

**INTERLOCAL AGREEMENT FOR THE COLLECTION, DISTRIBUTION,  
AND EXPENDITURE OF SCHOOL IMPACT FEES**

THIS AGREEMENT is entered into this 30<sup>th</sup> day of August, 1994, by and between Clark County and Washougal School District No. 112 (the "District").

WHEREAS, the Washington State Legislature passed the Growth Management Act of 1990 and 1991, RCW 36.70A, *et seq.* and RCW 82.02, *et seq.* (the "Act"), which authorizes the collection of impact fees on development activity to provide public school facilities to serve new development; and

WHEREAS, the Act requires that impact fees may only be collected for public facilities which are addressed by a capital facilities element of a comprehensive land use plan; and

WHEREAS, Clark County has adopted Ordinance No. 1993-04-29, as amended, for the purposes of implementing the Act; and

WHEREAS, the District is preparing (or has prepared) a capital facilities plan in compliance with the Act and Ordinance 1993-04-29, as amended, which is to be (or has been) adopted by Clark County as a subelement of the capital facilities element of the Clark County Comprehensive Plan.

WHEREAS, upon adoption of the District's Capital Facilities Plan as a subelement of the capital facilities element of the Clark County Comprehensive Plan, Clark County will collect impact fees upon certain new residential developments on behalf of the District; and

WHEREAS, Clark County and the District enter into this Agreement pursuant to and in accordance with the State Interlocal Cooperation Act, Chapter 39.34 RCW, for the purposes of administering and distributing the authorized impact fees,

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, IT IS AGREED THAT:

1. General Agreement. Clark County and the District agree to comply with the terms of this Agreement which govern the collection, distribution, and expenditure of school impact fees.

2. Responsibilities of the District. The District, by and through their employees, agents, and representatives, agree to:

2.1. Annually submit to Clark County a six-year capital facilities plan or an update of a previously adopted plan which meets the requirements of the Act and Clark County Ordinance 1993-04-29, as amended.

2.2. Authorizes the Clark County Treasurer, as Treasurer for the District, to establish a unique revenue account in the District's Capital Projects Fund for impact fee revenue, that permits only impact fee revenue to be deposited into this revenue account. Impact fee revenues will be deposited to this revenue account and investment revenue will inure to the benefit of the revenue account within the Capital Projects Fund.

2.3. Expend impact fee revenues provided to the District under this Agreement, and all interest proceeds on such revenues, solely for expenditures related to facilities identified in the District's Capital Facilities Plan as adopted by Clark County as a subelement of capital facilities element of the Clark County Comprehensive Plan.

2.4. Submit documentation in accordance with the requirements of RCW 82.02.070 showing the system improvements that were financed in whole or in part by impact fees and the amount of funds expended. The District's annual report shall be sent to the Director of the Clark County Planning and Community Development Division, 1408 Franklin Street, Vancouver, Washington 98660, on or before December 1 each year for the preceding fiscal year.

2.5. Refund impact fees and interest earned on impact fees which have been deposited in the District's Capital Projects Fund when a refund is required under applicable law; including but not limited to (1) when the proposed development activity does not proceed and no impact to the District has resulted, unless the District determines that they have expended or encumbered the fees in good faith prior to the application for a refund, (2) when the impact fees or interest earned on impact fees are not expended or encumbered within the time limits established by law, (3) when the school impact fee program is terminated, or (4) in the event the school impact fee component of the Clark County Impact Fee Ordinance is declared invalid by a court of law.

2.6. Maintain all accounts and records necessary to ensure proper accounting for all impact fee funds and compliance with this Agreement, the Act, and Clark County Ordinance 1993-04-29, as amended.

2.7. Pay from public funds, other than impact fee accounts, the school impact fee for low income housing which is exempt from payment of impact fees under Section 18.65.120 of the Clark County Code. Such payment shall not necessarily require an actual transfer of funds from one school district account to another but may be made by including the amount of such exempt fees in the public share of system improvements undertaken within the District.

3. Responsibilities of Clark County. Clark County, by and through its employees, agents, and representatives, agrees to:

3.1. Timely review and take action on the District's updated Capital Facilities Plan and revised impact fee schedule.

3.2. Deposit all impact fees collected on behalf of the District in a revenue account of the Capital Projects Fund established for the District. Fees received by Clark County and Land

Development Division and attributed to school impact fees shall not be available for deposit to the District's revenue accounts before the issuance of a building permit and full payment has been made. Interest shall accrue on the impact fees starting the day after the impact fees are paid to Clark County and deposited in the applicable revenue account of the Capital Projects Fund.

3.3. Distribute reports monthly to the District detailing (1) the amount of impact fees collected, who paid the impact fee, and the address of the property assessed the impact fee and (2) the amount of any impact fee exemptions for low income housing, the payment of which becomes a District obligation under Section 2.7, and the address of the property granted the exemption.

3.4. Refund impact fees and interest earned on impact fees which are held in the Impact Fee revenue account of the District's Capital Projects Fund when a refund is required under applicable law, from documentation provided by the District of the person entitled to a refund. The District will receive monthly accounting and financial statements of such fees from the County Treasurer with an attached report from the Clark County Building Department identifying the payor of the impact fees, which the District shall retain for the 6-year statutory period and used to assist in the determination of who is to receive any applicable refund. In any event, the District shall not be required to refund any impact fees, including a refund due to lack of construction, unless a request for a refund is made and such request is transmitted to the District.

3.5. Determine whether applicants for low-income exemptions approved by the District are qualified pursuant to Ordinance 1993-04-29, as amended.

3.6. Cooperate with the District and assist the District in determining student generation factors of new developments and/or other demographic and development information.

#### 4. General Terms.

4.1. This Agreement shall become effective when executed by the parties and shall remain in effect until terminated pursuant to Section 5 of this Agreement.

4.2. It is recognized that amendments to this Agreement may become necessary, and such amendment shall become effective only when the parties have executed a written addendum to this Agreement.

4.3. The parties acknowledge that Clark County is vested with the authority to impose and collect school impact fees. The parties agree that Clark County shall in no event be liable to the District for the payment of money in connection with the school impact fee program, with the exception of remitting to the District the impact fees collected for the District and the interest earned thereon.

4.4. To cover the County's administrative costs in collecting and depositing impact fee revenue into the applicable Subfunds, generating monthly and annual reports as required herein and generally undertaking all appropriate accounting measures, the District agrees to pay to the County, upon receipt of an acceptable invoice, a flat fee of \$50.00 monthly for the County's reporting requirement plus \$3.00 for each building permit issued in the District.

5. Termination.

5.1. The obligation to collect impact fees under this Agreement may be terminated without cause by Clark County or the District, in whole or in part, at any time. All other obligations under this Agreement shall remain in effect until both of the following conditions have been satisfied: (1) Clark County or the District provides written notice that this Agreement is being terminated; and (2) neither the District nor Clark County on behalf of the District retains unexpended or unencumbered impact fees and interest earned thereon.

5.2. Clark County, as the official fiscal agent, shall have the authority to ensure that upon termination of this Agreement, any remaining unexpended or unencumbered impact fees and interest earned thereon are refunded pursuant to RCW 82.02.080, based upon documentation supplied by the District of the persons entitled to a refund.

5.3. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Agreement or by law that either party may have in the event that the obligations, terms, and conditions set forth in this Agreement are breached by the other party.

6. Severability. In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid terms, condition or application. To this end the terms and conditions of this Agreement are declared severable.

7. Nondiscrimination. There shall be no discrimination against any employee or independent contractor paid by any funds which are the subject of this Agreement or against any applicant for such employment because of race, religion, color, sex, age, sexual orientation, handicap, or national origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training.

The District and any independent contractor paid by funds which are the subject of this Agreement shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended.

8. Rights to Other Parties. It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and conveys no right to any other party.

9. Governing Law and Filing. This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of Washington. This Agreement shall be filed with the clerk of the District, the Clark County Records and Election Division, the Secretary of State, and the Washington Department of Community Development.

10. Administration.

10.1. Clark County's representative shall be:

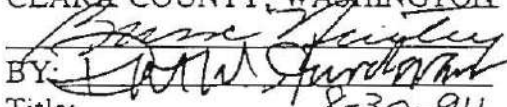
Clark County Planning Director  
Post Office Box 5000  
Vancouver, WA 98668  
(206 699-2375

10.2. The District's representative shall be:

Superintendent  
2349 "B" Street  
Washougal, WA 98671  
206-695-7585

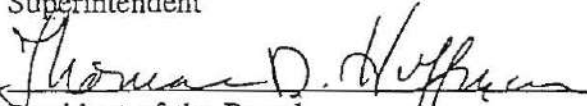
11. Entire Agreement/Waiver of Default. The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. The parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by Clark County and the District, which shall be attached to the original Agreement.

CLARK COUNTY, WASHINGTON

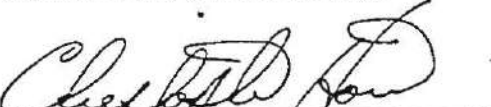
BY:   
Title: 8-30-94

WASHOUGAL SCHOOL DISTRICT NO. 112

  
Superintendent

  
President of the Board

APPROVED AS TO FORM:

  
Clark County Prosecuting Attorney



CD 03-449

AMENDMENT NO. 1 TO  
INTERLOCAL AGREEMENT FOR THE  
COLLECTION, DISTRIBUTION, AND EXPENDITURE  
OF SCHOOL IMPACT FEES

This Amendment is entered into this 6 day of May, 2003,  
by and between CLARK COUNTY ("County") and WASHOUGAL SCHOOL DISTRICT  
NO. 112 ("District").

WHEREAS, the County and the District entered into an interlocal agreement on  
August 30, 1994, providing for the collection, distribution, and expenditure of school  
impact fees pursuant to Chapter 82.02, RCW, as implemented by Chapter 18.65 of the  
Clark County Code; and

WHEREAS, the Board of Clark County Commissioners has recently amended  
CCC 18.65.095, at the request of local school districts, to allow capital facility plan  
updates to be submitted bi-annually, rather than annually; and

WHEREAS, such Code amendment requires for its implementation a conforming  
modification to the aforementioned interlocal agreement;

NOW, THEREFORE, IT IS AGREED that Section 2.1 of the aforementioned  
interlocal agreement is amended to read:

- 2.1 Submit at least every two years to Clark County a facilities plan or an  
update of a previously adopted plan which meets the requirements of  
the Act and Chapter 18.65, CCC.

DATED this 6 day of May, 2003.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF CLARK COUNTY, WASHINGTON

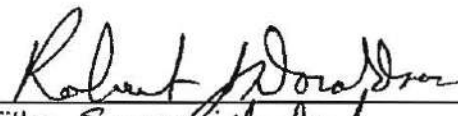
By: Louise Richards  
Clerk to the Board

By: Craig A. Pedersen  
Chair

Approved as to form only:  
ARTHUR D. CURTIS  
Prosecuting Attorney

By:   
Richard Lowry  
Chief Civil Deputy

WASHOUGAL SCHOOL DISTRICT NO. 112

By:   
Title: Superintendent