

**WEST SOUND UTILITY DISTRICT
RESOLUTION 656-17**

**A RESOLUTION OF THE
WEST SOUND UTILITY DISTRICT BOARD OF COMMISSIONERS
APPROVING A CUSTOMER SETTLEMENT AGREEMENT**

WHEREAS, a residential customer filed a complaint against the District regarding water and sewer utility services to the customer's property; and

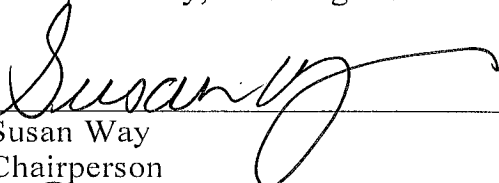
WHEREAS, the customer and District have reached a resolution to this complaint which has resulted in the preparation of a settlement agreement; **NOW THEREFORE**,

THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY RESOLVES:

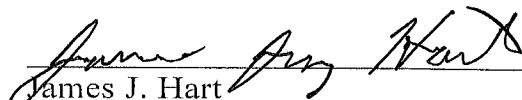
Section 1. The settlement agreement set forth in the attached Exhibit "A" is hereby approved.

APPROVED and ADOPTED by the Board of Commissioners of West Sound Utility District at a regular scheduled meeting on May 8, 2017.

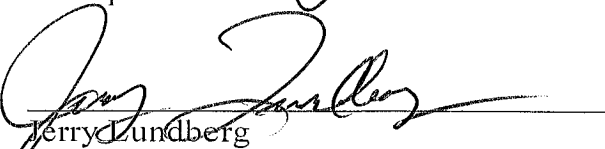
WEST SOUND UTILITY DISTRICT
Kitsap County, Washington



Susan Way
Chairperson



James J. Hart
Vice Chairperson



Jerry Lundberg
Secretary

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is executed by and between CLAYTON ERNEST LONGACRE ("Plaintiff"), and WEST SOUND UTILITY DISTRICT, ("Defendant") (together, the "Parties") for the following purposes:

I. RECITALS

A. On January 6, 2017, Plaintiff filed a complaint in Kitsap County Superior Court Cause No. 17-2-00228-5 (the "Complaint"). The Complaint alleged that the Defendant violated Plaintiff's rights in relation to actions Defendant took impacting Plaintiff's water and sewer service at Plaintiff's property located at 3782 Beach Drive E. (parcel 172402-3-012-2007) and 3783 Beach Drive E. (parcel 17402-3-015-2004) (collectively the "Property").

B. The Parties and their counsel have prosecuted the litigation since the Complaint was filed. However, the Parties have weighed the costs of continued litigation and have worked to resolve their differences and have determined that it is in their best interests to settle the litigation pursuant to this Agreement with the understanding that such compromise and resolution of differences is without admission of liability by any Party, all more fully set forth herein.

II. AGREEMENT

The Parties hereby agree as follows:

1. Compromise and Settlement. By entering into this Agreement, the Parties have fully resolved any and all disputes between them and fully, completely and forever release the Parties from any and all claims, known or unknown, which they could have asserted against each other whether or not specifically addressed in the litigation referenced above.

2. Payment from Defendant to Plaintiff. In exchange for a complete and mutual termination and release and other consideration, described herein, Defendant WSUD will pay the following sums ("Payment") to the Plaintiff:

a. Thirty-Six Thousand Fourteen Dollars and Fifty-Nine cents (\$36,014.59) payable on or before May 31, 2017, assuming full execution of this Agreement.

3. Reconnection of Service. Within ten (10) business days of the full execution of this Agreement, Defendant WSUD agrees to reconnect water service to Plaintiff's Property. Plaintiff's account with Defendant WSUD will reflect a "zero balance" at the time of reconnection. Plaintiff agrees that all of Defendant's rates, charges and regulations will apply to the service at the Property after the date of reconnection and Plaintiff further agrees that he will be responsible for all charges for water and sewer fees, except as set forth herein. Plaintiff acknowledges that the current conditions on the Property (as identified in Section I.A.) are non-conforming with Defendant WSUD rules and

regulations only as it relates to the use of the grinder pump on the vacant parcel next to the garage so long as the Property remains in the current configuration. Plaintiff will be allowed to use the property in such non-conforming status until the property changes ownership either through sale or otherwise. Plaintiff agrees, however, in consideration of this Agreement, that Defendant WSUD can record a notice (attached as Exhibit A to this Agreement and incorporated by reference herein) reflecting such non-conformance on the Property. Any new owner of the Property (one or both parcels) will be required within one (1) year of transfer to meet all Defendant WSUD requirements and will be required to remedy any non-conforming issues as determined by Defendant WSUD. Further, if any owner, including the Plaintiff, applies for a permit to build a separate dwelling unit on the vacant parcel, then the vacant parcel will be required to apply to WSUD to install a separate water meter for the vacant lot. This requirement shall run with the Property.

4. Release of Claims.

- a. Release of Defendant by Plaintiff. Plaintiff, and each of his assigns, successors, and insurers, for and in consideration of the \$36,014.59 paid pursuant to this Agreement, and Defendant WSUD's reconnection of service at the Property, releases and forever absolutely discharges Defendant and all related, predecessor or successor entities, assigns, parent companies, subsidiaries, affiliates, owners, members, partners, shareholders, officers, administrative staff, managers, elected officials, directors, employees, consultants, agents, heirs, attorneys, assigns, successors, and insurers, both individually and in their representative capacities ("Releasees"), from any and all past or present claims, damages, causes of action, or disputes, asserted or unasserted, whether presently known or unknown, direct or indirect, occurring or which could be alleged to have occurred on the date of or prior to the execution of this Agreement. This release shall be interpreted to the fullest extent allowed by law and is intended to be all encompassing, including not only claims previously or presently asserted by Plaintiff, but any claim, counterclaim, or defense arising under common law or under any federal, state, or local statute or ordinance, and to fully resolve all matters and relations between the parties up to the date Plaintiff signs this Agreement.
- b. Release of Plaintiff by Defendant. Defendant agrees to release and forever discharge Plaintiff and his attorney from any and all present or future claims, demands, suits, actions, damages, costs, and causes of action, whether contingent, known or unknown, that refer or relate directly or indirectly to the litigation referenced above.
- c. The Parties do not release each other from the terms, conditions, and promises set out in this Agreement.

5. Dismissal of Lawsuit. The Parties agree that upon execution of this Settlement Agreement Plaintiff will dismiss with prejudice those remaining claims contained in Kitsap County Superior Court Cause No. 17-2-00228-5.

6. No Admission of Liability. The Parties agree that this Agreement involves a settlement of any and all disputes and, further, that the Parties deny any and all liability and that the consideration given for this Agreement is in no way to be construed as an admission of liability, fault, or responsibility and is, in fact, not an admission of liability, fault, or responsibility.

7. Non-Disparagement. The Parties agree not to do or say anything that would have the effect of diminishing or damaging the goodwill and good reputation of the Parties or their respective subsidiaries and affiliates, predecessors and successors, officers, directors, employees, independent contractors, successors and assigns.

8. Fees and Costs. The Parties hereto shall bear their own fees, costs and expenses incurred in connection with any prior disputes between the Parties which are the subject of, or related in any way to, this Agreement including, without limitation, the negotiation, drafting and consummation of this Agreement. However, if any Party institutes legal proceedings in connection with, or for the enforcement of this Agreement or any provision of it, the prevailing Party shall be entitled to recover from the losing Party its costs, including reasonable attorneys' fees, at both trial and appellate levels.

9. Opportunity to Confer With Counsel. All Parties represent that they have had an opportunity to consult with their respective counsel and/or representatives and are fully advised concerning their rights with respect to the execution of this Agreement and the release contained herein and that each Party fully understands the same.

10. Integration. This Agreement represents the full and complete agreement of the Parties hereto and supersedes any and all prior verbal and written understandings regarding its subject matter and any lease or guarantee between the respective Parties.

11. Warranty of Authority. Each person signing this Agreement represents and warrants that he/she has been duly authorized to enter into this Agreement by the Party on whose behalf he/she is signing.

12. Voluntary Execution. The Parties represent that they understand and agree that this Agreement is made and entered into as their free and voluntary act.

13. Construction of Agreement; Governing Law. Each Party has had a full and complete opportunity to review this Agreement and, in the event that a dispute arises, the common law principles of construing ambiguities against the drafter shall have no application to this Agreement. This Agreement shall be interpreted, construed, and enforced in accordance with the laws of Washington State.

14. Counterparts. This Agreement may be executed in several counterparts by one or more of the Parties named herein and all such counterparts once so executed shall together be deemed to constitute one final agreement, as if one document had been signed by all Parties hereto; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding on the Parties to this Agreement.

15. Binding Effect. Unless otherwise provided, this Agreement and the terms, covenants, conditions, provisions, obligations, undertakings, rights and benefits hereto shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, creditors, representatives, successors, and assigns.

16. Severability. If any portion or portions of this Agreement may be held by a court of competent jurisdiction to conflict with any federal, state, or local law, and as a result such portion or portions are declared to be invalid and of no force or effect in such jurisdiction, all remaining provisions of this Agreement shall otherwise remain in full force and effect and be construed as if such invalid portion or portions had not been included herein.

17. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and shall not be modified or amended in any way except in writing signed by the Parties hereto.

18. Captions. The captions contained in the paragraphs of this Agreement are for convenience of reference only and do not in any way limit, expand, or modify the terms or provisions of this Agreement.

CLAYTON ERNEST LONGACRE:

_____ Date: _____

WEST SOUND UTILITY DISTRICT:

_____ Date: _____

Susan Way, Commissioner

_____ Date: _____

Jerry Lundberg, Commissioner

_____ Date: _____

James J. Hart, Commissioner

_____ Date: _____

Approved as to Form
Kenneth W. Bagwell, Attorney