

## WHOLESALE WATER AGREEMENT

THIS AGREEMENT is made and entered into this 6<sup>th</sup> day of Jan., 2020, by and between Public Utility District No. 1 of Snohomish County, Washington (the "District") and Seymour's Water Company ("Seymour's"), a "Group B" water system under Chapter 246-291 WAC. The District and Seymour's are also referred to herein individually as "Party" and collectively as "Parties."

WHEREAS, Seymour's wishes to purchase water wholesale from the District for resale by Seymour's to its Twin Falls Water System retail customers, and the District is willing to sell water wholesale to Seymour's for resale under the terms of this Agreement,

NOW, THEREFORE, for the mutual benefits to be derived, the Parties agree as follows:

### **Section 1 – Definitions**

As used in this Agreement, the following words and phrases shall have the meanings indicated below unless the context shall clearly indicate that another meaning is intended.

- a) Cubic Foot: shall mean a unit of measurement of water equal to 7.48 gallons.
- b) Equivalent Residential Unit ("ERU"): shall mean the volume of water demand and use deemed and agreed by the District to be characteristic of a single-family residential unit and shall equal 0.55 gallons per minute (gpm) measured on the basis of peak day demand for purposes of residential, commercial or multi-family connections.
- c) General Facilities Charge ("GFC"): shall represent the proportionate share of the District's cost of source, storage and transmission facilities necessary to supply an ERU. The GFC shall be the same as that established for the District's Integrated Water System, except as otherwise provided herein, and shall be subject to amendment by the District's Board of Commissioners from time to time.
- d) Twin Falls Water Service Area: shall mean that area consisting of the "Twin Falls Development" described as follows:

Lots 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, inclusive, of that record of survey as recorded under Auditor's file number 200111275007, records of Snohomish County, State of Washington.
- e) May: shall mean permissive.
- f) Master Meter: shall mean the water volume measuring device and appurtenances, in the District's water main at the point of connection with the Twin Falls Water System. The Master Meter site marks the location of delivery between the District's water system and the Twin Falls Water System.
- g) Shall: shall mean mandatory.

## **Section 2 - Delivery and Use of Water**

- a) The District shall continue delivery of wholesale water supply to the Twin Falls Water System under the terms and conditions of this Agreement and the maintenance and annual testing of the required Washington State approved reduced pressure backflow assembly. All annual test results shall be forwarded to the District.
- b) Wholesale water supply delivered to the Twin Falls Water System under this Agreement is intended for single-family residential domestic supply only, to serve not more than fourteen (14) total residential connections. Twin Falls Water System may not serve more than fourteen (14) residential connections, nor may it serve non-residential connections, without prior written approval from the District.
- c) Any additional capacity not achieved through the existing 1 ½" master meter will require payment of additional GFC's and installation of a larger meter.

## **Section 3 - Wholesale Water Rate and Billing**

- a) The wholesale water rate to be paid by Seymour's to the District shall be per 100 cubic feet ("CCF") of water, delivered to the Twin Falls Water System at the Master Meter.
- b) Except as otherwise provided herein, the wholesale water rate to be paid by Seymour's to the District per CCF shall be as provided in the District's Commercial/Industrial Water Rate Table, as it may be amended from time-to-time.
- c) The period of billing for water supplied under this Agreement shall be monthly, beginning with the month during which the Twin Falls Water System first uses water via the Master Meter. The Master Meter shall be read by the District and the results recorded in accordance with the District's applicable reading cycle. Billing to Seymour's will be issued on or before the 10<sup>th</sup> day of each month following reading of the Master Meter. Payment to the District shall become due within 30 days of issuance of the billing invoice. Collection of delinquent amounts shall be in accordance with District policy. District remedies for delinquency include but are not limited to disconnection of service.

## **Section 4 - Master Meter; Payment for Master Meter**

- a) All water supply delivered by the District to the Twin Falls Water System shall be delivered and measured through the existing Master Meter installed by the District's crew in 2003. The line of demarcation and "point of delivery" between the District and the Twin Falls Water System shall be immediately downstream of the 1-1/2" master meter and immediately upstream of the reduced pressure backflow assembly. The obligation for installation, ownership, annual testing and operation of the Washington State approved backflow assembly shall be solely that of Seymour's.
- b) Access to the Master Meter and appurtenances shall be made available to Seymour's at all reasonable times. The Master Meter shall be checked for accuracy on a frequency recommended by the meter manufacturer, as part of normal maintenance, and Master Meter test data shall be available to Seymour's at all reasonable times, upon request.

**Section 5 - Administrators**

Each Party to this Agreement shall designate an individual (an "Administrator"), who may be designated by title or position, to oversee and administer such Party's participation in this Agreement. The Parties' initial Administrators shall be the following individuals:

District's Initial Administrator:

Seymour's Initial Administrator:

Brant Wood Assistant General Manager, Water Utility P.O. Box 1107 m/s LS Everett, WA 98206-1107	Peter C. Rudolf Manager PO Box 425 Lk Stevens WA 98258
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Each Party may change its Administrator at any time by delivering written notice of such Party's new Administrator to the other Party.

**Section 6 - Water Quality**

- a) The water supplied by the District to Seymour's under this Agreement shall meet all state and federal drinking water standards at the point of delivery to the Twin Falls Water System and shall be of the same standard and quality as that normally delivered by the District to its retail customers. Seymour's, to the extent allowed by law, shall be responsible for maintaining water quality beyond the point of delivery; and Seymour's shall hold the District harmless from and against any and all claims, losses, or damages arising from or relating to the introduction into its System of water or other substances beyond the point of delivery.
- b) Seymour's acknowledges that the District has advised that water quality in the Twin Falls Water System may be adversely impacted by the use of unusually long distribution and service lines, and that depending upon Twin Falls Water System customer usage patterns: 1) the chlorine treatment provided by the District to protect water in its distribution system may dissipate and become ineffective before reaching the point of residential use and consumption (the "tap"); and 2) chlorine in water with substantial storage time in the storage and distribution system may eventually combine with certain other materials in the water to develop treatment "by-products" or "residuals" which may exceed certain health standards before reaching the "tap." Seymour's shall be solely responsible for operation and maintenance of its water system, including but not limited to any required system disinfection and flushing, in a manner which maintains potable water quality for its water service customers.
- c) In consideration of the District's agreement to provide water service to Seymour's, Seymour's hereby agrees to release, indemnify and hold the District harmless from and against any and all claims, damages, injuries or losses, whether physical or monetary, arising from or relating to the District's supply of water service to Seymour's, to the extent any such claim, damage, injury or loss is caused by or results from conditions within the Twin Falls Water System or its failure to properly treat and maintain the quality of the water delivered to it by the District.

## **Section 7 - Quantity, Pressure and Reliability**

- a) The District shall use best reasonable efforts to provide water to the Twin Falls Water System at hydraulic grade line elevations (in the absence of a fire flow or main break event) at a minimum of 500 feet above mean sea level at the point of delivery. The District's system will have sufficient storage and hydraulic capacity to supply water at the rate that meets or exceeds the water carrying capacity of Twin Falls' non-fire flow distribution system, subject to conditions beyond the reasonable control of the District. Per Washington State Department of Health design standards, the maximum instantaneous demand flow for 14 residential connections is 31.4 gpm, which should minimally depress the existing grade line of the District's water system.
- b) It shall be the sole obligation of Seymour's to install and maintain such pressure reducing and pressure relief valves and appurtenances as may be needed to regulate the pressure to protect and to conform to the needs of the Twin Falls Water System and its water service customers. Multiple installation of both types of pressure control valves may be required at various locations in the Twin Falls System. Failure to install and maintain proper pressure control valves may result in damage to the Twin Falls Water System or customer water systems. The District shall not be responsible for any loss or damage related to failure of Seymour's to install and maintain all pressure control valves required for System and customer protection.
- c) The District's system will be designed, maintained and operated by the District in a manner consistent with municipal water system standards and applicable rules and regulations in order to provide maximum reliability of service to the Twin Falls Water System. However, it is understood and agreed that the District can make no guarantee as to pressure, quantity or continuity of service because of the possibility of accidents or unforeseen failures to the District's or City or Everett's water systems. Therefore, the District shall not be held liable for losses or damage from a deficiency or failure to supply water due to accidents, acts of God, and any conditions beyond the reasonable control of the District. In the event of an emergency or other necessity that may disrupt service to the Twin Falls Water System, the District shall immediately notify Seymour's through verbal or telephone contact and shall restore service and make water available as soon as it can reasonably do so.
- d) In the event of scheduled maintenance, alterations, extensions or connections, the District shall provide written notification to Seymour's, and schedule such work to minimize the potential impacts of disruption of service to the Twin Falls Water System.



## **Section 8 – Notices**

All written notices required to be given by any Party to the other Party under this Agreement shall be in writing and shall be delivered either in person, by United States mail or by electronic mail (email) to the applicable Administrator or the Administrator's designee. Notice delivered in person shall be deemed given when accepted by the recipient. Notice by United States mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their designee, at the addresses set forth in Section 5 of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

## **Section 9 - Resolution of Disputes**

The parties may elect to submit any disputes to binding arbitration or other alternative dispute resolution measures agreeable to both parties. Disputes between the parties not submitted by mutual agreement to such alternative process shall be resolved by application to the Superior Court of the State of Washington, with venue in Snohomish County. This contract shall be enforced and interpreted in accordance with the laws of the United States and the State of Washington. The prevailing party in any dispute which proceeds to judgment in superior court shall be entitled to reasonable attorney fees and costs.

## **Section 10 - Waivers**

Any waiver at any time by a Party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection therewith, shall not be deemed a waiver with respect to any subsequent default or matter. Any Party may waive any notice or agree to accept a shorter notice than specified in this Agreement. Such waiver of notice or acceptance of shorter notice by a Party at any time regarding a notice shall not be considered a waiver with respect to any subsequent notice required under this Agreement.

## **Section 11 - Severability**

If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.


## **Section 12 - Term**

This Agreement shall be effective from the date of execution by authorized representatives of both parties hereto and shall continue in effect through December 31, 2029. Upon expiration of this Agreement, the Parties may negotiate and enter a new agreement for wholesale water supply. Such agreement shall be subject to DISTRICT policy in effect at such time.


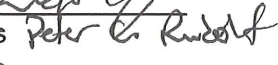
This Agreement may be amended at any time upon mutual written agreement of the Parties. Notice shall be given by certified mail and addressed to the Administrator, or their designee at the addresses set forth in Section 5 of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed this 6<sup>th</sup> day of Jan., 2020

Public Utility District No. 1 of Snohomish County  
PO Box 1107  
Everett, WA 98206

By:   
John Haarlow, CEO/General Manager  
Date: 1-21-2020

Seymour's Water Company  
PO Box 425  
Lake Stevens, WA 98258

By:   
Ronald Margolis   
Date: 1/6/2020

APPROVED AS TO FORM:

By:   
Assistant General Counsel