

Please Return To:

Public Utility District No. 1 of Skagit County
Post Office Box 1436, 1415 Freeway Drive
Mount Vernon WA 98273



200401050082
Skagit County Auditor

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WATER SERVICE CONTRACT
BETWEEN
PUBLIC UTILITY DISTRICT NO. 1 OF SKAGIT COUNTY
AND
CITY OF BURLINGTON

This Contract is entered into this 17th day of December, 2003, between Public Utility District No. 1 of Skagit County, hereinafter referred to as the "District" and CITY OF BURLINGTON or its successor or assigns, hereinafter referred to as the "Applicant".

The Applicant is entering into this Contract to secure a water service(s) for the property located at **Skagit River Park, South Skagit Street, Burlington**. The parcel is located in the SE 1/4 of Section 5, Township 34N, Range 4E, under Assessor's Tax Number(s) **P62806 & P62840**. The District owns and operates a water distribution system at the location of the proposed service(s) and is willing to supply water to the Applicant under the following terms and conditions:

1. District Resolution No. 1937-01 (or its successor) requires a Water Service Contract for all new water meters serving a property, when the summed weighting factor of the meter(s) is 8 or more (weighting factors are described in the Resolution). Said Resolution also requires the System Development Fee (SDF) charged by the District for each meter to be based on the Applicant's annual usage (a copy of Resolution No. 1937-01 has been provided to the Applicant, attached hereto and its terms and conditions are incorporated herein by this reference).
2. Meter installation costs: The Applicant shall be responsible for paying all costs associated with installing water services to the District system as required by District Resolution(s).
3. System Development Fee (SDF): The District and the Applicant agree that the Applicant has the following meter(s) that all serve this property:

Meter Size	Weighting Factor (*)	Projected Annual Usage	Increment (*)	Maximum Allowable Annual Usage (*)	SDF
4-inch	25	Less than 7,884,000 gal/yr	3%	7,884,000 gal/yr	\$48,250.00
1-inch	2.5	Less than 788,400 gal/yr	3%	788,400 gal/yr	\$ 4,825.00

(*) = from Resolution No. 1937-01

Based on the cumulative weighting factor(s) or meter size and the projected annual usage identified above, the Applicant agrees to pay the SDF, based on the 3% increment of the flow capacity of each indicated metered water service.

Per Resolution No. 1937-01, if the Applicant's annual use through any meter in paragraph 3 above exceeds the Maximum Allowable Annual Usage for the indicated 3% increment, the District will, on or about January 1 of the following full calendar year, notify the Applicant and request that the Applicant reduce its annual usage to within the indicated 3% increment(s). If the customer has not reduced the annual use to the previously paid level by

December 31st of that year, the Applicant shall be charged the additional SDF for the next 3% increment(s) being used, per the fee schedule in effect at the time of billing (currently \$1,930.00 per 3% increment multiplied by the weighting factor of the specific meter), and this Contract will be amended in writing accordingly. In consideration for approval of the initial service and as a condition of continued service, Applicant specifically agrees, covenants and contracts to pay the additional SDF when charged. In the event Applicant fails to pay the additional SDF as set forth herein when due, the District shall terminate service under this Contract.

4. The cost of water shall be at the current water rate schedule at the time of each billing.
5. The District shall not be liable to the Applicant or the Applicant's agent(s) for damages, breach of Contract, or for interruption of service or curtailment of supply for any cause, except for the sole negligence of the District. The Applicant shall hold the District harmless from any claim for damages by third parties, to the extent that the claim arises out of Applicant's negligence. The District shall hold the Applicant, its appointed and elective officers, subcontractors, agents and/or employees from and against all loss or expense by reason of any claims and demands upon the Applicant, its appointed and/or elected officials, subcontractors, agents and/or employees for damages by the District or third parties to the extent that the claim arises out of the District's negligence.
6. The Applicant agrees that if problems arise related to water system source capacity or hydraulics, water for irrigation or other non-domestic demands can be limited or discontinued. Water for irrigation is recommended during, and may be limited to, "off peak" hours of 10:00 p.m. to 5:00 a.m. each day, or such hours as the District may prescribe. The Applicant agrees to adhere to such limitations or recommendations as a condition of service.
7. The Applicant recognizes that all water will contain chlorinous compounds that are dangerous to aquatic life. Depending on hydraulic flows within the distribution system, pH levels may exceed 10. The Applicant shall pursue, with reasonable diligence, the protection of aquatic life onsite and offsite of the Applicant's property and, upon failure to do so, shall hold the District harmless from any damages arising therefrom.
8. Water quality may vary in the future due to the result(s) of the Federal Safe Drinking Water Act or other requirements.
9. The Applicant agrees to install and to maintain a backflow prevention assembly approved for installation in Washington State on all irrigation service(s) and on such other water service(s) as may be required by the District and State/federal health authorities. The type and model of assembly(ies) necessary must be approved by the District.
10. Compliance with this Contract shall be a condition of service through this meter(s).
11. This Contract shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided that no party may assign this Contract without the prior written consent of the other party.
12. Either party may request changes, amendments and/or modifications to this Contract. Any and all agreed changes, amendments and/or modifications shall be in writing and signed by each of the parties. Increases in water volumes, meter sizes, meter quantities, and other material changes in water demand or ownership data shall be documented in a written amendment(s) to, or rewriting of, this Contract.
13. Applicant non-compliance with this Contract shall result in cancellation of service.
14. All or part of this Contract may be superseded, deleted, or enhanced by future District regulations.
15. This Contract and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the State of Washington, including any regulation, ordinance or other requirement of any governmental agency having or asserting jurisdiction over the services provided hereunder.
16. In the event that any dispute arises over this Contract, the parties shall submit and not object to jurisdiction and venue being that of Skagit County, Washington. In any action hereon the prevailing party, in addition to other remedies, shall be entitled to actual costs and attorney fees.



17. Except as specifically provided herein, this Contract is for the benefit of the parties hereto only and is not intended to benefit any other person or entity, and no person or entity not a party to this Contract shall have any third-party beneficiary or other rights whatsoever hereunder.
18. If any term or condition of this Contract is held invalid, such invalidity shall not affect other terms, conditions or application that can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Contract are declared severable.
19. Waiver of any breach or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No terms or conditions of this Contract shall be held to be waived, modified or deleted except by an instrument in writing, signed by the parties hereto.
20. Any notices to be sent to the Applicant shall be sent to the following address:

City of Burlington
Attn: City Clerk
900 E. Fairhaven Avenue
Burlington, WA 98233

WITH COPIES to the Burlington City Attorney and Director of Parks and Recreation at the same address.

Any notices to be sent to the District shall be sent to the following address:

Public Utility District No. 1 of Skagit County
1415 Freeway Drive, PO Box 1436
Mount Vernon WA 98273

21. Each individual executing this Contract on behalf of the Applicant and the District represents and warrants that such individual(s) are duly authorized to execute and deliver this Contract on behalf of the Applicant or the District.
22. This Contract may be executed in any number of identical counterparts, notwithstanding that all parties have not signed the same counterpart, with the same effect as if all parties had signed the same document. All Counter parts shall be construed as and shall constitute one and the same Contract.
23. This written Contract represents the entire agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract effective the day and year first above written.

CITY OF BURLINGTON

PUBLIC UTILITY DISTRICT NO. 1
OF SKAGIT COUNTY

By: Roger Tjeerdsma
Roger "Gus" Tjeerdsma, Mayor

By: Kenneth K. Kukuk
Kenneth K. Kukuk, General Manager

Revised June 12, 2003
District Use Only Applicant N


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C.O.# 4011
W.O.# 99-2622

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ATTEST:

By: Richard A. Patrick
RICHARD A. PATRICK
Finance Director

Approved as to Form:

Marilyn K. Nytteberg
Marilyn K. Nytteberg, City Attorney

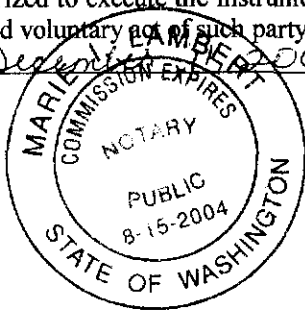
Approved as to Content:

Loren Cavanaugh
Director of Parks and Recreation, Loren Cavanaugh

STATE OF WASHINGTON
COUNTY OF SKAGIT

I certify that I know or have satisfactory evidence that Roger Speerdsma is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated he was authorized to execute the instrument and acknowledged it as the MAYOR of CITY OF BURLINGTON to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date: December 23, 2003

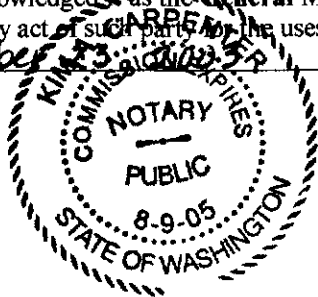


Marie Lambert
Notary Public in and for the State of Washington
Residing in: Burlington
My appointment expires: 8-15-2004

STATE OF WASHINGTON
COUNTY OF SKAGIT

I certify that I know or have satisfactory evidence that **Kenneth K. Kukuk** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated he was authorized to execute the instrument and acknowledged it as the **General Manager of Public Utility District No. 1 of Skagit County** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date: December 23, 2003



Kim A. Carpenter
Notary Public in and for the State of Washington
Residing in: Mount Vernon WA
My appointment expires: 08/09/2005

Revised June 12, 2003
District Use Only Applicant Number: _



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