

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is entered into between Northwest Natural Gas Company, a domestic Oregon corporation headquartered at 220 NW Second Avenue, Portland, Oregon ("NW Natural") and the City of Portland, Oregon, ("the City"), a duly incorporated Oregon municipality (together "the Parties").

WHEREAS, NW Natural transmits and distributes natural gas throughout the City using the public right-of-way; and,

WHEREAS, NW Natural claims rights as a successor-in-interest to a franchise granted by the Oregon Territorial Legislature; and,

WHEREAS, NW Natural is subject to the City's utility license fee as imposed under PCC Chapter 7.14; and,

WHEREAS, the City's Office of Cable Communications and Franchise Management undertook a routine financial review of NW Natural's utility license fee payments to the City for 2003, which concluded that the utility license fee payments were not correctly calculated by not including some revenues in license fee calculations; and,

WHEREAS, NW Natural disputed the determination of this financial review; and

WHEREAS, subsequently, representatives from NW Natural and City staff negotiated a general settlement on the determinations under the financial review that includes entering into a franchise governing use of the City's streets by NW Natural; and,

WHEREAS, the Parties now wish to settle these various issues between them;

NOW THEREFORE, in consideration of the mutual promises and other valuable consideration exchanged herein, the parties agree as follows:

1. Within fifteen (15) days of full execution of this Agreement by the City (which execution is authorized only by ordinance approved by the City Council), Northwest Natural Gas Company shall pay to the City \$350,000.00 (Three Hundred Fifty Thousand Dollars).

2. The City hereby releases Northwest Natural Gas Company from any and all claims for utility license fees, interest, or penalties due or claimed to be due up to and including December 31, 2003. Except as expressly provided in this Agreement, the City otherwise waives any claim to past due franchise fees, interest, or penalties through December 31, 2003.

3. The releases described in paragraph 2 shall be effective upon the occurrence of both of the following conditions:

a. City's receipt of the payment from Northwest Natural Gas Company provided for in Paragraph 1 above; and,

b. Northwest Natural Gas Company's filing of an unqualified acceptance of a mutually acceptable franchise granted by the Portland City Council, duly executed by NW Natural, and meeting the approval of the City Attorney.

4. The Parties' agreement upon terms and conditions of a franchise agreement, to be separately entered into following the formal procedures required by the City of Portland's Charter, constitutes a material consideration for inducing the Parties to enter into this Agreement. Any failure on the part of NW Natural to file an unqualified written acceptance or failure of the City Attorney to approve the acceptance shall constitute a failure of consideration for the Parties' entering into this Agreement, and this Agreement shall be automatically null and void without any further action by the City or NW Natural.

f. This Agreement may not be amended, except in writing and signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties have set their hands the date and year of the last signature affixed hereto.

City of Portland

Northwest Natural Gas Company

By: \_\_\_\_\_  
Commissioner Dan Saltzman

Title: Commissioner of Public Affairs

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
City Auditor Gary Blackmer

Date: \_\_\_\_\_

Approved as to Form:

Benjamin Walters  
City Attorney

5. The undersigned represent that they have carefully read the foregoing Agreement, have carefully considered its contents after consultation with legal counsel, have the authority to execute the Agreement and sign the same as duly authorized representatives of their respective party.

6. Miscellaneous.

a. The terms set forth in this Agreement are contractual and not merely recitals. There is no other agreement, promise or inducement for this Agreement other than as expressed in this Agreement. This Agreement contains the full and entire understanding of the parties. There are no other representations, warranties, statements or agreements between the parties except as expressly set forth in this Agreement.

b. This Agreement shall be freely assignable and transferable.

c. Neither party shall be relieved of its respective obligations to comply with any of the terms and conditions of this Agreement by reason of any failure of the other party to require prompt compliance, nor does either party waive or limit any of its rights under this Agreement by reason of such failure or neglect.

d. Any litigation arising under or regarding this Agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon, Portland Division.

e. This Agreement shall be construed according to the law of the State of Oregon, even if Oregon's choice of law rules otherwise would require application of the law of a different jurisdiction.