

This Agreement amends and restates the original agreement between Tatoosh Water Company and Jerry Rasmussen dated February 6, 2020:

**TATOOSH WATER COMPANY
WATER SYSTEM EXTENSION AGREEMENT**

THIS WATER SYSTEM EXTENSION AGREEMENT (this "Agreement") dated as of 8/7, 2020, is made by and between Jerry Rasmussen ("Developer"), and TATOOSH WATER COMPANY, a Washington corporation ("TWC"). For good and valuable consideration, including the making and timely performance of the covenants herein made, the parties agree as follows:

RECITALS

- A. Developer owns that certain parcel of real property located in Snohomish County, Washington, legally described on Exhibit A attached hereto (the "Property").
- B. Developer intends to construct and develop within the Property the following project: Rasmussen Developer Extension (the "Project").
- C. TWC operates a water system in the vicinity of the Property. TWC's water system service area boundaries include the Property. However, TWC's water system does not extend to the Property and otherwise cannot currently serve the Project.
- D. Developer has asked TWC to provide domestic water and fire flow utility services sufficient to serve the Project.
- E. TWC is willing to serve the Project if Developer will cause the construction and installation, at Developer's expense, of water system extensions and other water system facilities sufficient to serve the Project.
- F. This Agreement is made to further the intentions of Developer and TWC.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and TWC hereby agree as follows:

AGREEMENT

1. **EXTENSION.** In this Agreement, the term "Extension" means water system facilities, including utility cabinets, buildings, pipes, pumps, tanks, fire hydrants, vaults, and appurtenant facilities, to be constructed and installed by Developer at its expense, then conveyed to TWC for its ownership and operation, for the purpose of extending water system facilities currently owned and operated by TWC to a point within a public road or other right-of-way or utility easement area located adjacent to the Property. The Extension does not include water service pipelines, indoor and outdoor plumbing

facilities, service connections, water meters, meter boxes, and appurtenant facilities located between a water meter and the buildings and other structures within the Project (collectively, "User Facilities"). The Extension is described in more particularity on Exhibit B attached hereto. The Extension will be located substantially as shown on Exhibit C attached hereto. The estimated total construction cost of the Extension is US \$108,429.88, which amount is detailed on Exhibit D attached hereto. The Extension construction schedule is attached hereto as Exhibit E.

2. **FRANCHISE.** TWC holds a Snohomish County franchise under Resolution No. RR-041 (the "Franchise") to install, operate, and maintain water utility facilities within public roads, streets, avenues, highways, alleys, rights-of-way, and other county properties. A copy of the Franchise is attached hereto as Exhibit F. Because the Extension will be constructed partly within a public right-of-way and because the Developer does not hold a franchise, if Snohomish County so requires then TWC shall obtain the Snohomish County construction permit for the Extension, or the portion thereof located within a public right-of-way, provided, however, that Developer shall pay in advance all costs and expenses to be incurred in connection therewith.
3. **CONSTRUCTION PLANS AND PERMITS.** Developer shall prepare and submit to Snohomish County and other governmental agencies with jurisdiction over the construction and installation of the Extension all construction permit applications, construction plans, fees, and other materials relating to the construction of the Extension (collectively, "Construction Plans"). Developer shall not commence any work relating to the construction or installation of any portion of the Extension until (a) TWC has approved the Construction Plans by written notice to Developer, and (b) all construction permits and other governmental approvals and permits required in connection with the construction and installation of the Extension have been issued. Developer shall reimburse TWC within thirty (30) days after receipt of any invoice from TWC for all consultant and engineering fees and other charges incurred by TWC in the review of Developer's Construction Plans.
4. **EASEMENTS.** Before TWC's acceptance of the Extension, Developer shall grant TWC such easements and other rights within the Property and other real property as TWC may reasonably require for perpetual access by TWC to the Extension for maintenance, repair, and replacement of the same, on such terms as TWC may reasonably approve.
5. **MANUAL.** Developer acknowledges and agrees that all work relating to the Extension must conform to all provisions of the Tatoosh Water Company Developer Extension Manual dated March 31, 2014, as it may be amended from time to time (as amended, the "Manual"). Developer acknowledges receipt of a copy of the Manual. In the event of any conflict between the Manual and this Agreement, the provision that is more protective of TWC shall govern.
6. **CONSTRUCTION STANDARDS AND COSTS.** Developer shall construct the Extension in full compliance with the Manual, the Franchise, the Construction Plans

approved by TWC, all issued governmental approvals and permits, and all applicable laws, regulations, and ordinances, all applicable easements, and the Tatoosh Water Company Conditions and Standards, a copy of which is attached hereto as Exhibit G. Developer shall construct and install the Extension in a workmanlike manner, in accordance with industry standards, and free and clear of all claims or liens. Developer shall bear all costs of construction and installation of the Extension and its connection to TWC's water system. TWC shall have no liability for any costs or expenses relating to the construction and installation of the Extension or its connection to TWC's water system.

7. **USER FACILITIES.** Developer shall construct the User Facilities in full compliance with the Manual, all issued governmental approvals and permits, all applicable laws, regulations, and ordinances, all applicable easements, and the Tatoosh Water Company Conditions and Standards. Developer shall construct and install the User Facilities in a workmanlike manner, in accordance with industry standards, and free and clear of all claims or liens. Developer shall bear all costs of construction and installation of the User Facilities and their connection to the Extension. Developer, its successors and assigns, shall bear all costs of maintenance, repair, and replacement of the User Facilities. TWC shall have no liability for any costs or expenses relating to the construction, installation, maintenance, repair, replacement, and use of the User Facilities or their connection to TWC's water system.
8. **ACCEPTANCE AND OPERATION.** Developer shall notify TWC and tender conveyance of ownership of the Extension to TWC by a warranty bill of sale in form and substance acceptable to TWC within ten (10) days after completion of construction and installation of the Extension, but before the backfilling of any trenches or other excavations within which any portion of the Extension is located. TWC thereafter shall inspect the Extension and notify Developer either of any defects or of TWC's acceptance of the Extension. If TWC notifies Developer of any defects in the Extension, then Developer shall remedy such defects and notify TWC of the completion of such remedial work within ten (10) days after completion of such work. TWC thereafter shall reinspect the Extension and shall notify Developer upon TWC's acceptance of the Extension. Upon TWC's acceptance of the Extension, Developer shall backfill all trenches and other excavations and restore the land surface to its condition before construction, and TWC shall cause the Extension to be connected to and incorporated within TWC's water system and thereafter shall own and operate the Extension.
9. **MAINTENANCE.** After TWC's acceptance of the Extension, TWC shall maintain the Extension at its sole cost and expense, provided however, that Developer shall pay, reimburse, and indemnify and hold TWC harmless from and against all maintenance costs, expenses, liabilities, and losses incurred by TWC within two (2) years after the date of TWC's acceptance of the Extension.

10. SECURITY FOR COMPLETION AND MAINTENANCE.

- a. **Completion Guaranty.** Before commencement of construction of the Extension, Developer shall deliver to TWC a completion guaranty of a type and form approved by TWC in its sole discretion (which may be a cash deposit, performance bond, letter of credit, or otherwise), to guarantee the completion of the construction of the Extension by Developer. The completion guaranty shall run until such time as TWC has accepted the Extension following final inspection and approval in the field and received the as-built drawings, Bill of Sale, fees owing to TWC, and maintenance guarantee. The completion guarantee shall be in the amount of the total cost of construction of the Extension, including sales tax, which shall be determined by TWC's estimated cost of the extension or the contractor bid price at the election of TWC.
- b. **Maintenance Guaranty.** Upon completion of construction of the Extension and approval of the Extension by TWC, Developer shall, as a condition precedent to acceptance by TWC, deliver to TWC a maintenance guaranty of a type and form approved by TWC in its sole discretion (which may be a cash deposit, performance bond, letter of credit, or otherwise), to guarantee the costs of maintenance, repair, and replacement of the Extension for a period of two (2) years after final acceptance of the Extension by TWC. The maintenance guarantee shall be in the amount of twenty percent (20%) of Extension construction costs, including sales tax. The minimum maintenance guarantee shall be Ten Thousand Dollars (US\$10,000) or the actual cost of Extension construction if the actual cost is less than Ten Thousand Dollars (US\$10,000). A copy of the contractor's bid and/or payment requests, as required by TWC, shall be provided to TWC upon completion of the work, as backup for the maintenance guarantee amount.

10. **NO LIABILITY FOR FAILURE OF SERVICE.** Notwithstanding anything to the contrary herein, TWC shall not be liable to Developer or any other entity or person for any suspension or interruption in service due to electricity failure, system closures for emergency or necessary repairs, or any other cause beyond the reasonable control of TWC. It is expressly understood that in such case, TWC shall use commercially reasonable efforts to cause the problem to be remedied but shall not be liable for any damage or inconvenience suffered by Developer or any other entity or person, nor for any property damage or claims for interruption of service or for other causes reasonably beyond TWC's control.

11. FEES AND CHARGES.

- a. **In General.** Developer shall bear all costs of construction and installation of the Extension and its connection to TWC's water system and shall pay all applicable fees and charges, including without limitation fees and charges payable to TWC under TWC's tariff filed with the Washington State Utilities and Transportation Commission, which include without limitation water system facilities charges,

meter installation charges, connection charges, account setup fees, monthly charges, usage charges, fire flow service charges, capital improvement charges, and ancillary charges for each water service connection, and other charges and fees assessed by TWC from time to time, and also Department of Health plan review fees and other governmental fees and charges.

b. Engineer's Bid and Consultant Cost Reimbursement.

- i. Within fourteen (14) days after the date of mutual acceptance of this Agreement, Developer shall deliver to TWC written notice whether Developer either elects to engage and provide engineering services for the Extension itself or elects to have TWC engage and provide engineering services for the Extension.
- ii. If Developer elects to engage and provide engineering services for the Extension itself, then Developer shall reimburse TWC within thirty (30) days after receipt of any invoice from TWC for all consultant and engineering fees and other charges incurred by TWC in the review of Developer's Construction Plans and the inspection and general oversight of the construction and installation of the Extension on behalf of TWC.
- iii. If Developer elects to have TWC engage and provide engineering services for the Extension, then Developer shall pay TWC the complete sum of TWC's engineer's bid of US\$ 17,500 within five (5) days after the date this Agreement is approved by the Washington State Utilities and Transportation Commission, which approval may occur by the passage of time (30 days after filing), and Developer thereafter shall pay any and all additional charges and fees of TWC's engineer relating to the Extension within thirty (30) days after receipt of any invoice from TWC or its engineer.

c. Existing Cost Recovery Agreement Charges. If there is a cost recovery contract or "latecomer's agreement" (a "Cost Recovery Contract") currently in effect, relating to water system improvements for which Developer is liable to pay its fair share before connection to such improvements, then Developer shall all such cost recovery or "latecomer" charges and fees before TWC provides water to the Extension.

12. **EASEMENT.** After TWC's acceptance of the Extension, upon TWC's request at any time and from time to time, Developer shall convey and warrant to TWC a perpetual nonexclusive easements (each, an "Easement") ten (10) feet in width upon and within the Property, for the maintenance, operation, repair, replacement, and use of any portion of the Extension located either within the Property or within five (5) feet of the Property. The centerline of the Easement shall be the centerline of the Extension as constructed or

installed. Developer covenants that no building or other structure shall be located within five (5) feet of the Extension in perpetuity.

13. **INDEMNITY.** Developer shall defend, indemnify, and hold TWC, its agents, contractors, employees, officers, directors, and shareholders, harmless from and against any and all claims, expenses, liabilities, and losses, including attorneys' fees and costs, arising from or relating to (a) any act or omission of Developer, or any of its contractors, subcontractors, or material suppliers providing labor or materials for the Extension, in the exercise or performance by any of them of Developer's rights and obligations under this Agreement, (b) any act or omission of Developer or any of its contractors, subcontractors, or material suppliers providing labor or materials for the Extension relating to the construction and installation of the Extension, and (c) any default by Developer under this Agreement. It is the intent of the parties that TWC shall have no liabilities or obligations relating to the Extension except as expressly provided under this Agreement.
14. **INSURANCE.** Developer and all contractors, subcontractors, and material suppliers providing labor and materials for the Extension shall purchase and maintain at all times policies of commercial general liability insurance; worker's compensation insurance to the extent required by applicable laws; automobile liability insurance; and such other insurance as Developer deems advisable or is required to maintain by any applicable law, order, ordinance, or regulation. All insurance shall be obtained from insurance carriers rated Triple A (and rated in Class XI or better financial condition) by Best's Insurance Reports or equivalent rating service, and licensed to do business in the State of Washington. All such insurance policies shall provide that coverage may not be cancelled, modified, or allowed to lapse (including cancellation for nonpayment of premium) without compliance with all applicable provisions of RCW Chapter 48.18 pertaining to cancellation or non-renewal of insurance and at least thirty (30) days' prior written notice to TWC. Developer shall provide TWC with a true copy of all insurance policies required herein, which shall be in full force and effect immediately upon receipt of the same, showing TWC as an additional named insured therein, and Developer shall provide TWC with evidence that the premiums for such policies have been paid when due. The commercial general liability insurance shall insure both Developer and TWC and shall include protection against liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered with respect to similar properties in the greater Seattle metropolitan area. The limits of liability for the commercial general liability insurance shall not be less than One Million Dollars (US\$1,000,000) covering all claims for personal injury and/or property damage arising out of a single occurrence and Two Million Dollars (US\$2,000,000) general aggregate. Developer shall carry and maintain a policy of commercial automobile liability insurance insuring both Developer and TWC against liability for bodily injury or property damage claimed to have resulted from or be in any way connected with motor vehicles leased, owned, or used by Developer, with combined single limits each occurrence of not less than US\$2,000,000, which may be a combination of automobile and umbrella insurance coverage.

15. **COVENANTS TO RUN WITH LAND.** It is expressly declared that the rights, duties, obligations, and liabilities set forth in this Agreement shall run with ownership of the Property and shall be binding on the parties hereto, their heirs, representatives, successors, and assigns.
16. **GOVERNING LAW; SEVERABILITY.** This Agreement shall be governed by the laws of the State of Washington. If any provision of this Agreement is declared invalid by any tribunal, the remaining provisions hereof shall not be affected thereby.
17. **ATTORNEYS' FEES.** In the event of any proceedings between the parties hereto relating to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to recover their reasonable attorneys' fees and costs, including fees and costs incurred on appeal.
18. **POTENTIAL NEW COST RECOVERY CONTRACT.** For a period of ninety (90) days after TWC's acceptance of the Extension, TWC and Developer covenant to mutually negotiate in good faith the terms of a new Cost Recovery Contract, under which Developer may be reimbursed a pro rata fair share of the cost of the Extension by each owner of real property that is specially benefited by the Extension and connects to and uses the Extension within fifteen (15) years after TWC's acceptance of the Extension, if such owner did not contribute its pro rata fair share to the initial cost of the Extension. The term of the Cost Recovery Contract shall be fifteen (15) years after the date of TWC's acceptance of the Extension. TWC shall deduct for itself from all payments to Developer under the Cost Recovery Contract a TWC administrative fee of five percent (5%) of such payment, which amount represents the estimated cost to TWC in salaries and benefits to administer the Cost Recovery Contract for the benefit of Developer. The Cost Recovery Contract shall be recorded in the real property records of Skagit and Snohomish Counties, Washington. TWC shall bear no liability to Developer for the failure of TWC and Developer to mutually execute and deliver a Cost Recovery Contract. In addition, TWC shall bear no liability to Developer for the failure of TWC to collect required fees and charges payable by a third party as required under a Cost Recovery Contract, except that (a) TWC shall be liable to Developer for the failure of TWC to pay Developer fees (minus TWC's administrative fee) collected by TWC under a Cost Recovery Contract mutually approved by TWC and Developer, (b) TWC shall be liable for specific performance but not money damages, attorneys' fees and costs, or other relief for the failure of TWC to collect monies payable by a third party as required under a Cost Recovery Contract mutually approved by TWC and Developer if (i) Developer delivers to TWC written notice of TWC's failure to collect the monies within one (1) year after the connection for which the monies were payable, (ii) Developer pays in advance all costs of collection, including without limitation collection charges, attorneys' fees, and court costs, and (iii) the Cost Recovery Contract is a binding agreement enforceable by TWC against the third party and TWC has the legal right to collect such monies from the third party, and (c) if TWC has failed without legal excuse to collect monies payable by a third party as required under a Cost Recovery Contract mutually approved by TWC and Developer, and if Developer asserts a claim against TWC relating to such failure, then TWC at its option

may assign and delegate to Developer, and Developer shall accept from TWC, all of TWC's obligations and rights against the third party under the Cost Recovery Contract, in which event Developer may at its option pursue collection against the third party and TWC shall have no further liabilities or obligations to Developer for such failure of TWC to collect such monies.

- 19. **TERMINATION.** If the Extension has not been completed by Developer and accepted by TWC within three (3) years after the date of this Agreement, then Developer's rights under this Agreement shall terminate automatically.

- 20. **NO WARRANTY.** TWC does not warrant delivery of any specific quantity or quality of water, and TWC's Standards and Conditions may comply with only the minimum State of Washington standards in effect at the time of this Agreement. These standards may not be sufficient for large lots, some commercial developments, agricultural use, or fully landscaped lots. Developer is relying on Developer's own knowledge to determine the adequacy of the Extension to meet Developer's needs and those of Developer's assigns and successors in interest.

- 21. **NOTICES.** Any notice required or permitted under this Agreement shall be delivered by personal delivery, overnight courier, or by first class mail, postage pre-paid, or by facsimile or email addressed as follows, provided, however, that either party may change its address by written notice to the other party:

If to TWC, to:

Tatoosh Water Company
4699 N.E. Woodson Lane #210C
Bainbridge Island, WA 98110
Attn: Ben Page
Tel No.: _____
Fax No.: _____
Email: _____

with copy to:

Water & Wastewater Services, LLC
14263 Calhoun Road
Mount Vernon, WA 98273
Attn: Kelly Wynn
Tel No.: _____
Fax No.: _____
Email: _____

If to Developer, to:

Jerry Rasmussen
27618 15th Ave NE
Arlington, WA 98223

Tel No.: 206-719-4833
Fax No.:
Email:

with copy to:

Jeff Newell
27615 15th Ave NE
Arlington, WA 98223

Tel No.:
Fax No.:
Email: jnewell@newellcorp.com

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

TWC:

TATOOSH WATER COMPANY, a Washington corporation

By _____

Its _____

Manager

DEVELOPER:

JERRY E RASMUSSEN

A INDIVIDUAL

By _____

Its _____

Jerry E Rasmussen

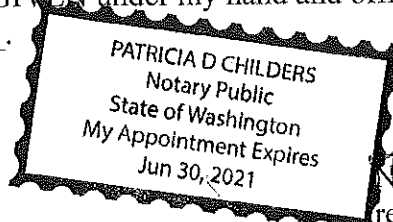
EXHIBITS:

- A - Legal Description of the Property
- B - Description of the Extension
- C - Drawing of the Extension
- D - Construction Cost Detail
- E - Construction Schedule
- F - Copy of Franchise
- G - Copy of TWC Conditions and Standards

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

On this day personally appeared before me KELLY WYNN, to me known to be the individual that executed the foregoing instrument, and acknowledged the said instrument as the Manager of TATOOSH WATER COMPANY to be their free and voluntary act and deed of said corporation for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7 day of August,
2020.

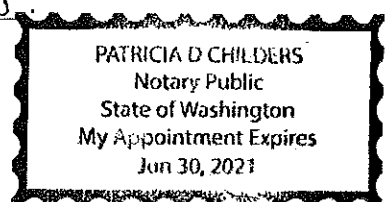


[Signature]
NOTARY PUBLIC in and for the State of Washington,
residing at Arlington WA
My commission expires: 6-30-21
Print Name: Patricia D Childers

STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish)

On this day personally appeared before me JERRY RASMUSSEN to me known to be the individual that executed the foregoing instrument and acknowledged the said instrument as the individual of N/A, to be the free and voluntary act and deed of said individual for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7 day of August,
2020.



[Signature]
NOTARY PUBLIC in and for the State of Washington,
residing at Arlington, WA
My commission expires: 6-30-21
Print Name: Patricia D Childers