

POWELL VALLEY ROAD WATER DISTRICT - CITY OF PORTLAND**INTERGOVERNMENTAL AGREEMENT**

THIS AGREEMENT is entered into pursuant to the authority granted in Chapter 190 of the Oregon Revised Statutes, by and between the City of Portland, a municipal corporation of the State of Oregon, hereinafter called "City," and the Powell Valley Road Water District, a municipal corporation of the State of Oregon organized under Chapter 264 of the Oregon Revised Statutes, hereinafter called the "District." This agreement is to provide for the transfer of responsibility for water services from the District to the City and to establish, for affected City and District personnel, certain rights, benefits, and privileges as mandated by ORS 236.610 et seq.

WHEREAS, the City has adopted an urban services policy which will result in its providing municipal services to various unincorporated areas presently within Multnomah County, primarily by annexation; and

WHEREAS, the City is the most likely provider of water service to District inhabitants if District dissolves; and

WHEREAS, the public interest is served by the City and District planning together for an orderly transition of service responsibility as annexation occurs; and

WHEREAS, parties intend to maintain or improve the quality of water service and to preserve to the extent possible the job security of any District employee affected by employee transfer;

THEREFORE, the City and District agree as follows:

1. Purpose

This agreement provides for the orderly transition of water service responsibilities from the District to the City including provisions regarding the timing of withdrawals of annexed territory, dissemination of information on the effects of this agreement on District's customers, the transfer of employees of the District, the dissolution of the District, and the assumption of District assets and liabilities by the City.

2. Withdrawal of Territory

A. Withdrawals During First Two Years of the Contract

The City will withdraw on July 1, 1986 the area described in Boundary Commission Orders Nos. 2136 and 2184, excluding, however, that portion of District described in Order 2184 which lies south of SE Division Street. Except for these withdrawals, however, during the first two years of this agreement, City may continue to seek annexation of territory within District, but shall not withdraw any such annexed territory until such time as City shall have annexed no less than 75 percent of the area of the District, measured by water consumption as of December 31, 1985, as shown on Exhibit A, or 95 percent of the property in the District, west of 148th Avenue, also as measured by water consumption as of December 31, 1985.

B. Withdrawals After First Two Years of the Contract

(1) After the first two years of the contract term, if the conditions for withdrawal of territory under subsection A, above, have not been met, City may withdraw district territory it has previously annexed under the terms of this subparagraph, only. At such time as the City shall have annexed 90 percent of the area of one or more service areas, identified in the chart attached hereto as Exhibit A, the City may withdraw such service area, provided that no service area may be withdrawn if after withdrawal it is not contiguous with City territory along at least

one north-south or east-west service area boundary. The City shall not withdraw any such service area less than 90 percent annexed except with the agreement of the District Board. City shall give District no less than 90 days' notice of its intent to withdraw territory from the District under the terms of this paragraph.

(2) In the event that any portion of the District becomes completely surrounded by land which is in the City and withdrawn from the District, or any portion of the District becomes so nearly surrounded that the provision of water from District mains is similarly impractical, City shall accept the ownership of mains and water services within that portion of the District, and shall maintain the mains and water services and deliver water to District customers within that portion of the District. District shall read the water meters of its customers, and bill and collect water charges from them, within that portion of the District and shall report the water consumption to the City. Portland shall charge the District at its commodity cost plus 12 percent for the water consumed (the stipulated sum computed under Section 10 of Contract Number 18823).

C. District Offices

The City shall not withdraw the property upon which District's business office and operations facilities are located; however, City may withdraw the balance of the service area where these facilities are located if otherwise entitled to do so under 2.A. and 2.B.

3. Assets Transfer

A. Automatic Transfer

At any time that City withdraws territory under the terms of this agreement, and prior to dissolution of District, the physical assets within the territory withdrawn shall become the property of the City, except for facilities that are necessary for the operation of the remainder of the District, generally; water storage tanks, maintenance

facilities, administrative facilities, and property used by and for administrative employees of the District, including but not limited to automobiles, word processors, and computer equipment.

B. Method and Effect of Transfer

District shall prepare an inventory of equipment transferred, at or before the time of withdrawal, and City shall acknowledge the transfer to it of the property inventoried, and shall accept at that time full responsibility for the property without regard to City's knowledge or opportunity to know of any defects or deficiencies in the property. This language is not intended to preclude claims for indemnity by City against District for third party claims against City.

C. Maintenance and Improvement of Former Property of District

During the period of this agreement, City agrees to maintain the property transferred to City under the terms of this agreement to at least the present standard of service and repair. City has reviewed District's proposed Capital Improvement Program, attached hereto as Exhibit B and incorporated by this reference, and agrees that during the term of this agreement, City will coordinate its Capital Improvement Program with District's to ensure maximum service delivery to District's customers on the most cost effective basis.

D. District Headquarters Building

In the event that District's headquarters building is transferred to the City by dissolution, City shall give serious consideration to using the building for water service related purposes or multiple services purposes of which water related service is the primary purpose. City presently envisions this facility being used as a mid-county community facility for the foreseeable future.

4. District Position on Annexation

District shall remain neutral with respect to the annexation efforts of City. District shall take such measures as it appears appropriate in fulfilling District's responsibilities to its customers to inform customers of any changes affecting them with regard to the provision of water services or rates; but District shall not be required or expected to provide publicity for City's annexation effort by doing so. City shall not characterize this contract as expressing support for annexation.

5. Cooperative Water Service Planning

A. For the purpose of assisting in the implementation of this agreement and assuring cooperation between the parties, City shall inform District at the earliest feasible time of proposed City actions affecting District. Specifically, but not exclusively, City shall inform District of annexation plans affecting any part of District no later than the time a triple majority is achieved to support annexation of an area to be proposed by the City for annexation.

B. There shall be created a transition team composed of the manager of District and one member of the District Board, appointed by the District Board, and the City Water Bureau manager and a representative of the City Commissioner in charge of the Water Bureau, designated by that Commissioner and reporting directly to him. Each member of the team shall serve at the pleasure of the appointing authority. The transition team shall meet not less than once yearly to discuss and make decisions regarding the withdrawal of District's service territory, transfer of assets and liabilities and service responsibilities, personnel, continuity of water service operations, and other such issues as are appropriately considered by management regarding transfers of authority and property under this agreement. The team shall report in writing to the Board and the City Commissioner in charge of the Water Bureau for final decisions in order

that this information be used in implementing the orderly withdrawal of district's service territory.

6. Term

The term of this agreement shall commence upon execution of the agreement and conclude the thirtieth day of June, 1991. This agreement may be extended beyond this term by mutual agreement of the parties.

7. Arbitration

Except as otherwise provided in this agreement, any dispute arising between the parties relating to the construction or application of this agreement shall be submitted to arbitration under the terms of ORS 33.210 et seq by a neutral arbitrator chosen by the parties. If the parties cannot agree on an arbitrator, the arbitrator shall be chosen by the Circuit Court for Multnomah County. The parties shall each pay half of the arbitrator's fees.

8. Personnel.

A. Upon withdrawal of any portion of the District, the City shall accept transfer of the District employees whose positions are displaced by annexation and withdrawal of territory in accordance with those rights, benefits, and privileges granted by ORS 236.610 et seq. The attached Exhibit C identifies the District staff positions displaced by annexation and withdrawal of portions of the District, determined by water consumption as identified on Exhibit A. The scheduling expressed in Exhibit C may be modified by mutual agreement of the parties to accommodate changed circumstances. City intends to use its best efforts to secure employment for all displaced District employees.

B. Transferred District employees shall not be subject to the City residency requirement.

C. City shall insure that the operating integrity of the District is maintained by utilizing District's employees to the extent necessary to integrate District's facilities and territory into City's system.

D. Each transferred field employee of District shall have the same opportunity based on seniority with Powell Valley Road Water District that City employees with equivalent seniority have to participate in the Water Bureau Mechanics Training Program.

E. Each transferred clerical or administrative person will receive appropriate training in the business operations of the Bureau and the Bureau's automated billing system.

F. At the time of transfer, District shall pay each transferred employee to date for all accrued wages, and shall pay either the employee for accrued vacation time, or shall pay City for that time and the employee shall carry over the vacation, at the option of the employee. Each employee shall carry over accrued sick leave. District shall certify to the City the amount of leave of various types to which the transferred employee is entitled.

G. Within thirty (30) days after the effective date of transfer, each transferred District employee participating in the District retirement system shall elect, in writing, whether to continue under that system or, if qualified, to participate in the City retirement system. It is anticipated that all employees will choose to continue PERS membership.

H. At the time of transfer, District shall deliver to City the personnel records of each transferred employee.

I. For all purposes other than job bidding, all transferred employees shall enjoy the same seniority with the City as earned in service with the District. District employees shall begin accruing job bidding seniority upon transfer to the City.

J. If a District employee, with the exception of District's manager, is transferred into a City position having a salary less than his or her existing district salary, such employee's salary in the transfer position shall be frozen at the District rate until the City's rate for the position the employee occupies is equal to or exceeds the District rate, at which time the employee will resume receiving salary increases.

K. In the event a vacancy occurs within the Water Bureau within a classification Civil Service has identified as one for which a District employee is qualified and, regardless of the extent of withdrawal of District's service territory, the Bureau will notify District of such vacancy and give first consideration to any District employee who, in the Water Bureau's opinion, is qualified for the position, prior to advertising the vacancy through the Civil Service procedure.

L. The number of District employees transferred to the City under this agreement shall not exceed the number of District employees as of March 1, 1986. (See Exhibit C.)

9. Service Levels

A. During the term of this agreement City shall provide at least the same level of repair and maintenance as is presently provided in the District.

B. One or more pay stations for the convenience of customers shall be maintained in the area of the District, beginning prior to dissolution of the District and continuing for a period of at least five years after the dissolution of the District under the terms of this agreement. The District acknowledges that pay stations are operated only by private contractors and that this provision shall be operable only to the extent that such contractors are reasonably available to City.

10. Financial Provisions

Rates. Water service provided extraterritorially by City within the territory of the former District after dissolution, shall be provided at a rate which is equal to the City's lowest wholesale commodity rate for water plus a commodity rate service charge equal to a proportionate share of the City's operations and maintenance cost of providing service in the District territory as calculated in the City's cost-of-service rate allocation, plus a service charge based on the size of service that is the same as City customers. This limitation shall be in effect until July 9, 2005, the expiration date stated in the contract approved by Portland Ordinance No. 150018.

11. Dissolution

A. Upon annexation of no less than 75 percent of the area the District, measured by water consumption as of December 31, 1985 as shown on Exhibit A, or of 95 percent of all property in the District west of 148th Avenue, the District Board shall initiate proceedings to dissolve the District in accordance with ORS 198.920, et seq.

B. Upon dissolution the City shall furnish water to the portions of the District not annexed to the City and shall assume all outstanding liabilities of the District and shall accept title to all assets of the District. Rates charged after dissolution for service outside the City for water service provided under the terms of this agreement shall be as provided for in paragraph 10, above. The level of service provided to such areas shall be as provided in paragraph 9, and City shall provide the same level of system improvements as inside the City, after the dissolution of the District until July 9, 2005, the expiration date stated in the contract approved by Portland Ordinance No. 150018.

C. District shall provide City with all pertinent information in its possession concerning the District that is necessary or appropriate to the transfer of administration, operation, and maintenance of the

District in part or in its entirety. This information shall include, without limitation, information relating to the customer accounts, assets, liabilities, personnel operating systems, operating procedures, sources, and system mapping of the District.

D. The City shall assist District in preparing appropriate findings of fact and dissolution plan in accordance with ORS 198.925 and 198.930, and in accordance with this agreement, for approval and adoption by the Board of the District.

E. The provisions of this agreement shall survive the dissolution of the District for the term of the agreement or such longer period as provided in this agreement, and shall be enforceable by the Board of the District as a Board of Trustees under ORS 198.945 or any resident of the former District for whose benefit as third party beneficiaries this agreement is concluded.

12. Modification

The parties may modify this agreement by mutual written agreement.

13. Separability

If any section, subsection, clause or phrase of this agreement is determined by any court or arbitrator of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remaining agreement, which shall continue to be in effect.

IN WITNESS WHEREOF, the authorized representatives of the City and the District as parties hereto pursuant to the authority granted to them hereby approve this Intergovernmental Agreement and accept the provisions contained herein.

CITY OF PORTLAND

Date: _____

Dick Bogle
Commissioner of Public WorksJewel Lansing
City Auditor

POWELL VALLEY ROAD WATER DISTRICT

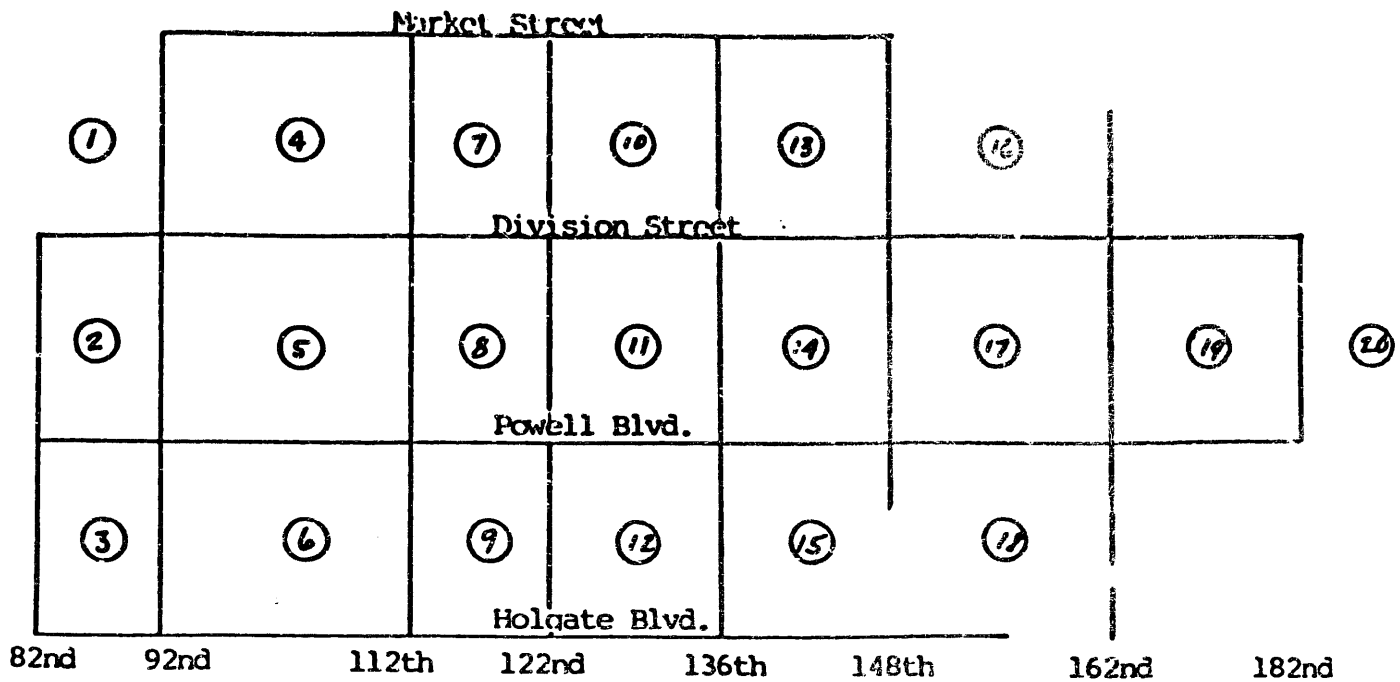
Date: MARCH 27, 1986Ken Hanley
Bob Linder
David J. Jarm
Henry C. Hansen
Keith W. Ralabris

APPROVED:

Jeffrey Rogers, City AttorneyLeslie Roberts, Attorney for District

ANX:8603B120

POWELL VALLEY ROAD WATER DISTRICT



SERVICE AREA NO.	TOTAL 100 C.F. USED	PERCENTAGE EACH AREA
1	19250	1.40
2	46557	3.37
3	19158	1.39
4	88548	6.42
5	60467	4.38
6	67035	4.86
7	72686	5.27
8	56192	4.07
9	86030	6.23
10	85988	6.23
11	94141	6.82
12	101413	7.36
13	71344	5.17
14	89514	6.49
15	56095	4.07
16	56806	4.12
17	121919	8.83
18	32918	2.39
19	107826	7.81
20	46768	3.32
	<u>1,380,655</u>	<u>100.00 %</u>

CAPITAL IMPROVEMENT PROGRAM

SERVICE AREA NO.	PROJECT DESCRIPTION	YEAR - AMOUNT			
		<u>1985-86</u>	<u>1986-87</u>	<u>1987-88</u>	<u>1988-89</u>
1					
2					
3					
4					
5					
6					
7	Lincoln St. - 112th to 117th Stephens - 114th to 117th		\$50,345	\$21,550	
8	119th - Division to Clinton 119th - Clinton to Powell 116th - Brooklyn to Powell 120th - Powell N. to Dead-End		30,115 56,085 41,700	15,150	
9					
10	Mill St. - 122nd to 127th 130th - Lincoln to Mill Market - 122nd to 127th		37,000 28,500 44,500		
11	129th - Powell to Brooklyn 123rd - Powell N. to Dead-End	45,955			\$12,650
12	136th - Mall S. 400 L.F. Holgate - 127th to 130th Holgate - 130th to 136th			12,400	29,300 55,500
13					
14	145th - Clinton to Powell	50,382			
15	Rhine - 136th to 141st 143rd - Powell to Rhine			35,300 31,550	
16	Lincoln - 162nd E. to Dead-End				18,900
17	160th - Division to Kelly			41,700	
18					
19					
20	Totals incl. Service-renewal	<u>\$ 96,337</u>	<u>\$288,245</u>	<u>\$157,650</u>	<u>\$116,350</u>
	Less Block Grant funds for three Area 10 projects		<u>(55,000)</u> \$233,245		

EXHIBIT C

1985-86 Existing Personnel	Number Positions	Transitions to City at % withdrawal		
		<u>50%</u>	<u>75%</u>	<u>Dissolution</u>
Customer Service Clerk	1	1		
Bill Mach Oper/Sec	1		1	
Bookkeeper	2	1		1
Customer Service Person	1	1		
Water Works Mechanic #1	1			1
Water Works Mechanic #2	2		1	1
Superintendent	1	1		
General Manager	1			1
	<hr/>	<hr/>	<hr/>	<hr/>
	10	4	2	4

Note:

Meter Reader has been transferred under Ordinance #158186

ORDINANCE No. 158383

An Ordinance authorizing the Commissioner of Public Works and Auditor to execute an agreement with the Powell Valley Road Water District, providing for the orderly transition of water district's service responsibilities, assets, and liabilities to the City in connection with annexation and withdrawal of District's territory, and declaring an emergency.

The City of Portland ordains:**Section 1. The Council finds:**

1. Pursuant to the City's urban services policy, the City has been and will continue to annex property in East Multnomah County some of which is within the service territory of the Powell Valley Road Water District;
2. That in order to provide for the orderly transition of water service responsibilities from District to City, it is appropriate that an agreement between the City and the District exist in order to provide for the logical continuity of water service, and the City's assumption of District's assets, liabilities, and service responsibilities as withdrawal of annexed territory occurs;
3. That the City and the Powell Valley Road Water District have negotiated such an agreement and it is in the public interest that this agreement be executed in order to proceed with the assumption by the City of the Powell Valley Road Water District's service territory in order to implement the City's urban services policy.

NOW, THEREFORE, the Council directs:

- a. That the Commissioner of Public Works and Auditor are hereby authorized to execute an agreement entitled "Powell Valley Road Water District - City of Portland, Intergovernmental Agreement", a copy of which is attached to the original only hereof and marked as Exhibit A, providing for the transition of water service responsibilities from the District to the City in order to implement the City's urban services policy.

Section 2. The Council declares that an emergency exists because it is necessary that this agreement be executed immediately in order to provide for the transition of water service responsibilities due to upcoming Powell Valley service territory withdrawals;

THEREFORE, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council. **APR 9 1986**

Commissioner Bogle

Author: Irelan ANX:8604B9
BUC NO.

Jewel Lansing

Auditor of the City of Portland

By

Edna Cervera

Deputy

Calendar No. **690**

ORDINANCE No. 158383

Title

An Ordinance authorizing the Commissioner of Public Works and Auditor to execute an agreement with the Powell Valley Road Water District, providing for the orderly transition of water district's service responsibilities, assets, and liabilities to the City in connection with annexation and withdrawal of District's territory, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:			
	Years	Days	
BOGLE	/		
LINDBERG	/		
SCHWAB	/		
STRACHAN	/		
CLARK	/		

FOUR-FIFTHS CALENDAR			
BOGLE			
LINDBERG			
SCHWAB			
STRACHAN			
CLARK			

JEWEL LANSING
Auditor of the CITY OF PORTLAND
By *[Signature]* Deputy

Filed APR 4 1986

INTRODUCED BY	
COMMISSIONER BOGLE	
NOTED BY THE COMMISSIONER	
Affairs	
Finance and Administration	
Safety	
Utilities	
Works <i>Rich Bogle</i>	
BUREAU APPROVAL	
Bureau	
WATER WORKS	
Prepared By	Date
Bob Ireland,	
Urban Services Coordinator	
Budget Impact Review	
<input type="checkbox"/> Completed	<input type="checkbox"/> Not required
Bureau Head <i>Edward Tenny</i>	
Edward Tenny, Administrator	
CALENDAR	
Consent	Regular
NOTED BY	
City Attorney	<i>RS</i>
City Auditor	
City Engineer	