

## AGREEMENT TO SELL AND PURCHASE

THIS AGREEMENT TO SELL AND PURCHASE ("Agreement") is entered into this 13<sup>th</sup> day of February, 2015, by and between Eastwood Park Water Co., a Washington corporation ("Seller") and Rainier View Water Company, Inc., a Washington corporation ("Purchaser"). Seller and Purchaser may hereinafter also be collectively referred to as the "Parties" or individually referred to as a "Party."

### RECITALS

- A. Seller is owner of a certain water system ("Water System") regulated by the Washington Utilities and Transportation Commission, located in Pierce County, Washington, known as Eastwood Park Water System.
- B. The Water System serves eight-six (86) active connections in Pierce County, Washington according to the latest Water Facilities Inventory. The Water System bears Department of Health ID No. 221957.
- C. Seller desires to sell the Water System.
- D. Purchaser desires to purchase the Water System.

Now, therefore, in consideration of the mutual covenants and promises contained herein, the Parties hereto agree as follows:

### AGREEMENT

1. **Purchase and Sale.** Seller agrees to sell and Purchaser agrees to purchase the Water System, which is comprised of the assets identified in Section 3 below.
2. **Consideration.** The purchase price for the Water System is Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) to be paid in full at Date of Closing (as defined below).
3. **Assets Transferred.** The Water System consists of the system as described in Recitals A and B, above, and only such assets, which include, but are not limited to, water rights (Water Rights Certificate No. G2-\_\_\_\_\_), water lines, mains, tanks, treatment equipment, reservoirs, valves, pumps, wells, easements, service connections, meters, controls and all other appurtenances, and well site used to serve the Water System, as well as all engineering documents, construction documents, system maps, water system plans and all customer records related in any way to the water system. In addition, there is one parcel of real property. Title to any easements and water rights shall be conveyed to Purchaser by an assignment of easements and water rights, and title to the real property shall be conveyed to Purchaser by statutory warrant deed, all as further described in Section 6 below. Seller shall deliver to Purchaser all records, or copies thereof, relating to the Water System and the customers served by the Water System.
4. **Operations and Maintenance.** From the Date of Closing (defined below), Purchaser shall own, maintain, and operate the Water System. From the Date of Closing forward, Purchaser shall assume sole and exclusive responsibility for all reporting functions and compliance with Washington's Department of Ecology and Department of Health and other regulatory bodies that administer potable water systems in the State of Washington.

5. **Connections and Rates.** It is mutually acknowledged that the Water System has eighty-six (86) active connections. Current water rates are set out in Exhibit A. Rates are subject to change when Purchaser's tariffed rates are changed. Seller understands and agrees that any future connections shall be at Purchaser's tariffed rates. Seller is not responsible in any way for the installation of future connections or assessments at Purchaser's tariffed rates.
6. **Documents and Other Material for Closing.** At Closing, Seller shall execute and deliver the following: (1) an Assignment of Water Rights and Easements in the form attached hereto as Exhibit B; and (2) a statutory warranty deed in the form attached hereto as Exhibit C.
7. **Closing.** Closing shall occur on or before the tenth day following approval of this transaction by the Washington Utilities and Transportation Commission as set out in paragraph 31, below (the "Date of Closing"), with operations transferred to Purchaser effective 12:00 p.m. (midnight), the Date of Closing. The Date of Closing may be extended by mutual agreement.
8. **Deposits with Closing Agent/Payment of Closing Costs.** At or prior to the Date of Closing, each Party shall deposit with the closing agent, Chicago Title Insurance Company, all instrument and monies necessary to complete this transaction in accordance with the terms of this Agreement. Seller shall pay all conveyance taxes associated with this transaction, including real estate excise tax and sales or use tax relative to the transfer, if any. Purchaser shall pay closing agent's fees, and costs of escrow, if any. Seller shall pay any recording fees associated with this transaction, including such fees to vest title in Seller for property or easements being transferred by Seller under this Agreement (See Section 13, below). Real estate commissions to be paid as per listing agreement.
9. **Accounts Receivable.** All accounts receivable existing at Date of Closing are for benefit of Purchaser and Purchaser shall be entitled to collect the same.
10. **Prorations; Other.** Seller shall be liable for the Pierce County property taxes and any personal property taxes up to the Date of Closing, which sum, if any, shall be prorated and assessed to Seller at Closing.
11. **Title Insurance** - Purchaser shall obtain at its option a Preliminary Title Report through Chicago Title. Seller shall pay the cost of the Preliminary Title Report and Standard Title Insurance and Purchaser may obtain at its sole expense such further Title Reports and extended Title Insurance as it may deem in its interest to obtain. If the Preliminary Title Report discloses that there is an exception that has not been previously disclosed, Purchaser may cancel this Agreement.
12. **Possession.** Purchaser shall be entitled to possession upon Date of Closing.
13. **Warranties and Representations of Seller.** Seller warrants and represents that it is authorized to do business in the State of Washington and that the sale of the Water System to Purchaser has been duly authorized and does not violate the terms of any other agreement executed by Seller. Seller warrants and represents that there are no liens, unpaid bills or other encumbrances known to Seller relating in any way to the Water System. Seller further warrants that it has not been involved in any law suits, claims, arbitration actions, administrative proceedings for that past ten years as to the Water System or otherwise. Seller shall appear and defend at its expense, any and all suits, claims or liabilities of any nature, for or on account of injuries or damages sustained by any persons or property resulting from negligent or willful activities or omissions of Seller, its agents or employees for activities that occurred prior to the date of Closing, or on account of any unpaid wages or other remuneration

for services or for failure to comply with Chapter 19.122 RCW ("dig up laws") or any violation of county franchise requirements, to the extent incurred or relating to any time prior to the Date of Closing. Seller further warrants and represents that the undersigned has complete authority to bind the Seller and act on Seller's behalf. (See Property Disclosure attached as Exhibit D).

Seller warrants and represents that there is clear title to all easements and that there are no liens or encumbrances on any easements.

Seller further warrants and represents that it has no knowledge of any investigation of the Water System by the Washington State Department of Health or the Department of Ecology. Seller is not aware of any correspondence to it from either agency that would give rise to a reason to expect that either agency would find the Water System to be in violation of either agency's rules or regulations.

The term "Hazardous Waste" or "Hazardous Material or Substances" as used in this Agreement is used in its very broadest sense and includes but is not limited to, materials and substances designated as hazardous under any federal, state or local act or ordinance. Seller represents that it has not received notification of any kind from any governmental agency suggesting the real property conveyed under this Agreement is now or may be targeted as a Hazardous Waste or clean up site. Seller represents that Seller has not conducted any tests or studies to specifically determine whether any Hazardous Waste or Materials or Substances existed on the real property conveyed by this Agreement prior to Seller's ownership or as of the date of this Agreement.

All the above warranties shall survive Closing.

14. **Warranties and Representations of Purchaser.** Purchaser warrants and represents that it is authorized to do business in the State of Washington. Purchaser further warrants that it shall appear and defend at its expense, any and all suits, claims or liabilities of any nature, for or on account of injuries or damages sustained by any persons or property resulting from Purchaser's ownership and operation of the Water System after Date of Closing, or from negligent or willful activities or omissions of Purchaser, its agents, or employees for activities that occur after the date of Closing, or on account of any unpaid wages or other remuneration for services or for failure to comply with Chapter 19.122 RCW ("dig up laws") or any violation of county franchise requirements. Purchaser further warrants and represents that the undersigned has complete authority to bind the Purchaser and act on Purchaser's behalf. These warranties shall survive Closing.
15. **Notice.** Any notice related to, required, or authorized under the terms of this Agreement shall be given to Seller or Purchaser at the addresses indicated below the signatures of Sellers or Purchaser, respectively. Delivery shall deem to have occurred upon delivery to Seller or Purchaser in person, or date of postmark when mailing notice to Seller or Purchaser at the address indicated herein.
16. **Remedies.** If either Party fails or refuses to close this transaction on the date specified, the other Party shall have the right to specifically enforce this Agreement, or, at their election, to seek damages for the breach of this Agreement. In any action brought to enforce this Agreement or for damages resulting from a breach thereof, the substantially prevailing party shall be entitled to its reasonable attorneys' fees.

17. **Casualty/Loss.** If, prior to Closing, the property or improvements on the property are destroyed or materially damaged by fire or other casualty, Purchaser may elect to terminate this Agreement.
18. **Professional Advice.** Seller and Purchaser each acknowledge that they have been advised to have the terms and conditions of this Agreement reviewed by independent legal counsel, and acknowledge that each has been afforded the opportunity to do so prior to executing this Agreement.
19. **No Other Agreements.** There are no verbal or other agreements which modify or affect this Agreement. Any oral statements made by Seller, their agents, employees or representatives which are not expressly set forth in this Agreement are of no force or effect. Any and all future changes to this Agreement must be made in writing, signed by Seller and Purchaser. **TIME IS OF THE ESSENCE FOR THIS AGREEMENT.**
20. **Venue/Applicable Law.** This Agreement shall be interpreted and construed according to the laws of the State of Washington. Venue shall be in Pierce County, Washington.
21. **Execution in Counterparts.** This Agreement may be executed separately or independently in any number of counterparts, including facsimiles and PDF style copies, each and all of which together shall be deemed to have been executed simultaneously and for all purposes to be one agreement.
22. **Agreement to Survive Closing.** This Agreement shall survive the Closing.
23. **Binding Effect.** This Agreement shall bind the Parties and their respective successors-in-interest, heirs, executors and administrators. Any provision of this Agreement which is prohibited by law or is unenforceable shall be inoperative to such extent and all of the remaining provisions shall continue in effect.
24. **Interpretation and Fair Construction of Contract.** This Agreement has been reviewed and approved by each of the Parties. In the event it should be determined that any provision of this Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall be in all cases construed as a whole according to its fair meaning and not strictly construed for or against either party.
25. **Non-Assignability.** This Agreement shall not be assignable by either Party without the written consent of the other Party. Any attempt to assign or transfer or sub-license any of the rights, duties, or obligations under this Agreement shall be void.
26. **Paragraph Heading, Gender and Number.** Paragraph headings are not to be construed as binding provisions of this Agreement; they are for the convenience of the Parties only. The masculine, feminine, singular and plural of any word or words shall be deemed to include and refer to the gender appropriate in the context.
27. **Survival.** Any terms, which by their nature should survive the closing of the sale, shall survive the closing of the sale. These terms shall include, but not be limited to, representations and warranties, attorneys' fees and costs and disclaimers, etc.
28. **Attorney's Fees.** If any party brings any legal action to enforce any provision of this Agreement or any documents executed in connection therewith, the substantially prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action, in addition to any other relief to which that party may be entitled.

29. FIRPTA. Seller warrants that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act. See, Certification attached as Exhibit E.
30. Allocation of Purchase Price. Seller and Purchaser agree that a fair allocation of the purchase price is \_\_\_\_\_ Dollars (\$) for real property, and the remainder to mains and other fixtures and water rights.
31. WUTC Approval. This agreement is subject to the approval of the Washington Utilities and Transportation Commission ("WUTC"). If the WUTC does not approve the transfer at the price set out in Paragraph 2, above, or imposes terms or conditions on the transfer of the Water System to Purchaser that are not acceptable to Purchaser, this Agreement may be terminated at the option of Purchaser in its sole discretion. If this Agreement is terminated by Purchaser, neither Party shall have any claim against the other party for anything related to this Agreement.

**THIS AGREEMENT** is entered into the date set forth above.

Seller:

EASTWOOD PARK WATER CO.

By: Christie Green

Christie Green, President

Address: PO Box 340  
Spanaway, WA 98387

Purchaser:

RAINIER VIEW WATER COMPANY, INC.

By: Neil Richardson

Neil Richardson, President

Address: PO Box 44427  
Tacoma, WA 98448