

executed agreement between Bethel and Firgrove to cover the above costs must be in place prior to commencement of the construction.

2.4 Firgrove and Rainier View shall mutually agree and approve both the design of the physical connection of the two systems and the contractor or contractors constructing all or any portion of the Connection. The basic elements of the Connection include a twelve inch (12") main, eight inch (8") meter and an appropriate sized backflow assembly device. Such contractor or contractors shall provide such insurance policies and bonds for work done within Rainier View's service area as may be reasonably required by Rainier View and shall name Rainier View as co-insured on all such insurance policies. All work done in Rainier View's service area is subject to passing inspection by Rainier View's engineer and the contractor or contractors shall be required to pay the engineer's inspection fee within ten (10) days from the date of inspection. Rainier View shall have ownership and full responsibility of the water system, including pipelines, the vault, and meter on its sides of the Connection and up to the Connection with Firgrove. Prior to water being provided to Firgrove through the Connection, Firgrove shall obtain ownership and full responsibility of the water system, including pipelines and the connection to Bethel, from the Connection to the connection to Bethel's Frederickson Elementary School.

### 3. Payment

3.1 Firgrove covenants and agrees to pay to Rainier View the following sums for water service provided under this Agreement:

Monthly base rate:           \$394.00

For usage during the months of October through May, the monthly base rate includes 10,000 cubic feet or less of usage. Usage that exceeds 10,000 cubic feet in a month will be billed at the rate of \$0.85 per 100 cubic feet or fraction thereof up to a total of 60,000 cubic feet of usage and usage over 60,000 cubic feet will be billed at the rate of \$5.00 per 100 cubic feet or fraction thereof. For usage during the months of June through September, the monthly base rate does not include any usage. For usage during the months of June through September, the usage will be billed at the rate of \$2.184 per one hundred cubic feet.

In addition to the foregoing, for fire flow service, Firgrove shall pay the amount of \$0.003 per square foot of building space contained in Bethel's Fredrickson Elementary School per month. Firgrove shall provide to Rainier View as-built drawings that allow for the calculation of the square footage.

All charges other than usage shall be billed in advance with the first payment due on or before the initiation of water service through the Connection. Usage shall be billed in arrears. Other than the first payment due before water service is to begin, all services will be invoiced monthly. Firgrove agrees to pay each invoice within thirty (30) days for the date of said invoice. Any amounts not paid when due shall bear interest at the "prime rate" as reported by the Wall Street Journal ten (10) days prior to the date any

payment is made after having been due. Taxes and other governmental charges are in addition to any of the foregoing amounts.

3.2 Rainier View shall be responsible for reading the meter and determining the quantity of water delivered at the Connection. If Rainier View does not timely read the meter for any particular month, that shall not operate as a waiver or otherwise prevent Rainier View from billing for consumption when the meter is read, giving due proration for the period of time for which is covered by the meter reading.

3.3 The base rate stated above shall be increased in the same proportion as Rainier View's tariffed base rate is increased. The usage rates for usage in October through May shall be increased as Rainier View's tariffed rates are increased. The usage rate for usage in June through September shall be increased as the City of Tacoma's summer season, peaking rate, as contained in ordinance, is increased.

#### **4. Term**

4.1 This Agreement shall be effective on the date of the last signature below, and shall remain in force until the parties agree in writing to terminate the Agreement or the Agreement is terminated through binding arbitration provided in paragraph 5 below or by order of a court, or upon Firgrove providing service to Bethel's Fredrickson Elementary School through Firgrove's own source and supply. The effective date of this Agreement may be extended for approval of the WUTC.

#### **5. Dispute Resolution**

5.1 This Agreement shall be governed by the laws of the State of Washington and the CWSP.

5.2 In the event of a disagreement over any aspect of this Agreement, except as herein further provided, it is agreed that any dispute shall be submitted to binding arbitration pursuant to Ch. 7.04 RCW. The Parties may agree upon the arbitrator of the dispute; however, upon failure to reach agreement within 15 business days, the presiding judge of the Pierce County Superior Court may be asked to appoint an arbitrator from one of the recognized dispute resolution services. The Party that substantially prevails in the arbitration proceeding shall be awarded its reasonable attorney fees and costs. If neither Party substantially prevails in the arbitration proceeding, the Parties shall each bear their respective costs and divide the mutual costs associated with the arbitration equally.

#### **6. Additional Water**

Firgrove may purchase water from Rainier View in excess of the reserved amount in paragraph 1, above, if in Rainier View's sole discretion such water is available and Rainier View desires to provide such water. Rainier View shall be entitled to purchase such water from Firgrove if in Firgrove's sole discretion such water is available and Firgrove desires to provide such water.