges		Outside City Commercial/Industrial Charges	
	Effective			
	1/1/03	1/1/04	1/1/03	1/1/04
5/8-inch	\$ 1,732	\$ 1,782	\$ 2,315	\$ 2,382
3/4-inch	2,599	2,674	3,473	3,574
1-inch	4,330	4,456	5,786	5,954
1-1/2-inch	8,661	8,912	11,575	11,911
2-inch	13,860	14,262	18,520	19,057
3-inch & Larger	Individually calculated based on consumption			

The SDC for a multiple family dwelling unit arrangement to be served by a single meter shall be calculated by taking the number of units in the premise and multiplying by 60 percent of the SDC for a single-family dwelling (5/8-inch meter). If said premise chooses in the future to separately meter each premise the additional 40 percent of the SDC for a single-family dwelling (5/8-inch meter) shall be due and payable at

For meters 3-inches and larger, estimates of anticipated average day use, peak day, and four-day maximum water use will be determined by the Division. Peak day is defined as the maximum 24-hour use during summer months of June through, and including, September. Four-day maximum use is defined as the average use per day of the four highest consecutive days of the customer's water use in the summer months. For inside City customers, the average day SDC cost is \$2.64/gallon (effective 1/1/04). The peak day SDC cost is \$0.28/gallon (effective 1/1/04). The four-day maximum SDC cost is \$2.36/gallon (effective 1/1/04). For outside City customers, the average day SDC cost is \$3.17/gallon (effective 1/1/04). The peak day SDC cost is \$0.34/gallon (effective 1/1/04). The four-day maximum SDC is \$2.83/gallon (effective 1/1/04).

The SDC will be the sum of the average day use multiplied by the average day cost/gallon, the peak day use minus average day use multiplied by the peak day cost/gallon, and the four-day maximum use minus average day use multiplied by the four-day maximum cost/gallon.

As of April 23, 2001, the SDC paid for meters 3-inches and larger will be adjusted annually based on actual usage. If usage is greater than 110 percent of the anticipated average, peak day or four-day maximum use during a 12-month period of time, an additional SDC will be charged, using the same methodology for calculating average day, peak day, and four-day maximum water use and multiplying by the respective SDC cost per gallon in effect at the time of adjustment. This requirement for an additional SDC may be waived upon satisfactory demonstration by the customer that the increased water use was temporary in nature and will return to the originally anticipated level.

C. SDC Exemptions:

1. New water service connections dedicated exclusively for fire protection purposes shall be exempt from payment of the SDC. The conversion of a dedicated fire service to a service for use other than exclusively for fire protection shall require the payment of the SDC as provided for in subsection B above.
2. The Division requires that all new single family dwelling residential combination domestic/fire sprinkler service and meters be served by a 1-inch service and 3/4-inch meter. If a larger size meter is required for fire protection the customer must install separate fire service and domestic services. The customer is required to pay all fees to construct said 1-inch service and 3/4-inch meter and all applicable main charges. When such use is documented through the plan review process, the SDC for a 5/8-inch meter will apply. The monthly customer charge will be at the standard charge for a 3/4-inch meter as set forth in TMC 12.10.400.
3. If a residential customer has an existing 3/4-inch x 5/8-inch service and meter an exchange to a 3/4-inch meter will be allowed if the customer's fire protection engineer determines it will provide adequate flow. All applicable fees will apply. If flow tests after the meter exchange show inadequate flow the customer will be required to pay the additional fees to retire the 3/4" service and install a new 1" service. Residential customers requesting an upgrade to an existing meter to a 3/4-inch meter for a combination domestic/fire sprinkler service will be exempt from payment of the additional SDC when such use is approved through the plan review process. The monthly customer charge will be at the standard charge for a 3/4-inch meter as set forth in TMC 12.10.400.
4. Customers who are requesting a separate water service connection and are being provided with water service by way of another Division customer (i.e., multi-premises connection), shall be exempt from payment of the SDC if Billing record exists showing multi-premise rate for each premise on meter.
All premises served by meter of record were constructed prior to October 7, 1991.

D. Existing Facilities:

1. Multiple dwelling unit arrangements currently being served by a single meter shall be exempt from payment of the SDC when changing to separate water service connections for each unit if the original meter was installed prior to October 7, 1991. If the existing meter was installed after October 7, 1991, the customer will be required to pay the 40 percent differential for each individual meter installed as noted in B above.

E. Credit policy for retail customers previously or currently metered:

1. When a request or requirement for a larger meter is made, an SDC credit for the existing meter will be made. The credit for meters up to 2-inches will be the current published SDC amount using the rate in place prior to the requested or required up-sizing. For meters 3-inches and larger, the credit would be calculated based on 150 percent of the highest maximum annual daily average water use derived from billing records. If billing records are not available for a specific meter, the SDC credit calculation will be based on a system-wide use data for that size meter.
2. For situations where meters 3-inches or larger exist and water use will increase, but no change in the meter is required, an SDC will not be required unless the projected use is more than 150 percent of historical use. If the projected use exceeds the 150 percent historical use quantity, an SDC will be calculated for the quantity of water in excess of the 150 percent figure. Prior written commitments to deliver a specific quantity of water, if greater than 150 percent of historical use, will be honored.
3. Credit shall be given for inactive or previously removed meters that can be verified by Division records. The credit will be determined as stated in subsection E.1 above.

Multiple dwelling unit arrangements – Credit for existing multiple dwelling unit meters shall be calculated at 60 percent of the applicable 5/8-inch meter rate per unit and applied to the required SDC if previously served by a single meter.

4. Credits as computed will be subtracted from the determined SDC amount. If an available credit exceeds the SDC amount, the balance shall remain with the parcel previously receiving water service. No refunds shall be allowed for the amount of this credit.
5. All SDC credits are non-transferable unless parcels are combined to facilitate redevelopment.
6. This section is not applicable to Simpson Tacoma Kraft Company's existing services.

F. For wholesale meters, as sized by the Division, the SDC will be determined based on the customer's anticipated water use.

Tacoma Municipal Code

1. Estimates of anticipated average day use, peak day, and four-day maximum water use will be submitted to and approved by the Division. Peak day is defined as the maximum 24-hour use during summer months of June through, and including, September. Four-day maximum use is defined as the average use per day of the four highest consecutive days of water use in the summer months. The average day SDC cost is \$3.17/gallon (effective 1/1/04). The peak day SDC cost is \$0.34/gallon (effective 1/1/04). The 4-day maximum SDC cost is \$2.83/gallon (effective 1/1/04).

The SDC will be the sum of the average day use multiplied by the average day cost/gallon, the peak day use minus average day multiplied by the peak day cost/gallon, and the four-day maximum use minus average day multiplied by the four-day maximum cost/gallon.

The SDC, as of the effective date of this ordinance, will be adjusted annually based on actual usage. If usage is greater than 110 percent of the anticipated average, peak day or four-day maximum use during a 12-month period of time, an additional SDC may be charged using the same methodology for calculating average day, peak day, and four-day maximum water use and multiplying by the respective SDC cost per gallon in effect at the time of adjustment. This requirement for an additional SDC may be waived upon satisfactory demonstration by the customer that the increased water use was temporary in nature and that water use will return to the originally anticipated level.

2. For situations where an existing wholesale customer is increasing its purchase of water, SDC credit for existing service will be based on either maximum historic use or prior written commitments to deliver a specific quantity of water, whichever is greater.

G. SDCs for meters 2-inches and smaller are payable in full at the time the meter installation is requested. Time payments will be allowed for SDCs for meters 3-inches and larger, for up to ten years, at the discretion of the customer, as follows:

1. When a down payment of 20 percent or more is initially paid, the Division will accept annual payments, with interest, on the unpaid balance calculated using the then current prime rate of interest less 2 percent.
2. When a down payment of at least 10 percent, but less than 20 percent, is initially paid, the Division will accept annual payments, with interest, on the unpaid balance calculated using the then current prime rate of interest.
3. The time payment agreements shall provide that this obligation constitutes a lien on the benefited premises and that the City has the right to terminate water service for any nonpayment of the amounts due on the outstanding balance. In addition, unless the customer is a financially stable public entity, the customer shall be required to provide security such as a financial guarantee bond to guarantee payment of the SDC or make incremental prepayments of the SDC plus interest on the balance of the outstanding total amount of the SDC.

H. Rate Adder to Recover Capital Costs Not Covered by the SDC. In addition to paying the SDC set forth in this section, a customer who proposes to use water for a new or enlarged power plant, and who does not use best available water conservation technology (BAWCT), shall be required to pay, in addition to the applicable water rate, an adder to such rate in accordance with the Division's Customer Service Policy for New Power Plants. The adder shall be calculated to recover over a period of 20 years a portion of the capital costs that are not covered by the SDC for such customer. This present value of the adder (spread over 20 years) will be equivalent to an SDC on that portion of the customer's water consumption that is in excess of the amount of water the customer would have consumed had BAWCT been used. Said customers shall also be required to enter into a water service agreement with the Division, and such agreement shall be submitted to the Public Utility Board for approval. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 8; passed Dec. 19, 2006; Ord. 27522 § 17; passed Aug. 29, 2006; Ord. 27299 § 8; passed Dec. 7, 2004; Ord. 27024 § 6; passed Dec. 10, 2002; Ord. 26872 § 1; passed Nov. 6, 2001; Ord. 26800 § 14; passed Apr. 10, 2001; Ord. 26408 § 1; passed Apr. 27, 1999; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.315 Water main charge.

Where all or a portion of the premises to be served has not been previously assessed or contributed its share towards the cost of installing a permanent distribution main to serve such premises, or the property does not abut a distribution water main, water service shall be provided upon payment of a water main charge as provided for in this section, in addition to a water service construction charge, in accordance with TMC 12.10.250 and the SDC in accordance with TMC 12.10.310.

If the main is a temporary main and is not acceptable for meeting the water requirements of the customer, the service will be installed and connected to the nearest water main that is acceptable in accordance with TMC 12.10.350, Water main charge - Premises not abutting a water main. If the temporary main is a supply or transmission pipeline, the water service will be installed in accordance with the Customer Service Policies (Direct Service From Supply and Transmission Pipelines).

Credit shall be given for the portion of the property which has been previously assessed or has contributed its share toward the cost of installing a permanent water main. Water main charge shall be based on the frontage of the property served, as determined by the Division, in accordance with the following schedule and subject to the following terms and conditions:

A. Residential Service.

The water main charge shall be based on the frontage of the property served. The minimum charge shall be based on 50 front feet and the maximum charge on 100 front feet.

Commencing 1/1/07
\$50/per front foot

B. Commercial Service.

Where the property is zoned for the same, the water main charge shall be based on the entire frontage of the property served. The minimum charge shall be based on 50 front feet.

Commencing 1/1/07
\$50/per front foot

C. Industrial Service.

Where the property is zoned for the same, the water main charge shall be based on the entire frontage of the property served. The minimum charge shall be based on 50 front feet.

Commencing 1/1/07
\$55/per front foot

D. Water main charges for services abutting a permanent main shall be considered revenue of the Division.

The water main charge herein above provided for shall be credited to and considered as a benefit to the specific property served by said connection. Said property so benefited shall be described and recorded as a part of the Division's permanent records pertaining thereto. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 18; passed Aug. 29, 2006; Ord. 27299 § 9; passed Dec. 7, 2004; Ord. 26800 § 14; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.350 Premises not abutting a permanent water main.

Where the premises to be served is not abutting a permanent water main (as described in the Customer Services Policies) and said premises owner has not previously paid a water main charge, the water service connection will be constructed by the Division to the nearest available temporary or permanent water main that is acceptable for meeting the water requirements of the customer upon application and payment of a temporary water main charge as provided for in TMC 12.10.315 in addition to a service construction charge, in accordance with TMC 12.10.250 and the SDC in accordance with TMC 12.10.310. The water main charge shall be paid to the Division in accordance with and subject to the same terms and conditions as detailed in TMC 12.10.315 above.

All water main charges received where no main abuts subject parcel shall be deposited by the City in the Water Main Deposit Fund and shall be credited to and considered as a benefit to the specific property served by said connection. The property so benefited shall be legally described and recorded as part of the Division's permanent records pertaining thereto.

When a public road is improved or resurfaced by a person where there is currently no water main or said public road has a temporary water main as defined in the Customer Service Policies, it shall be the person's responsibility to extend the water main/system to the extent of the road improvements or to a point that meets the approval of the Division. Said water main/system may be extended using the private contract process, TMC 12.10.200, or by the LID process as set forth in RCW 35.44, and Division standards.

Tacoma Municipal Code

If a permanent water main exists or is being constructed between the existing service and the specific benefited property, said service may be relocated to the permanent main at a point closer to the benefited property at no charge, provided the owner reroutes its property-side water pipe between the new meter location and the property.

Upon the installation of permanent mains, the main charge collected by the City shall be applied toward the payment for said mains for the benefit of the properties in accordance with Division records. The temporary water service will be relocated by the Division to the permanent main abutting the benefited property at no charge. The owner must reroute its property-side water pipe between the new meter location and the property and make the connection. If the property owner does not agree to relocate its property-side water pipe at the time of main installation and requests a service relocation at a later date, the work will be done at the expense of the property owner. (Ord. 27522 § 19; passed Aug. 29, 2006; Ord. 27299 § 10; passed Dec. 7, 2004; Ord. 26800 § 15; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.400 Rates – Inside and outside City limits.

The standard charge for water supplied inside and outside the City for residential, commercial/industrial, parks and irrigation, and public facilities use shall consist of a customer charge, also termed a “monthly ready to serve charge,” based on the meter size together with the rate for the quantity of water used.

For water supplied to a single premises which contains multiple dwelling units, i.e., two or more houses under the same ownership, duplexes, apartment buildings, condominiums, mobile home parks, trailer courts, industrial buildings, etc., the monthly charges will be the same as indicated above.

When water is being supplied to an existing multiple premises, i.e., two or more separate premises being served by one service and meter, the “monthly ready to serve charge” will be based on either the existing meter size or on a 5/8-inch meter size for each premises served, whichever is the greater charge.

When more than one service supplies a premises, the consumption of water for each meter shall be computed separately.

A. Standard charges:

1. The monthly ready to serve charge shall be in accordance with the following schedule for residential, commercial/industrial, commercial/industrial large volume, parks and irrigation, public facilities, and wholesale service.

Ready to Serve Charge				
Meter Size (Inches)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
5/8	\$16.03	\$16.76	\$19.24	\$20.11
3/4	\$24.05	\$25.15	\$28.86	\$30.17
1	\$40.08	\$41.91	\$48.10	\$50.29
1-1/2	\$80.15	\$83.80	\$96.18	\$100.56
2	\$128.24	\$134.08	\$153.89	\$160.90
3	\$240.45	\$251.40	\$288.54	\$301.68
4	\$400.75	\$419.00	\$480.90	\$502.80
6	\$801.50	\$838.00	\$961.80	\$1,005.60
8	\$1,282.40	\$1,340.80	\$1,538.88	\$1,608.96
10	\$1,843.45	\$1,927.40	\$2,212.14	\$2,312.88
12	\$2,705.06	\$2,828.25	\$3,246.07	\$3,393.90

2. The schedule of rates for water used shall be as follows and billed to the nearest CCF (100 cubic feet or approximately 748 gallons):

Residential Service				
Rate per CCF				
Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption during the winter months of October through and including May	\$1.308	\$1.368	\$1.570	\$1.642
For the first five CCF of water consumption per month during the summer months of June through and including September	\$1.308	\$1.368	\$1.570	\$1,642
Rate per CCF				
Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption over five CCF during the summer months of June through and including September	\$1.635	\$1.710	\$1.963	\$2.053

Commercial and Industrial - General Service				
Rate per CCF				
Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption	\$1.436	\$1.497	\$1.724	\$1.797

Commercial and Industrial - Large Volume Service. Customers may qualify for this rate based on an established consumption history greater than 65,000 CCF annually.				
Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption	\$1.298	\$1.381	\$1.558	\$1.658

Parks and Irrigation Service				
Range in CCF (100 cubic feet)	Inside Commencing		Outside Commencing	
	2/14/11	1/1/12	2/14/11	1/1/12
For each CCF of water consumption	\$1.850	\$1,990	\$2.220	\$2.388

B. Schedule of charges within the City of Fircrest:

Tacoma Municipal Code

1. The monthly ready to serve charge shall be in accordance with the following schedule for residential, commercial/industrial, commercial/industrial large volume, parks and irrigation, public facilities, and wholesale service.

Ready to Serve Charge - Fircrest		
Meter Size (Inches)	Commencing	
	2/14/11	1/1/12
5/8	\$20.66	\$21.60
3/4	\$31.00	\$32.41
1	\$51.66	\$54.01
1-1/2	\$103.31	\$108.01
2	\$165.29	\$172.82
3	\$309.92	\$324.03
4	\$516.53	\$540.06
6	\$1,033.07	\$1,080.12
8	\$1,652.91	\$1,728.18
10	\$2,376.06	\$2,484.27
12	\$3,486.61	\$3,645.39

2. The schedule of rates for water used shall be as follows and billed to the nearest CCF (100 cubic feet or approximately 748 gallons):

Residential Service - Fircrest		
Range in CCF (100 cubic feet)	Rate per CCF	
	Commencing	
	2/14/11	1/1/12
For each CCF of water consumption during the winter months of October through and including May	\$1.686	\$1.764
For the first five CCF of water consumption per month during the summer months of June through and including September	\$1.686	\$1.764
For each CCF of water consumption over five CCF during the summer months of June through and including September	\$2.108	\$2.205

Commercial and Industrial - General Service - Fircrest		
Range in CCF (100 cubic feet)	Rate per CCF	
	Commencing	
	2/14/11	1/1/12
For each CCF of water consumption	\$1.852	\$1.930

Commercial and Industrial - Large Volume Service. Customers may qualify for this rate based on an established consumption history greater than 65,000 CCF annually - Fircrest		
Range in CCF (100 cubic feet)	Commencing	
	2/14/11	1/1/12
For each CCF of water consumption	\$1.673	\$1.781

Parks and Irrigation Service - Fircrest		
Range in CCF (100 cubic feet)	Commencing	
	2/14/11	1/1/12
For each CCF of water consumption	\$2.385	\$2.565

C. Schedule of charges within the cities of Lakewood, Puyallup and University Place:

1. The monthly ready to serve charge shall be in accordance with the following schedule for residential, commercial/industrial, commercial/industrial large volume, parks and irrigation, public facilities, and wholesale service.

Ready to Serve Charge – Lakewood, Puyallup & University Place		
Meter Size (Inches)	Commencing	
	2/14/11	1/1/12
5/8	\$21.18	\$22.15
3/4	\$31.78	\$33.23
1	\$52.97	\$55.38
1-1/2	\$105.92	\$110.75
2	\$169.48	\$177.20
3	\$317.77	\$332.24
4	\$529.62	\$553.74
6	\$1,059.23	\$1,107.47
8	\$1,694.77	\$1,771.95
10	\$2,436.24	\$2,547.18
12	\$3,574.91	\$3,737.71

2. The schedule of rates for water used shall be as follows and billed to the nearest CCF (100 cubic feet or approximately 748 gallons):

Residential Service – Lakewood, Puyallup & University Place		
Range in CCF (100 cubic feet)	Rate per CCF	
	Commencing	
	2/14/11	1/1/12
For each CCF of water consumption during the winter months of October through and including May	\$1.729	\$1.808
For the first five CCF of water consumption per month during the summer months of June through and including September	\$1.729	\$1.808
For each CCF of water consumption over five CCF during the summer months of June through and including September	\$2.162	\$2.261

Tacoma Municipal Code

Commercial and Industrial - General Service – Lakewood, Puyallup & University Place		
	Rate per CCF	
Range in CCF (100 cubic feet)	Commencing	
	2/14/11	1/1/12
For each CCF of water consumption	\$1.899	\$1.979

Commercial and Industrial - Large Volume Service. Customers may qualify for this rate based on an established consumption history greater than 65,000 CCF annually – Lakewood, Puyallup & University Place		
	Commencing	
Range in CCF (100 cubic feet)	2/14/11	1/1/12
	For each CCF of water consumption	\$1.716

Parks and Irrigation Service – Lakewood, Puyallup & University Place		
	Commencing	
Range in CCF (100 cubic feet)	2/14/11	1/1/12
	For each CCF of water consumption	\$2.445

D. Public Facilities Service. Whenever water is provided for public use, such as fountains, rest rooms, or other publicly owned facilities, it shall be metered and charged for at the regular rates as prescribed under Commercial/Industrial or Parks and Irrigation, depending on the type and location of use.

E. Wholesale Service. Wholesale water service may be provided to community water systems that are in compliance with state Department of Health regulations. All wholesale water agreements are subject to Tacoma Public Utility Board approval. Any customer purchasing wholesale water must adopt or commit, in writing, to a water conservation and water shortage response program substantially equivalent to the Division's program as a condition of service.

1. Water Rates. A wholesale water service customer may choose, in writing, one of two available rate schedules for each meter in service, either the constant use schedule or the summer peaking schedule. Both of these rate schedules shall consist of the ready to serve charge based on the meter size, together with a rate for water used as shown below:

a. Constant Use Customer:

Wholesale Constant Use Customer		
	Commencing	
	2/14/11	1/1/12
Per CCF for winter months (October - May)	\$1.707	\$1.984
Per CCF for summer months (June - September)	\$2.134	\$2.480

This option may be considered by those customers using water on a year-round basis where their average summer day use divided by their average winter day use results in a summer/winter use ratio of 2.5 or less.

b. Summer Season, Peaking:

Wholesale Summer Season, Peaking		
	Commencing	
	2/14/11	1/1/12
	\$3.206 per CCF	\$3.726 per CCF

This option will be used for those customers using relatively large amounts of water in the summer months and little or no water in winter months. The ratio of average summer day use divided by average winter day use shall be greater than 2.5.

For purposes of these rates, summer-use months are defined as June through September and winter-use months are October through May.

Existing customers will be classified into one of the two rate schedules upon annual review of their usage patterns. New customers will select a rate based upon anticipated use. This selection will be subject to revision if usage is not consistent with the above options after a six-month period.

2. Additional Water. Additional or new water may be provided by the City to a wholesale customer conditioned upon satisfying the following:

a. For every new customer of the wholesale customer that is provided with water from City's surplus supply, the wholesale customer shall remit to the City (on a monthly basis or by other arrangement as agreed to by the Superintendent) the appropriate SDC for said customer based on meter size in accordance with TMC 12.10.310.

b. That, in lieu of satisfying subsection A above, in the event the wholesale customer is in a water deficient status or later becomes water deficient as determined by the Superintendent in consultation with wholesale customer, then the Superintendent shall establish a SDC equivalent for said wholesale customer. This SDC equivalent shall not be less than what the total "retail customer equivalent" would have been for the total deficiency.

c. That the City and wholesale customer shall enter into a letter agreement setting forth the above requirements and committing the wholesale customer to remit the SDC payment to City. The wholesale customer may be required to provide City with periodic reports, certified to be accurate, detailing pertinent data.

F. Emergency Intertie Service. Requests for one-way and two-way emergency intertie service between the City and another purveyor will be considered.

The Superintendent may enter into specific agreements, specifying the terms under which water will be furnished or accepted by the Division. Water furnished to a purveyor through an emergency intertie service will be billed as a wholesale service with a ready to serve charge and rate for water used. Billing will be at the constant use rate for up to 30 days. If use exceeds 30 days the Superintendent will have the discretion to change the constant use rate to the summer season peaking rate. Said agreement shall provide that neither party shall be liable for failure to deliver water to the other at any time.

G. Fire Protection Service. When a customer does not receive domestic water from the Division and requests a fire service from the Division the appropriate regular domestic service rates shall apply as detailed above. In addition all regular construction fees, main charges and SDC shall apply. Where City water is used for domestic purposes, such customers are entitled to a separate fire service at the regular fire service rate, payable monthly as follows:

Fire Protection Service – Ready to Serve Charge					
Meter Size (Inches)	Inside Commencing		Outside Commencing		Maximum Allowable Monthly Water Usage for Testing and Leakage, CCF
	2/14/11	1/1/12	2/14/11	1/1/12	
2	19.72	21.29	23.66	25.55	2.99
3	28.71	31.00	34.45	37.20	2.99
4	47.97	51.79	57.56	62.14	2.99
6	107.60	116.17	129.12	139.40	2.99
8	191.55	206.81	229.87	248.17	2.99
10	299.62	323.48	359.55	388.17	2.99
12	479.25	517.40	575.10	620.89	2.99

Fire Protection Service – Ready to Serve Charge – Fircrest

Tacoma Municipal Code

Meter Size (Inches)	Commencing		Maximum Allowable Monthly Water Usage for Testing and Leakage, CCF
	2/14/11	1/1/12	
2	25.42	27.44	2.99
3	37.01	39.95	2.99
4	61.83	66.75	2.99
6	138.69	149.73	2.99
8	246.90	266.56	2.99
10	386.19	416.93	2.99
12	617.71	666.89	2.99
Fire Protection Service – Ready to Serve Charge – Lakewood, Puyallup, and University Place			
Meter Size (Inches)	Commencing		Maximum Allowable Monthly Water Usage for Testing and Leakage, CCF
	2/14/11	1/1/12	
2	26.06	28.14	2.99
3	37.94	40.96	2.99
4	63.39	68.44	2.99
6	142.20	153.52	2.99
8	253.15	273.31	2.99
10	395.97	427.49	2.99
12	633.36	683.78	2.99

Where such fire service is provided, the monthly rate shall include usage of up to a maximum of 2.99 units of water per month. The 2.99 units of allowable water use is for incidental water use for monthly leakage and system testing and is the maximum amount allowed in a single month. In any month where the total consumption is in excess of the amount shown above, the rate for water consumed shall be as noted below.

Fire Protection Service - Rate per CCF		
	Commencing	
	2/14/11	1/1/12
All CCF - Inside City	3.206	3.726
All CCF - Outside City	3.847	4.471
All CCF - Fircrest	4.132	4.802
All CCF - Lakewood, Puyallup, and University Place	4.237	4.924

If the Water use in excess of the maximum monthly allowable amount was used in extinguishing fires of incendiary or accidental origin and the customer at the location where the use occurs gives written notice to the Division within ten days from the time of such fire the customer shall pay only for actual water used at the rate noted above. If the Division is not notified the Division will conclude that water is being used for purposes other than extinguishing fires and charge the additional fee noted below of 12 times the monthly rate.

Whenever water from the Division is available on a premise through a service being charged the rate for fire protection only and is used for purposes other than extinguishing fires of incendiary or accidental origin including ongoing leakage of the fire service line and the amount of water used is in excess of the amount shown in the table above, 12 times the ready to serve charge for the specific service in question shall be the monthly minimum charge and the charge for water consumed shall be as noted in the "Fire Protection Service – Rate per CCF" table above.

Waivers may be granted from the assessment of the 12 times the ready to serve charge for leaks or other accidental use upon written request with all supporting documentation but the charge for water consumed shall not be waived.

Nonpayment of invoices related to the construction of or monthly use of a fire service will result in the service being turned off and notification of the appropriate fire official who may then disallow occupancy of the premise.

Unauthorized use of water through a detector check meter more than once per calendar year may be cause for installation of a turbine meter assembly, UL/FM approval for fire service assemblies at the expense of the customer. Within the City of Tacoma, whenever water is used for purposes other than extinguishing fires, the amount of water used may be subject to the appropriate sanitary sewer charge as defined in TMC 12.08, in addition to the rates noted above and assessment of the 12 times the ready to serve charge.

Should the unauthorized use continue, including leakage in excess of the maximum amount of water allowed, the service will be considered as other than standby fire protection and be billed in accordance with the type of use pursuant to this section, and shall be subject to payment of the applicable SDC pursuant to TMC 12.10.310. Refusal to pay for the installation of the fire line meter and/or the SDC shall result in termination of service pursuant to TMC 12.10.130.

When a customer desires a fire service for the protection of a premises and the domestic water for said premises is provided from another source, the applicable single-family residential, multi-family residential, or commercial/industrial rates shall apply for the requested fire protection service inside and outside the City, respectively. When any outlet for fire protection purposes is installed on a residential, commercial or industrial service, no rebate will be allowed for water used for extinguishing a fire.

H. Special Contracts. The Superintendent, with the approval of the Board, shall have the right to enter into contracts for periods up to 20 years where service conditions are extraordinary; provided, that such contracts shall contain applicable rates as adopted by the Board and the City Council.

I. Simpson Tacoma Kraft Company Contract. The rates, terms, and conditions in the contract between the City and Simpson Tacoma Kraft Company are applicable, except as modified by this section.

For a nominated contract demand, the water rate will be based on a monthly distribution charge and the daily supply charge. If the monthly water use exceeds 103% of the contract demand or the daily water use exceeds 109% of the contract demand, an excess water usage charge will be applied. The excess water usage charge will be either the daily excess water use charge or the monthly excess water use charge, whichever is greater.

1. Water use within the range of contract demand plus 3 percent: The charge will consist of a monthly distribution charge and daily supply charge per ccf metered as stated below.

2. Daily water use greater than one hundred and nine percent (109%) of the contract demand: The charge will consist of a monthly distribution charge, daily supply charge, plus a Daily Excess Water Usage Charge (based upon the commercial and industrial-large volume rate) for water metered daily in excess of the contract demand plus 9 percent as stated below.

3. Monthly water use greater than one hundred and three percent (103%) of the contract demand: The charge will consist of a monthly distribution charge, daily supply charge, plus a Monthly Excess Water Usage Charge (based on the commercial and industrial-large volume rate) for water metered during a month in excess of the contract demand plus 3 percent, as stated in the following table.

Tacoma Municipal Code

Billing Components	2/14/2011	1/1/12
Distribution Charge per month	\$55,733.54	\$58,631.68
Supply Charge/CCF	\$.5160626	\$.5428979
Daily or Monthly Excess Water Usage Charge (Commercial and Industrial – Large Volume Rate) per CCF	\$1.298	\$1.381

4. The Superintendent is hereby authorized to execute a contract with Simpson Tacoma Kraft Company to provide additional terms and conditions of service and other provisions consistent with this ordinance.

J. Meter Tests. If a customer has informed the Division that its water consumption has been above its normal billing consumption and verification discovers no leaks on the customer facilities, the customer may request that the Division test the meter. If the test discloses the meter is accurate within the American Water Works Association (“AWWA”) specifications, the customer will be billed for the test and their water bill will not be adjusted. If the test discloses the meter is not accurate within the AWWA specifications and the inaccuracy is the cause of the recorded high consumption, the customer’s water bill will be adjusted and credit given for the excessive consumption and the customer will not be billed for the test. The charge for testing meters shall be added to the customer’s bill as follows:

Meter Size	Cost
1-inch and smaller	\$75.00
>1-inch	*Estimated Cost

*The customer shall pay a deposit in the amount of the Division’s estimated cost.

If the actual cost differs from the estimated cost, the customer will be refunded or billed the difference.

The Division will not test meters owned by others.

K. Low Pressure or Low Flow Concerns. The customer may request the Division to conduct a flow and pressure test on the service to its premises. If the cause of the problem is found to be located on the property side of the meter yoke outlet, the customer will be invoiced for a fee of \$25.

If the test discloses that the low flow and/or pressure is caused by Division facilities, the Division will attempt to correct the problem and the customer will not be charged.

L. Low-income Senior and/or Low-income Disabled Residential Rate Discount.

Residential customers who qualify as low-income senior or low-income disabled shall be eligible for a 25 percent reduction from the regular residential water rates. The determination of low-income senior and low-income disabled shall be made as set forth in TMC 12.06.165 for City Light Division (d.b.a. “Tacoma Power”) customers. Customers must submit an application for review and acceptance by the authorized administering agency to qualify for this reduction. For the water rate discount, there is no requirement that a customer be a Tacoma Power customer or submit to an energy audit.

M. Water System Acquisition. A water system may be acquired by the City under an agreement between the water system owner(s) and the City with Board and City Council approval. When all or a portion of the acquired system requires upgrading equal to Division standards, the agreement shall provide for funds to achieve compliance with said standards. Under the agreement, a surcharge may be levied by the City for a period of time or an LID may be formed in accordance with RCW Title 35. The surcharge shall be an additional charge equivalent to the Ready to Serve charge per month times a multiplier, or an actual dollar amount as stated in the acquisition agreement and set forth below. The current surcharge areas include:

Former Water System	
Hyada Mutual Service Company	Total Monthly Charge \$30.00 per month through July, 2022.

If allowed by the acquisition agreement, a customer in a surcharge area may opt to pay off the outstanding surcharge amount. (Ord. 27970 Ex. A; passed Feb. 1, 2011; Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 9; passed Dec. 19, 2006; Ord. 27522 § 20; passed Aug. 29, 2006; Ord. 27299 § 11; passed Dec. 7, 2004; Ord. 27137 § 2; passed Sep. 9, 2003; Ord. 27076 § 1; passed Apr. 8, 2003; Ord. 27024 § 7; passed Dec. 10, 2002; Ord. 26872 § 2; passed Nov. 6, 2001; Ord. 26800 § 16; passed Apr. 10, 2001; Ord. 26409 § 1; passed Apr. 27, 1999; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.485 City not liable for damages.

The Division reserves the right to require any customer to install as a condition of water service a pressure reducing valve, backflow prevention assembly, pressure relief valve or similar devices at any location where the Superintendent determines a need to protect the Division's facilities, water quality or customer's service.

The City shall not be liable for damages and allowances will not be made for loss of production, sales or service in case of: (1) water pressure variations, (2) revisions to pressure within the system, (3) operation of the City's source of water supply or means of distribution fails or is curtailed, suspended, interrupted or interfered with, or (4) for any cause reasonably beyond the Division's control. Pressure variations, equipment failure, failure to supply, curtailment, suspension, interruption or interference shall not constitute a breach of contract on the part of the City, or in any way affect any liability for payment for water made available or for money due on or before the date of such occurrence. The customer shall notify the Division as soon as possible in the event of unusual occurrences. The Division reserves the right to make system modifications as deemed necessary for the operation and maintenance of the system.

When water service is turned on or left on at the request of the customer, or the Division discontinues service for "nonpayment" or "no contract," the Division shall not be liable for damages incurred to the premises because of such actions.

If a water meter or other Division pipes and equipment is located on the customer's premises, as a condition of water service the customer agrees not to make claim against nor sue the City for any damages due to water leakage and shall hold the City harmless from any and all claims and litigation which allege damages resulting from water leakage occurring at such meter, pipes, and equipment.

The responsibility for customer facilities installed by the Division for the benefit of the customer shall be that of the owner of the premises served and the City shall not be liable for any part of the cost nor for any damage resulting from its use. (Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.490 Protection of public health.

The Superintendent may arrange for a periodic inspection of the water system in coordination with the appropriate State Director of Health. The Superintendent shall from time to time promulgate, publish and enforce such rules and standards deemed necessary by the Division to protect the municipal potable water supply from pollution. Copies of such rules and standards, and amendments thereto, shall be placed on file with the Clerk of the Public Utility Board. (Ord. 27299 § 12; passed Dec. 7, 2004; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.495 South Tacoma Groundwater Protection.

Upon receipt of written request and documentation from the Director of the Tacoma-Pierce County Health Department, or his or her designee, that a customer is in violation of the requirements of TMC 13.09, the Superintendent may order water service to be discontinued. (Ord. 27522 § 21; passed Aug. 29, 2006)

12.10.500 Waivers – By Superintendent.

The Superintendent is authorized to grant minor waivers to specific requirements contained in this chapter. The Superintendent may grant a minor waiver upon Division initiation or upon a clear demonstration by the applicant that such waiver will not be in conflict with the intent and spirit of this chapter. (Ord. 26048 § 1; passed Mar. 25, 1997.)

12.10.505 Customer service policies – Additional rules and regulations.

The Superintendent, with the approval of the Director, may promulgate and enforce Customer Service Policies and related additional rules and standards as may be deemed appropriate to implement this chapter, to encourage conservation and the efficient use of water, and for further clarification of service.

Legal criminal enforcement shall be vested in the Police Department of the City, and all prosecutions for violations hereof shall originate in the Municipal Court of the City of Tacoma. The penalties provided herein are in addition to any civil remedy provided at law. (Ord. 27522 § 22; passed Aug. 29, 2006; Ord. 27299 § 13; passed Dec. 7, 2004; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.515 Violations – Penalties – Enforcement.

Any person violating any of the provisions relating to the rate schedules, general provisions, and customer service policies governing the sale of water shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in any sum not exceeding \$1,000.00, or imprisonment for a period not to exceed one year, or both; and, in addition to the penalty herein above provided, the service to the premises of any person found guilty of violating these provisions shall be discontinued. The person violating same shall be liable for all damages resulting and for all water used by reason of such violation.

Legal criminal enforcement shall be vested in the Police Department of the City and all prosecutions for violations hereof shall originate in the Municipal Court of the City of Tacoma. The penalties provided herein are in addition to any civil remedy provided by law. (Ord. 26800 § 17; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.520 Severability.

If any clause, sentence, paragraph, subdivision, section or part of the provisions relating to the rate schedules, general provisions and customer service policies governing the sale of water shall for any reason be adjudged to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter. (Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.525 Interference with and/or damage to City water system.

Any person causing damage to any property belonging to the Division shall be liable to the Division for any and all damages resulting either directly or indirectly therefrom.

It shall be unlawful for any person to willfully disturb, break, deface, damage or trespass upon any property belonging to or connected with the water system of the Division in any manner whatsoever.

It shall be unlawful for any person to build, store, maintain or keep any goods, merchandise, materials or rubbish that will interfere with the access to or operation and maintenance of any water facilities, or any of their appurtenances. (Ord. 27299 § 14; passed Dec. 7, 2004; Ord. 26048 § 1; passed Mar. 25, 1997)

Attachment 3.e.

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

RAINIER VIEW WATER COMPANY,

Respondent.

DOCKET UW-110054

**TESTIMONY CONCERNING NEGOTIATIONS
WITH THE CITY OF TACOMA**

DOUGLAS R. FISHER

ON BEHALF OF

RAINIER VIEW WATER COMPANY

June 25, 2012

1 **Q. PLEASE STATE YOUR FULL NAME AND BUSINESS ADDRESS.**

2 A. My name is Douglas R. Fisher. My business address is 5410 189th St E,
3 Puyallup, WA 98375.

4 **Q. PLEASE STATE YOUR POSITION WITH RAINIER VIEW.**

5 A. I am the Assistant Secretary and Chief Financial Officer for Rainier View Water
6 Company and make this Testimony in that capacity.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. I am responding to Bench Request 3.e which asks that we provide testimony
9 regarding the Company's attempts to negotiate with the City of Tacoma. I
10 presume that means negotiations over the Wheeling Agreement.

11 **Q. WHAT WERE THOSE NEGOTIATIONS?**

12 A. The negotiations were one-sided since the City held all leverage. Rates for water
13 consumption and rates for wheeling are established by ordinance. Therefore, the
14 City has no ability to negotiate rates since to do so would place it in violation of
15 its own ordinance.

16
17 In addition, the City has been unhappy with Rainier View's level of consumption
18 of City water. Because the City's rates are so high, Rainier View has taken every
19 measure it can to limit the use of that source since those higher rates would then
20 need to be passed on to the customers. The City made it an absolute condition to
21 entering into the Wheeling Agreement that before Lakewood Water could reach
22 Rainier View, Rainier View would have to purchase all of the capacity that it is

1 entitled to under its agreement with the City of Tacoma. This was obviously an
2 attempt by the City to increase its revenues from the sale of water. However,
3 without agreeing to that clause, there would have been no wheeling agreement at
4 all.

5 **Q. IF YOU DID NOT HAVE A WHEELING AGREEMENT, COULD YOU**
6 **STILL GET WATER FROM LAKEWOOD WATER DISTRICT?**

7 A. Yes, through the construction of the project that is the subject matter of this
8 docket. However, it was unknown when and how we could build the project at
9 the time we were discussing wheeling with the City of Tacoma. Further, by
10 having a Wheeling Agreement in place, it provides the Company with more
11 flexibility as we address long-term growth issues.

12 **Q. WHAT IS THE IMPORTANCE OF LONG-TERM GROWTH ISSUES?**

13 A. The genesis of the City of Tacoma capacity agreement (not the Wheeling
14 Agreement) in the mid-90's was the fact that Rainier View was completely out of
15 connections. Developers were threatening lawsuits. Prospective customers were
16 unhappy. We searched for additional sources of water. At that time, the City of
17 Tacoma was the only source available for additional water capacity.

18
19 Having lived through that experience once, the Company did not want to be in the
20 position where that might occur again. As a result, the Company has been
21 exploring other available water sources for many years. When the Lakewood
22 water became available, it represented a low-cost solution for the long term.

23

1 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

2 A. Yes.