

WASHINGTON COUNTY GRAVITY SUPPLY CONDUIT

INTERIM AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 1980, by and between the City of Portland (City), a municipal corporation of the State of Oregon, and ^{any or all o} ~~the~~ Metzger Water District, the Raleigh Water District, the City of Tualatin and the Wolf Creek Highway Water District (Purveyors), municipal corporations of the State of Oregon.

RECITALS:

1. City and Purveyors are in the process of negotiating a Washington County Gravity Supply Conduit Agreement (Final Agreement) providing for design, construction and financing of a Southeast Supply Conduit, a Washington County Supply Conduit, and related facilities (Project).
 2. Pending completion of the negotiations and execution of the Final Agreement, it is desirable that City undertake certain design, financing and preliminary construction portions of the Project.
 3. In order for the City to perform the desired design, financing and preliminary construction portions of the Project, it is necessary that it have the financial assistance of Purveyors. Purveyors are willing to provide the financial assistance.
- CITY AND PURVEYORS, FOR AND IN CONSIDERATION OF THE FOLLOWING MUTUAL COVENANTS AND AGREEMENTS, AGREE AS FOLLOWS:
- Section 1. Term of Agreement. This Agreement shall be in full force and effect from the date of its execution until the Termination Date as defined in Section 5 below.

Section 2. Definitions and Explanation of Terms.

(A) "Interim Cost" means the sum of all City's costs resulting from the preparation for construction of the Project, including, but not limited to, the items hereinafter mentioned in this Sub-section 2(A) that are paid or incurred by City in connection with the Project:

- (1) An amount equal to 90% of the cost of hiring bond counsel and financial consultants to assist in financing the Project;
 - (2) An amount equal to 90% of the cost of hiring engineering design consultants for Phase IV of the Project;
 - (3) An amount equal to 90% of the cost of engineering design for the oversizing of the Southeast Supply Conduit;
 - (4) An amount equal to 90% of the cost of constructing the Macadam Avenue crossing portion of the Project;
 - (5) An amount equal to 90% of all other City costs for the Project, including without limitation, City internal engineering costs, administrative costs, permit and license fees, preliminary survey costs, and land acquisition costs.
- Provided however, that:

(a) The Interim Cost shall not include any expenses, charges or obligations incurred by City after June 30, 1980;

(b) In no event shall the Interim Cost exceed the sum of \$635,955.00; and

(c) No Interim Cost shall be incurred by City in excess of \$635,955.00 (which expenses are detailed on Exhibit "A," attached hereto and by this reference

incorporated herein) without the review and approval in writing of a representative of the Purveyors to be designated in writing by the Purveyors to the City within thirty (30) days from and after the date of this Agreement.

(B) "Month" means a calendar month.

(C) "Project" means the 66-inch Southeast Supply Conduit and the 60-inch Washington County Supply Conduit and all associated facilities and property used in delivering water from the Powell Butte Reservoir to Purveyors and from the City's Burlingame System to the Washington County Supply Conduit.

Section 3. City Activities.

(A) Subject to the provisions of Section 2 above, City agrees to undertake the following activities in connection with the Project:

- (1) Hire bond counsel and financial consultants to assist in financing the Project;
 - (2) Hire engineering design consultants for Phase IV of the Project and for the Southeast Supply Conduit portion of the Project;
 - (3) Provide for construction of the Macadam Avenue crossing portion of the Project.
- (B) If by June 30, 1980, Purveyors have failed to execute a Final Agreement with the City, City shall take such steps as it deems reasonable and appropriate, in its sole discretion, to minimize the amount of any obligations incurred by the City prior to June 30, 1980.

(C) If, on or before June 30, 1980, one or more of the Purveyors and the City have executed a Final Agreement, the City shall

initiate and complete the Project as defined by and in accordance with the provisions of said Final Agreement.

Section 4. Payments to City.

- (A) If, by June 30, 1980, any Purveyor or Purveyors for any reason have failed to execute a Final Agreement with City, then each such Purveyor or Purveyors shall pay to City, in six (6) equal monthly installments, an amount equal to the Interim Cost multiplied by the allocated percentage of the respective Purveyor under Section 6 below.
- (B) In the event Subsection 4(A) becomes effective, City on or before July 20, 1980, shall prepare and mail to Purveyors a statement showing:
- (1) A detailed estimate of the Interim Cost, herein-after called the "Estimated Interim Cost"; and
 - (2) The amount of the equal monthly payments to be made by Purveyors to pay the Estimated Interim Cost. This statement shall be in lieu of the issuance of monthly bills to Purveyors by City.
- (C) Purveyors' monthly payments are due and payable at the Office of Portland Bureau of Water Works, 1800 S.W. 6th Avenue, Portland, Oregon 97201, on the 20th day of each month, with the first payment due on September 20, 1980.
- (D) If payment is not made on or before the close of business on the 20th day of the month, a delayed-payment charge of one and one-half (1 1/2%) percent per month, or part thereof, will be made. If the 20th day of the month is a Saturday, Sunday or a federal holiday, the next following business day shall be the last day on which payment may be made without the addition of the

delayed-payment charge.

(E) On or before December 20, 1980, City will submit to Purveyors a detailed statement of the actual Interim Cost and will compare the actual Interim Cost with the Estimated Interim Cost. If the actual amount exceeds the estimated amount, Purveyors shall include an amount equal to the excess in their February 20 payments to the City. If the actual amount is less than the estimated amount, City shall first give credit to Purveyors against their February 20 payments; second, against their January 20 payments; and third, shall reimburse Purveyors in an amount equal to any remaining excess.

Section 5. Termination.

(A) This Agreement shall be terminated and of no further force and effect as to all Purveyors which have executed Final Agreements on June 30, 1980.

(B) As to Purveyors who have not executed a Final Agreement by June 30, 1980, this Agreement shall terminate as to such Purveyors upon completion of such Purveyors' payments under Section 4 above.

Section 6. Allocation of Interim Cost Between Purveyors. The allocated percentage of the Interim Cost to be paid by each Purveyor will be determined based on the relative water sales by the respective Purveyor during the period from May 1, 1979, to and including April 30, 1980. For example, if District A sold 1,000,000 cubic feet during said period, District B sold 750,000 cubic feet, and City C sold 250,000 cubic feet, then the Interim Cost to the extent payable to City under this Interim Agreement would be paid as follows: District A would pay 50% thereof;

District B would pay 37 1/2% thereof; and, City C would pay 12 1/2% of said Interim Cost.

Section 7. Limitation of Purveyors' Obligation. In the event that for any reason City voluntarily abandons the Project on or before June 30, 1980, then no Purveyor shall be obligated to pay City any Interim Cost under this Agreement. This subsection shall not apply if the City is unable to proceed with the Project because the representatives of the Purveyors refuse to review and approve an action or expense which is necessary in order to proceed with the Project under the provisions of Section 2(A)(5)(c) above.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first mentioned above.

CITY OF PORTLAND, OREGON

BY: _____
Commissioner of Public Utilities

APPROVED AS TO FORM:

BY: _____
Portland City Attorney

BY: _____
Auditor

PURVEYORS

CITY OF TUALATIN, OREGON

BY: Ty R. Tye
Mayor

METZGER WATER DISTRICT

BY: Gus Anderson

WOLF CREEK HIGHWAY WATER DISTRICT

BY: R. M. ...

RALEIGH WATER DISTRICT

BY: Robert N. ...

CITY OF TUALATIN, OREGON

ATTEST:

BY: Yvonne L. ...
Recorder

EXHIBIT "A"ITEMIZATION OF PROJECTED INTERIM COSTS

1. Bond counsel - \$4,500.00 (contract amount)
2. Bond financial consultant - \$8,250.00 (contract amount)
3. Engineering design consultants for Phase IV (James Montgomery) - \$261,205.00 (contract amount)
4. Engineering design for oversizing of Southeast Supply Conduit (estimated at \$27,000.00)
5. Construction of Macadam Avenue crossing - \$268,000.00 (engineer's estimate)
6. All other City costs - \$67,000.00 (estimated)

ORDINANCE No. 149557

An Ordinance authorizing the acceptance and execution of an Interim Agreement between the City of Portland, Bureau of Water Works, and the City of Tualatin, Wolf Creek Highway Water District, Metzger Water District and Raleigh Water District, to provide financial assistance for the Washington County Gravity Supply Conduit, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland, Bureau of Water Works, and the City of Tualatin, Wolf Creek Highway Water District, Metzger Water District and Raleigh Water District are in the process of negotiating a final Washington County Gravity Supply Conduit Agreement, which will provide for the design, construction and financing of the conduit.
2. The Bureau of Water Works finds it necessary to be assured financial assistance of the named purveyors in order to perform the desired design, financing and preliminary construction portions of the project necessary at this time.
3. The Council of the City of Tualatin, and the boards of the Wolf Creek Highway Water District, Metzger Water District and Raleigh Water District have approved and executed the Interim Agreement from the City of Portland, marked Exhibit A attached to the original only.
4. The Commissioner-in-Charge and the Administrator of the Bureau of Water Works recommend acceptance and execution of the Interim Agreement which has been approved by the City Attorney as to form.

NOW, THEREFORE, the Council directs:

- a. The Commissioner-in-Charge of the Bureau of Water Works and the Auditor are hereby authorized to accept and execute the Interim Agreement to assure the City of Portland financial assistance of the Washington County Gravity Supply Conduit.
- b. The agreement effective date shall be the date the ordinance is approved by Council.

Section 2. The Council declares that an emergency exists in order to continue with planning to preserve the public health and safety of the City of Portland and its water purveyors; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

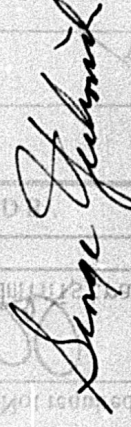
Passed by the Council, **MAY 7 1980**

Commissioner Ivancie
Liz Osmond/10
April 28, 1980

Attest:



Mayor of the City of Portland



Auditor of the City of Portland

Calendar No. 1543

ORDINANCE No. 149557

Title

An Ordinance authorizing the acceptance and execution of an Interim Agreement between the City of Portland, Bureau of Water Works, and the City of Tualatin, Wolf Creek Highway Water District, Metzger Water District and Raleigh Water District, to provide financial assistance for the Washington County Gravity Supply Conduit, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	—	
Jordan	—	
Lindberg	—	
Schwab	—	
McCready	—	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

Filed **MAY 2 1980**

GEORGE YERKOVICH

Auditor of the CITY OF PORTLAND

Gordon Crall
Deputy

INTRODUCED BY
Commissioner Ivancie

NOTED BY THE COMMISSIONER

Affairs
Finance and Administration
Safety
Utilities **FJL MK**
Works

BUREAU APPROVAL

Bureau: **Water Works**

Prepared By: **L. Osmond** Date: **4/28/80**

Budget Impact Review:
 Completed Not required

Bureau Head: *[Signature]*
Carl Goebel, Administrator

NOTED BY

City Attorney
City Auditor
City Engineer

149223