

Suzanne

Please put in

Vault

Thanks

Jacoby

Signed June 26, 1997
Mailed the original on June 27, 1997

Mailed to
Island County Public Works Department
ATTN: Gary L. Hess
PO Box 5000
Coupeville, WA 98239



ISLAND COUNTY PUBLIC WORKS DEPARTMENT

P.O. Box 5000
Coupeville, WA 98239

Phone: (360) 679-7331
From Camano: 629-4522
From S. Whidbey: 321-5111
SCAN: 592-7331 FAX: 678-4550

Roy Allen, County Engineer

Larry Kwargsick, Director

Lew Legat, Assistant County Engineer

June 24, 1997

Mr. John Carty
Construction Manager
South Whidbey School District
P.O. Box 346
Langley, WA 98260-0346

Subject: South Whidbey Family Resource Center--Water Supply Agreement

Dear Mr. ~~Carty~~ ^{John}:

Enclosed is a final copy of the Interlocal Agreement between Island County and the School District for water supply. The water supply connection will serve the South Whidbey Family Resource Center (SWFRC) which we are constructing. This agreement has been reviewed by our Prosecuting Attorney and is ready for execution by the School District and the Board of County Commissioners..

Please note that some changes were made from the draft version. The fire hydrant located at the Elementary school is close enough to our facility that an additional hydrant is not needed. Our connection is limited to a metered service for domestic use. Billing for SWFRC water consumption is based on a flat monthly fee of \$40.00. Also added is language defining the scope of Attorney's fees which the County will reimburse, and a clause defining the term of the agreement.

Please have the agreement signed by the District Superintendent and return it to us by mail. I will then have the Board sign the agreement and it will be recorded by the Auditor. A recorded copy will be sent to the District.

I appreciate all of your help in establishing a water service for our facility. Best of luck in you next venture.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary L. Hess".

Gary L. Hess, P.E.
Public Works Engineer

cc: Anna Tamura
File: SWFRC



June 25, 1997

From: John P. Carty



To: Lisa Bjork

Subj: South Whidbey Family Resource Center -- Water Supply Agreement

I have reviewed this agreement and find it in order. Please sign page 6 of the agreement and return to the Capital Projects office so we may return it to the County for the final procedures.

Thanks.

After recording, return to
Island County Public Works.
Attn: Anna Tamura

Project: South Whidbey Family Resource
Center
W.O.# 202
Parcel # 221-252
Owner: ISLAND COUNTY

* DOCUMENT TITLE: INTERLOCAL AGREEMENT

* Reference Numbers of Documents Assigned or Released:
[on page N/A of document(s)] # N/A

* GRANTOR(S) / Borrower (Last Name, First Name Initials):

1. SOUTH WHIDBEY SCHOOL DISTRICT NO. 206
2. N/A
3. N/A
4. N/A
5. ADDITIONAL NAMES ON PAGE N/A OF DOCUMENT.

* GRANTEE / Assignee / Beneficiary:

1. ISLAND COUNTY
2. ADDITIONAL NAMES ON PAGE N/A OF DOCUMENT.

* LEGAL DESCRIPTION:

[abbreviated: i.e. Lot, Block, Plat or Section, Township, Range]

- SW 1/4 Sec 10 Twp 29 N., Rge 03 E., W.M.
LOT 2 BLOCK N/A PLAT SHP 247/95 (Short Plat)
- ADDITIONAL LEGAL IS ON PAGE N/A OF DOCUMENT.

* Assessor's Tax Parcel ID #: R32910-221-2520

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Owner: ISLAND COUNTY

**Interlocal Agreement Between
Island County and South Whidbey School District No. 206
Water Supply to the South Whidbey Family Resource Center**

Pursuant to the Interlocal Cooperation Agreement Act, Chapter 39.34 RCW, Island County (hereinafter referred to as the "COUNTY") and South Whidbey School District No. 206 (hereinafter referred to as the "DISTRICT") enter into this agreement.

Whereas the DISTRICT owns and maintains a domestic and fire suppression water system ("water system"), including a water well, water reservoir, water distribution mains, fire hydrants, etc., which services school property along Maxwellton Road in Langley, Washington. The DISTRICT is willing to provide the COUNTY at its South Whidbey Family Resource Center (the "Center") at 5455 S. Maxwellton Road, with a water service connection from its water system as set forth below,

Now Therefore in consideration of the mutual covenants contained herein and the mutual benefits to be derived hereby, the DISTRICT and the COUNTY covenant and agree as follows:

1. Scope of Agreement

- a) The water service connection will provide the Center with up to 1,200 gallons per day of potable water for domestic use, at a maximum flow rate of 10 gallons per minute.
- b) The water service connection will provide fire suppression fire flow to the Center from a hydrant located at the Elementary School.
- c) The DISTRICT grants to the COUNTY a non-exclusive license to use the water in the DISTRICT's water system for the purpose of installation and testing of the water service connection.

2. Water Use, Water System Connection and Maintenance Costs

It is the intention of the parties that the DISTRICT incur no liabilities, costs, expenses, or fees whatsoever as a result of, or in connection with, this Agreement. Accordingly, the parties agree as follows:

- a) Installation/Cleanup: The COUNTY shall be responsible for all expenses necessary for, or related to, installation of the water service connection, and, after completing installation, for cleaning up and restoring DISTRICT property as nearly as possible to its original condition prior to installation. The COUNTY agrees to reimburse the DISTRICT for any fees, costs, or expenses reasonably incurred related to such installation.
- b) Attorneys Fees: The COUNTY shall reimburse the DISTRICT for attorneys' fees reasonably incurred related to the DISTRICT's review of this agreement, and installation of the COUNTY's water service connection; provided, however, that the COUNTY shall have no obligation for attorneys' fees incurred by the DISTRICT after the termination of the Agreement.

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Owner: ISLAND COUNTY

- c) Maintenance: The COUNTY is responsible for all maintenance and repair required on all portions of its water service connection, up to and including the service tap on the DISTRICT water main, and shall make all necessary or desirable repairs. The DISTRICT shall be responsible for maintaining its water main and water system in good operating condition. Should the COUNTY fail to take the action necessary to properly maintain or repair its water service connection, the DISTRICT shall have the right but not the obligation to do so itself, and the COUNTY agrees to reimburse the DISTRICT for all fees, costs, and expenses reasonably resulting from such action by the DISTRICT.
- d) Reimbursement for Water Consumed: The COUNTY agrees to reimburse the DISTRICT for water drawn and consumed from the DISTRICT's water system. Reimbursement shall be inclusive of any fees, costs, and expenses resulting from any fire suppression, maintenance, testing, or operation of the COUNTY's water system connection. The reimbursement rate shall be a flat monthly fee of \$40.00.
- e) Reimbursement Procedure: In order to recover any of the fees, costs, or expenses referenced above, the DISTRICT shall submit a written invoice to the COUNTY. The COUNTY agrees to pay the full amount of the invoice within thirty (30) days of receipt of such invoice. Past due amounts shall bear interest at the rate of 18% per annum, or the maximum rate allowed by law, whichever is lower. Invoices shall be sent to Island County General Services Administration, P.O. Box 5000 Coupeville, WA 98239 and shall reference the South Whidbey Family Resource Center Water Supply.
- f) Survival of Reimbursement Obligation: The obligations of the COUNTY to reimburse the DISTRICT pursuant to the terms of Section 2 shall survive the termination of this Agreement.
- g) Assignment of Subrogation Rights: If the DISTRICT shall acquire any right of subrogation with respect to any cost or other obligation borne by the COUNTY on its behalf as a result of this Agreement, or if the DISTRICT would have acquired any such right of subrogation but for the fact that the cost or obligation was borne by the COUNTY, such right of subrogation shall inure to the benefit of the COUNTY, and the DISTRICT shall cooperate with and assist the COUNTY in all reasonable ways to effect a recovery under such right of subrogation. Notwithstanding the above, the COUNTY hereby expressly waives any rights of subrogation it may have against the DISTRICT, its agents, directors and employees.

3. Ownership of New Water Line

The water main of the DISTRICT's water system into which the COUNTY intends to connect is located in Maxwellton Road right of way in accordance with Franchise Agreement No. 241. The installation of the COUNTY's water service connection will require a new water line to be installed underneath and across Maxwellton Road, and onto COUNTY property. The new water service connection, including the saddle tap, shut off valve, and water line shall belong to the COUNTY. The water main shall remain the property of the District.

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4. **Connection and Maintenance Schedule**

To avoid disruption of the DISTRICT's water system, the COUNTY agrees to schedule the connection to the water system during school closures. Maintenance to the COUNTY's water service connection shall be scheduled during school closures except in the case of emergency repair work. In all events, the COUNTY shall be responsible for minimizing disruption to the DISTRICT's water system to the maximum extent possible.

5. **Shut Off Valve**

The COUNTY agrees to provide a shut off valve ("corporation stop", underground and normally inaccessible) at the service connection to the DISTRICT's water main. The COUNTY will also install a shut off valve ("curb stop") with a water meter in an accessible location on the COUNTY's property. The DISTRICT reserves the right to temporarily shut off the flow of water to the COUNTY's water service connection at the curb stop. The DISTRICT agrees to use its best efforts to provide the COUNTY with prior notice of a pending shut off of the water supply.

7. **Waiver of Liability**

The DISTRICT shall make a diligent effort to render uninterrupted service and water supply and, in cases where shut-off is necessary for repair, reconstruction, damage prevention or similar cause, the DISTRICT shall endeavor to give advance notice to the COUNTY of such expected shut-off. However, the DISTRICT shall not be responsible for any damage which may result from any cessation of service nor for failure to give notice of shut-off when circumstances are such that it is impossible to give notice as indicated above. In addition, the DISTRICT shall not be liable, in any respect whatever, to the COUNTY or to any other user of the COUNTY's water service connection, for any injury or inconvenience to persons, or damage to property, which results from failure, suspension, or diminution in water supply quality or quantity below the required levels, and which is caused by non-negligent or non-intentional acts of the DISTRICT, its agents, directors and employees. Except as provided herein, the COUNTY hereby releases the DISTRICT, its agents, directors and employees, from all actions or cause of actions, claims, demands, liabilities, loss, damage or expense of whatsoever kind or nature, including attorney's fees, which the COUNTY shall at any time sustain or incur by reason of or in consequence of this Agreement, including but not limited to failures of the DISTRICT's water system or by reason of any other act the DISTRICT may perform pursuant to this agreement.

8. **Compliance with Laws**

The terms, conditions and provisions of this Agreement may be subject to and may be superseded by the rules and regulations of the Island County Health Department, the State of Washington Department of Health, or the rules and regulations of other applicable governmental agencies, or other applicable law. All work related to installation or maintenance of the water service connection shall be performed in conformity with all permits, rules, orders, regulations, ordinances, laws and other requirements of all governmental authorities having jurisdiction over such work.

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9. **Entire Agreement; Amendments**

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party. This Agreement may be terminated, and shall be of no further force or effect, upon mutual agreement of the parties. The covenants and agreements contained herein shall be binding upon and shall inure to the benefit of the respective assigns and other transferees of the parties hereto.

10. **Miscellaneous**

- a) **Assignment:** The COUNTY may not assign or transfer any interest in this Agreement without the prior written consent of the DISTRICT, which may be withheld in the DISTRICT's sole discretion. Any assignment or transfer without the DISTRICT's written consent shall be void and unenforceable.
- b) **Governing Law.** The laws of the State of Washington shall govern this Agreement, and venue of any litigation or other legal proceedings shall be Island County, Washington.
- c) **Non-Waiver:** The failure of the DISTRICT to exercise any rights contained herein or any other rights or remedies it may have at law or in equity shall not operate as a waiver or otherwise preclude the DISTRICT from exercising such rights.
- d) **Attorneys' Fees:** In the event that either party shall bring an action at law or in Equity to enforce this Agreement or any term hereof, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees and costs of bringing and maintaining such action, in addition to any other recovery to which it may be entitled.
- e) **Survival:** In the event any portion of this Agreement is declared to be illegal or otherwise invalid, the remainder of the Agreement shall maintain its validity and effectiveness.
- f) **Effective Date:** This Agreement becomes effective upon execution by all parties.
- g) **Term of Agreement:** This agreement shall run in perpetuity or until terminated upon mutual agreement of the parties.

Project: South Whidbey Family Resource
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ACCEPTED AND APPROVED:

South Whidbey School District No. 206

ISLAND COUNTY
Board of County
Commissioners

By: *Joan Brooks*
Superintendent

Mike Shelton, Chairman

Date: 6/26/97

Tom Shaughnessy, Member

William L. McDowell, Member

Date: _____

ATTEST:

Margaret Rosenkranz, County Auditor &
Ex-Officio Clerk of the Board