

WATER SYSTEM EXTENSION AGREEMENT

THIS WATER SYSTEM EXTENSION AGREEMENT (the "Agreement") is entered into this 9th day of October, 2019, by and among **ROCHE HARBOR WATER SYSTEM, INC.**, a corporation organized under the laws of the State of Washington, hereinafter referred to as the "Owner," and **JAMES L. AND ELIZABETH L. HUESMAN**, husband and wife, hereinafter referred to as "Developer One" and **YACHT PROPERTIES LLC**, a Washington limited liability company, hereinafter referred to as "Developer Two." Developer One and Developer Two are hereinafter referred to collectively as "Developers."

RECITALS

1. Developer One has requested water service from Owner for a residential connection. The residential connection will be located at a meter to be placed by Owner on Petrich Road in San Juan County, Washington and will serve 282 Rockhaven Lane in San Juan County, Washington (the "Property"). The Property has a tax parcel number of 461314003000
2. Developer Two has requested water service from Owner for three residential connections. The three residential connections will be located at three meters to be placed by Owner on Petrich Road. Service will be for 231 Rockhaven Lane, in San Juan County, Washington and the other two parcels identified in this recital (the "Property"). The Property has tax parcel numbers 461314009000, 46131401000 and 461314012000.
3. Owner owns and operates a public water system, and is willing to provide water service to Developer and own and operate the water distribution main and related operating equipment and appurtenances to serve the Property.

NOW, THEREFORE, in consideration of the mutual promises and benefits to be derived, it is agreed as follows:

AGREEMENT

1. Owner shall install a water distribution main consisting of four 3/4" x 5/8" meters and meter boxes to be installed at Owner's discretion on Petrich Road. Each Developer shall be solely responsible for the service line to its Property. This project will serve four equivalent residential units (ERUs) for domestic consumption of water, one for Developer One and three for Developer Two.

2. In consideration for the installation of the System Extension, each Developer warrants, covenants and agrees that it shall pay to Owner the sum of Thirteen Thousand Dollars (\$13,000.00) per ERU. Payment from Developer One and payment for one (1) ERU from Developer Two is due in full within five (5) business days after this Agreement takes effect, which is upon approval by the Washington Utilities and Transportation Commission. Approval may be deemed to occur by the passage of thirty (30) days after filing of this Agreement with the Washington Utilities and Transportation Commission if not suspended by the Washington Utilities and Transportation Commission. Payment for the other two (2) ERUs by Developer Two is due prior to connection of a meter to provide service, but in no case not later than five (5) years from the date of this Agreement.

3. [Kept for numbering consistency]

4. Owner shall, subject to approval by the Washington Utilities and Transportation Commission, maintain and operate the System Extension.

5. Nothing in this Agreement entitles either Developer or their successors or assigns to connect to Owner's water system, including System Extension, except in accordance with the terms, conditions and charges in Owner's tariff filed with the Washington Utilities and Transportation Commission.

6. Owner does not warrant delivery of any specific quantity or quality of water, and Owner's Standards and Conditions are designed to produce only the minimum state standards in effect at the time of this Agreement. Such standards may not be sufficient for large lots, agricultural use or highly landscaped lots. Each Developer is relying on that Developer's own knowledge to determine the adequacy of the System Extension to meet Developer's needs and those of Developer's assigns and successors in interest.

7. Each Developer shall design all irrigation and landscaping for open space or areas not part of a lot on which a single family residence will be constructed that may be part of the plat served by the System Extension to serve conservation goals. Design criteria shall be to use no more than eight hundred (800) gallons per irrigation ERU per day during peak season of May through September. The design criteria shall also be a usage criterion. The calculation of the eight hundred (800) gallon per ERU per day usage limitation shall be made on a monthly basis. Under this method of calculation, water that is not used in a month may not be saved or "banked" for use in a later month in the irrigation season. In addition, each Developer agrees to adopt a "best practices" approach to the use of irrigation service. This best practices approach includes, but is not limited to, the following: (a) irrigation of grass areas at a rate of no more than one (1) inch per week; (b) sizing irrigation sprinklers and installing irrigation sprinklers to provide as near a uniform coverage of grass-landscaped areas as feasible; (c) not using watering practices that involve a "sponge" approach where water is applied in one area with the thought that it will eventually provide coverage of other areas through the water traveling over, through or under the ground; (d) not irrigating when the temperature is forecasted to exceed ninety (90) degrees Fahrenheit; and (e) installing rain sensors at each irrigation location so that irrigation does not occur during or shortly after rainfall. Each Developer warrants that it will use its best efforts to meet these conservation goals. Notwithstanding anything to the contrary contained herein, all irrigation use is subject to the terms of Owner's tariff, including, but not limited to Owner's ability to limit or stop irrigation for periods of time.

8. This Agreement may be terminated by Owner, at Owner's discretion as to either Developer or both Developers, upon ten (10) calendar days' written notice delivered to the affected Developer by delivery to the address set out in 9.i., below, if a Developer fails to pay any amounts due under this Agreement when due. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

If this Agreement is terminated under this provision, Owner shall have no obligation to provide service to that Developer or Developer's successors or assigns, and that Developer shall forfeit all rights in the System Extension.

9. Miscellaneous.

a. Jurisdiction. This Agreement is made with reference to and is intended to be construed in accordance with the laws of the State of Washington. The parties agree that the venue for any suit brought hereunder shall be laid exclusively in San Juan County, Washington.

b. Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the successors, heirs, assigns and personal representatives of the parties.

c. Execution of Counterpart. This Agreement shall be executed separately or independently in any number of counterparts (including electronic or PDF versions), each and all of which together shall be deemed to have been executed simultaneously and for all purposes be one agreement.

d. Construction. This Agreement shall not be construed more favorably to one party over another, notwithstanding the fact that one party, or its attorney, may have been more responsible for the preparation of the document.

e. Attorney's Fees. In the event that any party hereto retains an attorney to enforce any of the provisions hereof, then the substantially prevailing party shall be entitled to

reasonable attorney's fees incurred in both trial and appellate courts, or fees incurred without suit and all court and accounting costs.

f. Survival. All of the obligations (except to the extent performed), warranties and representations in this Agreement shall survive the closing.

g. Amendment. No modification, amendment, addition to, or termination of this Agreement nor waiver of any of its provisions shall be valid or enforceable unless in writing and signed by all parties, and further, no modification or amendments of specifications or approval of "approved equal" materials shall be valid or enforceable unless approved in writing by Owner's Engineer.

h. Waiver. No failure on the part of either party to exercise, and no delay in exercising, any rights hereunder shall operate as a waiver thereof; nor shall any waiver or acceptance of a partial, single or delayed performance of any term or condition of this Agreement operate as a continuing waiver or a waiver of any subsequent breach thereof.

i. Notices. Any notice provided for in this Agreement shall be deemed given if it is in writing and is personally delivered or sent by certified mail, postage prepaid, return receipt requested, and delivered or addressed as set forth below, or to such other address as the parties may hereafter designate by notice given in the same manner.

To Owner: ROCHE HARBOR WATER SYSTEM, INC.
8484 ROCHE HARBOR ROAD
FRIDAY HARBOR, WA 98250

To Developer One: JAMES L. AND ELIZABETH L. HUESMAN
306 ROCKHAVEN LANE
FRIDAY HARBOR, WA 98250

To Developer Two: BRYAN VANDERYACHT
6815 GUIDE MERIDIAN RD
LYNDEN, WA 98264

j. Effective Date. For purposes of transfer of the System Extension, and Owner's obligations herein, the effective date of this Agreement shall be thirty (30) days after this Agreement is filed with the Washington Utilities and Transportation Commission.

10. The Owner's acceptance of the System Extension is subject to approval by the Washington Utilities and Transportation Commission which requires this Agreement to have been filed with it at least thirty (30) days . Approval can occur by passage of time. Each Developer understands that any work done on the System Extension prior to Washington Utilities and Transportation Commission approval is done at its sole risk and Owner has no duty to accept said work. Each Developer further understands Washington Utilities and Transportation Commission approval is not automatic and Owner has not guaranteed or warranted such approval.

11. Other than for breach and termination under Paragraph 8, if Owner finds a Developer to be in breach of any term of this Agreement (other than Paragraph 8), Owner shall provide that Developer with notice of breach, setting out the nature of the breach. The Developer shall cure said breach within thirty (30) days of receipt of notice, which receipt is deemed to occur three (3) business days after deposit of said notice in the U.S. mail, postage prepaid. If the Developer fails to cure said breach within said thirty (30) days after receipt of notice, Owner, at its sole discretion, may terminate this Agreement at any time after the period for cure has passed. Upon termination, Owner shall have no further obligation of any nature to that Developer or Developer's successors-in-interest.

12. To the extent allowed by law, each Developer shall hold Owner and its officers, agents, and employees harmless from all suits, claims or liabilities of any nature, including attorney's fees, costs, and expenses for or on account of injuries or damages

sustained by any persons or property resulting from negligent or willful activities or omissions of the Developer, its agents, employees related to or arising from, directly or indirectly, any activities performed or to be performed under this Agreement, or on account of any unpaid wages or other remuneration for services or for failure to comply with Chapter 19.122 RCW ("dig-up laws") or any violation of county franchise requirements; and if judgment be rendered or settlement made requiring payment of damages by Owner, which damages are based in whole or in part on the negligent or willful activities or omissions of the Developer, its agents or employees, or on account of any unpaid wages or other remuneration for services or for a violation of Chapter 19.122 RCW or county franchise requirements, the Developer shall pay the same.


13. Each Developer hereby warrants and represents; (1) that it is duly authorized to enter into this Agreement; (2) that its entry into this Agreement will not put it in violation of its governing documents or any other agreement; and (3) that the person signing below is duly authorized to do so and that such signature is binding on the Developer.

14. Each Developer understands and agrees that the place for installation of each of the meters is not the Developer's property line. Nor is it located on the Property. This means that a waiver of WAC 480-110-445 is required. Owner agrees to seek such a waiver, but will provide service to each Developer only if that waiver is granted. Each Developer understands that Owner will not provide service to that Developer if the service connection must be located on the property line, property corner, or otherwise on the Property as required by WAC 480-110-445. Each Developer understands that its Property will be benefited by water service and agrees to support the waiver request and acknowledges and warrants that it is entering this Agreement with the express knowledge that it is solely responsible for the service line from the meter location to the point of service.

[Signatures on next page.]

EXECUTED by the parties as of the date shown above.

OWNER: ROCHE HARBOR WATER SYSTEM, INC.


By:  10/9/19
Jason Minikin
Its: Manager

DEVELOPER ONE: JAMES L. AND ELIZABETH L. HUESMAN


James L. Huesman


Elizabeth L. Huesman

DEVELOPER TWO: YACHT PROPERTIES LLC

By: 
Bryan VanderYacht
Its: Manager