

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the Matter of the Petition for an
Accounting Order by Rainier View
Water Co., Inc.

Docket No. UW-_____

PETITION FOR ACCOUNTING ORDER

THIS PETITION is filed by and on behalf of Rainier View Water Co., Inc. ("Rainier View") for an Accounting Order. The purpose of this Petition is to allow Rainier View to enter into a program and agreement with the Lakewood Water District to purchase water on a wholesale basis from the Lakewood Water District for delivery to customers of Rainier View. This Petition further seeks Commission approval for the book entries for the assets acquired under the agreement with the Lakewood Water District and new assets related to the agreement with Lakewood Water District and establish the useful life of the assets for regulatory accounting purposes.

I. PETITION

1. Rainier View offers water service in thirty one water systems, primarily in Pierce County, Washington. The majority of its operations are concentrated in one system called the Southwood/Sound Water System ("Southwood System") in southern Pierce County. The

Southwood System draws its water from the Clover Creek Water Basin. For some time now, and for the foreseeable future, the Department of Ecology has not issued, is not issuing and will not issue additional water rights to draw water from the Clover Creek Water Basin.

2. The Lakewood Water District has recently approved a program where it will sell water on a wholesale basis to other water purveyors within Pierce County on long term firm commitment contracts. A copy of the Agreement between Lakewood Water District and Rainier View is attached as Exhibit 1.

3. Rainier View currently is committed to provide service for the maximum authorized equivalent residential units (ERUs) allowed under the issued water rights currently issued to Rainier View for the Southwood System, either to persons already receiving service or under written agreements to persons to receive service in the future. Rainier View has no realistic opportunity to acquire additional water rights for the Southwood System.

4. In Docket No. UW-020827, Rainier View petitioned for and received an Accounting Order related to the purchase of wholesale water from the City of Tacoma. In this Petition for Accounting Order, Rainier View seeks similar, although not identical, treatment of the purchase of wholesale water from Lakewood Water District. The reason for the differences between the prior petition and this Petition is because the manner in which the two purchases are structured. There are some differences between the City of Tacoma purchase and the purchase from Lakewood Water District. The City of Tacoma purchase involved an up-front payment for capacity. Under the Lakewood Water District Agreement, the capacity is purchased over time.

5. There are four components of the transaction with Lakewood Water District. The first element is payment of a share of a transmission pipeline that will be built from Lakewood Water District's current facilities to a point where interconnection can be made with the City of

Tacoma and others that would allow “wheeling” of water for transmission to Rainier View (the “Shared Main”). The second component is the actual payment of charges on a monthly basis to Lakewood Water District. The third is the wheeling agreement with the City of Tacoma, a copy of which is attached as Exhibit 2. The fourth component is the possible construction of a transmission main from Rainier View’s existing facilities to interconnect directly with the Lakewood Water District at or near its point of interconnection with the City of Tacoma (the “RV Main”).

6. As to the first component, it is currently estimated that Rainier View’s portion of the construction of the Shared Main is approximately two million dollars (\$2,000,000.00). Rainier View has sufficient funds available to it from its Supplemental Developer’s Fee to fund this project. Therefore, Rainier View proposes that the project be booked as plant-in-service, with payment being booked as contribution in aid of construction (“CIAC”), with a net effect on rate base of zero and the plant being immediately written off, with the plant being considered fully depreciated and the CIAC related to that plant being booked as fully amortized.

7. The second component is the monthly charge. There are two elements to the charge. The first element is purchase of capacity. Up until the time Rainier View actually starts to draw water, the charge is for a capacity purchase at one hundred thirty-two thousand six hundred thirty dollars (\$132,630.00) per year for the two million gallons of capacity purchased under the agreement. The amount of this charge is stated in 2009 dollars and is expected to increase slightly each year. See, letter from Lakewood Water District attached as Exhibit 3. Based on the current projections, Rainier View believes that it has sufficient revenue coming to it in the form of committed arrangements in the Supplemental Developer’s Fee to pay for this capacity for the next several years. Therefore, to the extent the capacity is paid for with monies

raised through the Supplemental Developer's Fee, Rainier View proposes that the capacity payments be booked as plant-in-service, with offsetting CIAC, and the plant be written off as fully depreciated and the related CIAC treated as fully amortized each year. This should have no effect on rate base and thus no effect on current ratepayers. The second element is usage. Once water is to be drawn under the Lakewood agreement, the monthly charge changes to reflect the use of water. There will be corresponding changes in the usage rate over time as Lakewood brings on new plant and operating costs increase. To the extent that the capacity component of the monthly charges continue to be funded through the Supplemental Developer's Fee, then the corresponding treatment as outlined above should hold. The amount related to usage should be treated as an operating expense. If there are payments of Lakewood Water District for the capacity charge that are not funded by the Supplemental Developer's Fee, then those amounts should be treated as additions to plant-in-service without offsetting contribution in aid of construction.

8. The third component of the agreement with Lakewood Water District is the wheeling agreement with the City of Tacoma. See, Exhibit 2. After the Shared Main is constructed, there will be an intertie with the City of Tacoma, and Rainier View can draw water through that intertie. One condition that the City of Tacoma has placed on the wheeling agreement is that Rainier View first purchase its full capacity under the prior agreement with the City of Tacoma. In the long run, this is disadvantageous given the higher price that the City of Tacoma charges for the consumption of water compared to that charged by Lakewood Water District. However, in the short run, this provides the only feasible alternative to have the water available for Rainier View's customers.

9. The fourth component of the Lakewood Water District is the possible extension of a main from Rainier View's Southwood System to a point of interconnection with Lakewood Water District. This RV Main is estimated to be approximately seven miles in length. In current costs, the RV Main is estimated to cost just over seven million dollars. It is projected that a revised Supplemental Developer's Fee will fund a portion of the project. Another portion of the project will be investor financed. Exhibit 4, attached, shows the basis of the revised Supplemental Developer's Fee. Rainier View proposes that this portion of the project be booked according to normal plant-in-service, CIAC and investor-owned plant principles. However, once more is known, it is contemplated that a supplemental application may be submitted related to this portion of the project.

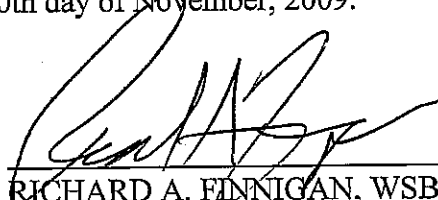
10. Rainier View is concerned that existing customers not be unduly burdened by the costs of expansion and procuring additional water capacity to satisfy new demand. On the other hand, the existing customers benefit from adding additional customers to the customer base by continuing to obtain the efficiencies and economies of scope and scale. Given the additional costs that Rainier View can foresee for additional treatment and testing, there will be a benefit to existing customers if the customer base is expanded. Rainier View believes that the accounting treatment set forth in this Petition is fair to both current and future customers.

II. RELIEF SOUGHT

Based upon the foregoing, Rainier View respectfully requests that the Commission issue an accounting order allowing Rainier View to acquire the assets represented by the agreement with the Lakewood Water District as set forth in this Petition. The capacity that is acquired would not be reflected for regulatory rate making purposes in the books of Rainier View, except

insofar as Rainier View itself purchases a portion of those assets through debt or equity. The financing for the assets would come through developer financing in the form of an increased Supplemental Developer's Fee, calculated as set out on Exhibit 4. The assets would not be used for determining rates related to Rainier View's service to its customers (except the portion, if any, acquired by Rainier View through its own investment by debt or equity financing). The expenses charged by the Lakewood Water District for actual water usage would be a part of the operating expense of Rainier View. This approach, if adopted, would be subject to review upon the motion of the Commission or upon petition by Rainier View.

Respectfully submitted this 10th day of November, 2009.



RICHARD A. FINNIGAN, WSBA No. 6443
Attorney for Rainier View Water Co., Inc.

EXHIBIT 1

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

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.

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*.

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*.

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

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

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*.

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

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 feet (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

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.

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*.

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*

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 prepaays 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

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

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

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:

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

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*.

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

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.

LAKEWOOD WATER DISTRICT
("District")

M. Gilandem
President/Commissioner

W. W. Phillips
Vice President/Commissioner

John A. Kausner
Secretary/Commissioner

Dated: 7/29/09

RAINIER VIEW WATER COMPANY
("Customer")

Neil H. Richmond
By: Neil H. Richmond
Its: PRESIDENT

Joseph R. Lee
Attest:

Dated: 07/27/09

EXHIBIT 2

WATER WHEELING AGREEMENT

This Agreement ("Agreement" or "Wheeling Agreement") dated the ____ day of _____, 2009 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.

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 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 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.

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 Parties' 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
mottage@lakewood-water.dist.org

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 Gravely 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:

John Kirner
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.

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: _____
Its: _____
Dated: _____

APPROVED AS TO FORM:

By Attorney for District

Rainier View Water Company ("Rainier")

APPROVED AS TO FORM:

Printed Name: _____
Its: _____
Dated: _____

By Attorney for Rainier

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

APPROVED AS TO FORM:

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

Deputy City Attorney

APPROVED:

Approved:

John Kirner, Tacoma Water Superintendent

Finance

EXHIBIT 1

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

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.

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.

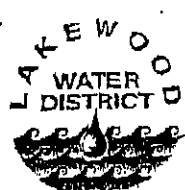
1.4 Specific Performance. In the event of any uncured default, the Parties acknowledge that it may be difficult to measure the resulting damages and that damages may not provide a complete or adequate remedy. Accordingly, the non-defaulting Party, in addition to damages and any other relief sought or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

EXHIBIT 2-A

FORM AGREEMENT FOR WHOLESALE SUPPLY OF WATER

EXHIBIT 3



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

May 18, 2007

Mr. Dan Grigsby
City of Bonney Lake
P.O. Box 7380
Bonney Lake, WA 98390-0944

RE: Update on Lakewood Water District Wholesale Water Demands and Rate Structures

Dear Dan:

I would like to take this opportunity to update you on some recent events in the areas of the District's wholesale water contract structure and interested purveyors in wholesale water.

The District's Board of Commissioners approved a new contract revenue requirement recovery structure to be applied to all future wholesale water customer Agreements. The District's previous contract rate structure was first based on an average daily demand format whether or not the water was used, and second, with a significantly higher base demand or fixed price component per year than we are now willing to offer, plus a consumption charge per ccf. The District has decided to employ, and therefore offer to its wholesale customers, a winter and summer wholesale rate structure which will substantially reduce the annual fixed rate cost per million gallons per day (mgd). For those purveyors that want to secure water now but will not need the water until the distant future and **will not** rely on the use of the District's new wholesale water transmission main (to be constructed), the 2009 annual fixed rate cost for securing that water is estimated to be \$66,315 for a purveyor nomination (capacity commitment) of 1 mgd. That annual fixed charge will be adjusted each year to reflect nominal increases in certain fixed costs. For those customers that would rely on the transmission main to receive wholesale water to a location where they can take the water through their own facilities or through separate wheeling agreements with other providers, the annual fixed cost per 1 mgd when the transmission main is built is estimated to be \$182,150 (based on our estimate of the construction costs).

~~For all of our customers beginning in 2008 and/or once we have the physical and technical ability to deliver all of the committed wholesale water, the variable rate for the water is going to be set at about \$0.65 for the winter months and \$0.81 for the summer months (June through September). As noted above, the fixed cost could go up slightly each year over the initial five-year period; however, the variable rate structure will be set for the first five-year period and then adjusted every three years thereafter. This is to reflect historical winter and summer consumption statistical information in the aggregate for all users as well as changes in total revenue requirements as defined in our current financial plan and~~

Update on Lakewood Water District Wholesale Water Contracts
May 18, 2007
Page 2

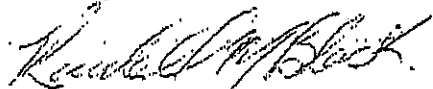
existing Agreements. We will offer one rate structure for all customers within the concept of service through the new transmission main or not. If we do not need to build the transmission main, then we will adjust the fixed charge for all of our wholesale customers affected by that change accordingly.

Concerning regional interest in the water, the District has received a commitment from Rainier View Water Company to obtain 2 million gallons of water per day (2 mgd). In addition to that, Summit Water & Supply Co. has expressed an interest and intends to add either 0.5 or 1 mgd above and beyond the 2 mgd they have already contracted and purchased from the District. If these interests are contracted, that would leave approximately 2-2.5 mgd of water that we can presently commit to wholesale customers. Bottom line, we expect that in short order, we will be able to obtain a full nomination or commitment to buy our available water subject to our water right and Qa and Qi thresholds.

Our policy is still the same regarding the first-come, first-served approach in obtaining supply capacity from the District, but we are concerned that this will be consumed prior to your respective studies and conclusions as to your near term and future needs for water. We would like to suggest a joint meeting at the District of the interested parties, which at this time include the cities of Bonney Lake, Fife, and Puyallup; and Fruitland Mutual Water Company, to discuss your current positions so that your decision to participate or not to participate can be made. We will also invite Summit Water & Supply Co. and Rainier View Water Co. to the meeting given their existing and stated interest in taking up to 5 mgd of our supply. Presuming your concurrence, I would like to suggest that we meet within the next 2-3 weeks. I will have my Executive Assistant, Christie Butler, contact your office to coordinate the most suitable date and time for this meeting.

We appreciate your continued interest in this matter, and we look forward to having you attend the joint meeting to be able to discuss things further amongst ourselves at that time.

Sincerely,



Randall M. Black
General Manager

RMB:ckb

cc: City of Fife
City of Puyallup
Fruitland Mutual Water Co.

EXHIBIT 4

CALCULATION OF SUPPLEMENTAL DEVELOPER'S FEE

Construction of Rainier View's main to interconnect with the Shared Main is estimated to be approximately seven miles. Seven miles of twenty inch main at an estimated construction cost of \$200 per foot, engineering, easements, construction of main and related appurtenances produces a total cost of \$6,864,000.

Using the estimated figure of \$6,864,000 and setting a goal for funds raised from the Supplemental Developer's Fee of \$5,364,000, with remainder being investor financed, Rainier View proposes a Supplemental Developer's Fee of \$7,000.

Rainier View is estimating that construction would be completed in approximately six years. Using a six year planning horizon, at \$7,000 per ERU, that produces a needed development rate of 128 ERUs per year. It is expected that Rainier View will not meet that level of additional development for the next two years as the economy rebounds. The expected development after the next two years should produce the six year planning horizon at an average of 128 ERUs per year.