

CITY OF REDMOND, WASHINGTON

RESOLUTION NO. 308

A RESOLUTION, approving an agreement between the City of Redmond, City of Bellevue, and King County Water District No. 99, relating to the assumption of the facilities, operation and management of the water supply and distribution system of the District lying within the respective cities of Redmond and Bellevue; and authorizing and empowering the Mayor and City Clerk to execute such agreement on behalf of the City of Redmond.

WHEREAS, King County Water District No. 99 had been formed and existed for the special purpose of providing water supply and water distribution service for certain areas within King County, Washington, with more than 60% of the territory of the District now lying within the City of Bellevue and approximately 15% of the District now lying within the City of Redmond through annexations of the respective cities; and

WHEREAS, the cities of Redmond and Bellevue and the District have worked out a three-party agreement between such parties for the assumption of the facilities and jurisdiction for water service and water distribution service within the area formerly served by the District pursuant to RCW Chap. 35.13A, which agreement provides for the purchase by the City of Redmond of the District facilities lying within the corporate limits of Redmond and for a joint use with the City of Bellevue of certain water mains and water facilities; and

WHEREAS, the City Council of Redmond has duly considered the proposed agreement and the recommendations of the Director of Public Works and deems such agreement to be in the public interest and should be approved on behalf of the City of Redmond, Now, Therefore,

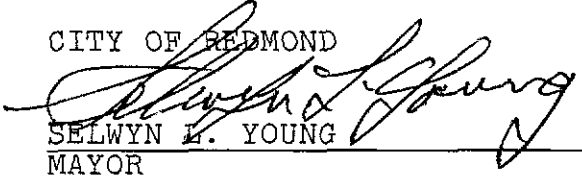
THE CITY COUNCIL OF THE CITY OF REDMOND DO RESOLVE AS FOLLOWS:

1. Agreement approved. That the proposed agreement between the City of Redmond, the City of Bellevue, and King County Water District No. 99, a copy of which is attached and by this reference made a part hereof, is hereby accepted and approved.

2. Execution authorized. That the Mayor and City Clerk are authorized and empowered to sign said agreement on behalf of the City of Redmond.

PASSED by the Council of the City of Redmond, Washington, at a regular meeting thereof, and APPROVED by the Mayor this 7 day of November, 1972.

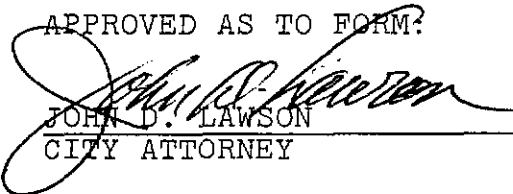
CITY OF REDMOND


SELWYN E. YOUNG
MAYOR

ATTEST:


ELEANOR J. HAYDEN
CITY CLERK

APPROVED AS TO FORM:


JOHN D. LAWSON
CITY ATTORNEY

CONTRACT

THIS CONTRACT is dated and made as of the _____ day of _____, 1972, between the CITY OF BELLEVUE, a municipal corporation, (hereinafter called the "City") under authority of Resolution No. 2040, WATER DISTRICT NO. 99, King County, Washington, a municipal corporation (hereinafter called the "District"), under authority of Resolution No. 186, and CITY OF REDMOND (hereinafter called "Redmond"), under authority of Resolution No. _____.

WHEREAS, the District was formed and now exists for the special purpose of providing water supply and distribution service for certain areas within King County, and more than 60% of the territory of the District now lies within the City, while approximately 15% of the District's territory now lies within the City of Redmond; and

WHEREAS, the District has financed and constructed a water distribution system sufficient to serve substantially all of the developed portions of the District and planned for the eventual addition of water facilities to serve all presently undeveloped portions of the District; and

WHEREAS, the parties recognize that eventually the operation of the water supply and distribution system of the District will be assumed by the City; and

WHEREAS, to accomplish this purpose it is necessary that a contract be entered into fixing the rights and duties of the parties, protecting the legitimate interests of bondholders and creditors of the District, the users of the water facilities of the District, the City, and the residents and property owners of each of the parties to this contract; and

WHEREAS, it is the desire of all parties hereto to enter into this contract pursuant to Chapter 95, Laws of 1971 (1st Ex. Sess.), to provide for the maintenance and operation of the water facilities of the District, to provide for the financing and construction of new water facilities to serve certain unserved portions of the District and the City, to provide for the transfer of all personal and real property, funds and assets of the District to the City, with the exception of the transfer to the City of Redmond as provided in Paragraph 13 hereof, and to provide for the eventual dissolution of the District after a period of continued existence only for the purpose of winding up and settling the affairs of the District, until an order of dissolution is entered by the Superior Court of the State of Washington for King County;

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Definition of Terms. Wherever the following terms shall be used in this agreement they shall have the following meaning unless otherwise specifically indicated in the context in which they appear:

(a) "District" means Water District No. 99, King County, Washington, a municipal corporation, located in King County, Washington, acting by and through its Board of Commissioners unless such authority shall be lawfully delegated to other officers or unless other officers are expressly indicated herein.

(b) "City" means the City of Bellevue, a municipal corporation, located in King County, Washington, acting by and through its City Council unless such authority shall be lawfully delegated to other officers or unless other officers are expressly indicated herein.

(c) "Service Charge" or "Water Service Charge" means a monthly or other periodic charge for the purchase of water for domestic and other uses.

(d) "Water Service Permit Fee" means a charge for the inspection of private water service lines to be connected to public water facilities.

(e) "Meter Charge" means a charge for the installation of a water meter at the service connection.

(f) "Connection Charge" means an additional charge for the connection to public water facilities of properties not previously fully assessed for special benefits conferred by such water facilities.

(g) "Assessment" means charges levied in utility local improvement districts or local improvement districts for special benefits conferred by the construction of public water facilities and shall include interest and any penalties thereon.

(h) "Water System" means all water supply and distribution facilities heretofore installed or acquired by the District or by the City, or hereafter installed or acquired by the District or by the City within the potential service area colored in red on Exhibit A, or hereafter added to such area, including all appurtenances to such facilities and all future additions and extensions thereof.

(i) "City Water Utility" means all water facilities hereafter operated by the City, and may include a combined water and sewer utility, if the City shall

later combine its sanitary sewage system with its water utility, but, for the purpose of this contract, when reference is made to facilities, it shall only mean water facilities.

(j) "Actual Costs" means those costs of labor, parts, equipment, supplies, maintenance expenses, engineering costs and replacement costs directly attributable to District's water system and a proportionate amount only of the overhead and administrative costs of the City Water Utility as proportionate to the size, in the number of customers, of the District system as compared to the "Water System."

2. Ownership of Properties - Title - Transfer Date. Consistent with the laws of the State of Washington and pursuant to this agreement, all the right, title and interest of the District in and to all real property, franchises, easements, water lines, pumps, manholes, valves, fittings, appurtenances, all equipment and vehicles, and all personal property, cash, accounts receivable, investments and choses in action of all kinds which shall be in existence and on hand at the "Title Transfer Date" as hereinafter defined, including all additions thereto and extensions thereof hereafter acquired or constructed by the District shall be conveyed, transferred and quitclaimed by the District to the City, effective on the Title Transfer Date, subject to all of the provisions of this agreement. It is recognized that certain facilities of District located within the boundaries of the City of Redmond will be transferred to Redmond, as provided in paragraph 13 of this agreement. The City hereby agrees that until the Title Transfer Date the District shall have the right to use the water facilities of the City described on Exhibit A hereof on the terms and conditions hereinafter set forth.

The City shall pay nothing to the District in exchange for the property which the City shall acquire hereunder and the District shall pay nothing to the City for the facilities which the District is permitted to use hereunder and the covenants of this agreement to be performed by the parties shall constitute good and sufficient consideration for the conveyances contemplated by this contract.

It is mutually agreed and recognized that any rights to such properties which the City may acquire pursuant to this contract shall remain subject to all presently outstanding indebtedness of the District, bonded or otherwise, shall be subject to the terms of the following resolutions of the District which are

Incorporated herein by this reference:

Resolution No. 24
Resolution No. 41
Resolution No. 75
Resolution No. 83
Resolution No. 119

and shall be subject to all rights of the holders of revenue bonds of the District issued under those resolutions. The District will furnish certified copies of those resolutions to the City.

It is further agreed and recognized that the properties which the City shall acquire pursuant to this contract shall at all times be operated for the benefit of all persons now or hereafter residing within the District and subject to the rights of all owners of property now or hereafter located within the District, whether such residents or property be inside or outside the City. All use shall be subject to the statutes, regulations, ordinances, and resolutions of the City or District. In particular, but not by way of limitation, trunk or lateral water lines and other facilities now or hereafter located within the City which are used for the distribution of water to any property located within the Water District shall continue to be made available for such use. Users of such water shall pay reasonable nondiscriminatory fees and charges and comply with reasonable rules and regulations, all as provided in this contract.

It is further recognized and agreed that this contract is subject to the provisions of the outstanding agreements for water supply and distribution between the District and the City of Redmond, between the District and Water Districts Nos. 68, 81, and 97, between the District and the City of Seattle, and any presently outstanding agreements with any other municipal corporation or governmental agency.

The date on which title to all assets of the District shall be transferred to the City is January 1, 1973. Conveyance or transfer shall be made by quitclaim deed(s) and bill(s) of sale or such other documentation as may be required by the nature of the property or asset. The conveyance or transfer shall be in effect on or before January 1, 1973.

3. Transfer of Funds - Debt Service. City and District hereby authorize the King County Treasurer to pay over to the City of Bellevue, upon receipt therefor,

at the earliest practicable date after January 1, 1973, all funds, including investments and the proceeds thereof, in the Maintenance and Construction Funds of King County Water District No. 99, less claims and warrants issued and then outstanding. All such monies and proceeds of securities shall be applied solely to the maintenance, operation repair, replacement or improvement of the Water System and shall not be diverted directly or indirectly to the General Fund or operations of the City.

The King County Treasurer shall further be authorized and directed to retain possession of all Bond Funds of King County Water District No. 99, and all funds and investments thereof, including the right and obligation to continue to collect assessments on outstanding utility local improvement district assessment rolls pledged to such Bond Funds. The King County Treasurer shall be further authorized and directed, on and after January 1, 1973, to continue to pay the interest on and the principal of all outstanding revenue bonds of King County Water District No. 99, in accordance with the terms of said bonds. The City of Bellevue shall pay to the King County Treasurer the statutory fees provided for such services.

On and after the title transfer date, there shall be created and established within the Department of Finance of the City of Bellevue a separate and distinct fund known as the Water District No. 99 Trust Fund. On and after January 1, 1973, the gross revenues from the District utility shall be paid into said fund, and from said fund there shall be paid: First, the expenses of maintaining and operating said utility, and, secondly, such amounts as may be required to be transmitted to the King County Treasurer for deposit into the bond funds, to supplement the proceeds of utility local improvement district assessments collected by said treasurer, for payment of outstanding bond obligations of the District.

4. Fixing and Collecting Charges. Until the Title Transfer Date, the District shall continue its present Service Charges, Connection Charges, Water Service Permit Fees, Water Meter Charges, and water service extension contract payments for the District System. Enforcement of collection shall continue to be the responsibility of the District until the Title Transfer Date.

From and after the Title Transfer Date the City shall perform the function of fixing, billing, and collecting all monthly Service Charges, Water Service Permit

Fees, Connection Charges, and Water Meter Charges, and collection of water service extension contract payments, and other amounts due the District, and shall maintain all records for accounting purposes incidental thereto, Such charges shall be sufficient to pay all costs of maintenance and operation of the District System including costs of purchasing water from the City of Seattle and other sources, such other costs of operation as may be incurred, and such amounts as may, together with pledged assessments, be required to pay, secure the payment of, and provide covenanted coverage for, any revenue bonds of the District now or hereafter outstanding.

5. Assumption of District Obligations by the City. The City shall assume, effective on the Title Transfer Date and pay in accordance with their terms solely out of the earnings and revenue of City Water Utility and assessments pledged thereto all obligations of the District outstanding on the Title Transfer Date or thereafter incurred incident to this contract or in connection with winding up the affairs of the District, including but not limited to paying and securing payment of the principal of and interest on all of the District's then outstanding water revenue bonds in accordance with the terms thereof. Local improvement district and utility local improvement district assessments which have been levied by the District to secure the payment of such bonds shall continue to be collected by the King County Treasurer and applied to the payment of such bonds until all such bonds shall have been paid or have been fully provided for.

6. Obligation to Continue Service after Title Transfer Date. From and after the Title Transfer Date, the City shall operate and maintain the Water System as a City utility in the manner provided by law, subject to the following requirements of this contract.

(a) The City shall for the useful life of those facilities of the Water System which serve persons and properties located within the District but outside of the City make such facilities available to serve such persons and property, upon payment of reasonable Service Charges, Connection Charges, Water Service Permit Fees, and Water Meter Charges as fixed by the City from time to time consistent with the provisions hereof.

(b) The City shall provide water service to all portions of the District, whether inside or outside the City, equal in all respects to that provided to

residents of the City and the City shall fix Service Charges at the same rate for the same class of service whether located within the City or outside the City. The term "class of service" as used in this paragraph shall refer to classification based on type of water use, i.e., single family residence, multiple residence, commercial, etc., but shall not include classification on geographical or jurisdictional bases.

(c) The City shall fix rates and charges sufficient to operate and maintain the Water System, pay, secure and provide coverage for revenue bonds and repair and replace the facilities of the system as required. However, the revenues of the Water System shall not at any time be applied by the City to the payment of the general expenses of City government not directly applicable to the construction, repair, replacement, administration, operation and maintenance of the Water System. The City may, however, subject to the foregoing limitation, combine its sewer and water systems into a single utility if such combination shall be deemed desirable by the City. No rate increase may be made by the City without first securing a complete rate analysis by an independent firm of engineers experienced in the development and operation of municipal public utilities. A copy of such rate analysis shall be furnished to each of the other parties to this contract and any interested citizen. The requirement that a rate analysis be made may be waived in writing by the parties to this contract at any time.

7. Bond Redemption Fund. From and after the Title Transfer Date, the existing Bond Redemption Fund for the outstanding revenue bonds of the District shall continue to be held by the County Treasurer and invested or applied to the payment of such bonds in accordance with written directions given from time to time by the City, until all of such bonds shall have been paid. The City shall make required deposits in such fund out of the earnings and revenue of the Water System. Upon payment or provision for payment of all of such bonds, any local improvement district and utility local improvement assessments thereafter collected by the King County Treasurer, shall be paid to the City quarterly and applied solely to the maintenance, operation, repair, replacement or improvement of the Water System. Segregations of assessments requested after the Title Transfer Date shall be approved by the City, and the County Treasurer is hereby authorized to honor segregation approvals received from the City.

8. District Policies and Responsibilities of Commissioners. The parties contemplate that for a reasonable time after the Title Transfer Date and insofar as possible, the City will continue existing District policies for connection to the Water System and for the construction of extensions of the Water System and for the construction of extensions of the System by private developers in order to insure equitable treatment of the District's residents. Until the entry of an appropriate order of dissolution by the Superior Court of the State of Washington for King County, the District shall continue its corporate existence for the purpose of winding up District's affairs, and the Commissioners of the District shall continue to function, but following the Title Transfer Date, the Commissioners' responsibility shall be limited to the enforcement of the provisions of this contract and to serve as an advisory commission to the City in the continuance of the District's policies, and all such responsibility of the Commissioners shall cease upon dissolution of the District. During that same time the City shall assume all duties, obligations and liabilities of District and its Commissioners and after the date of execution of this agreement shall hold all Commissioners harmless, including all costs of attorneys' fees incurred for any claim or liability arising directly or indirectly from District's operation or failure to operate. District warrants to City that at the date of execution of this agreement, there are no outstanding claims against District except as listed on Exhibit B. As long as the Board of Water Commissioners continues to function in any capacity, the City shall provide and maintain a convenient and adequate meeting place for the Board.

9. District Employees. The City shall offer employment to each person presently employed on a full-time basis by the District in a position of substantially equal or greater responsibility and compensation than that now held by such District employee and all vacation and pension rights of such employee, including any accruals thereof, shall be preserved. Such offer and all terms thereof shall be made before the transfer to the City of title to District's assets. District shall have the right to enforce this paragraph as a condition precedent to such transfer.

10. Unincorporated Areas. The unincorporated area lying generally north and west of the Bellevue-Redmond Road, east of 156th Avenue N.E. and south of N.E. 40th Street is within District boundaries and after the

Title Transfer Date will be under City operation and management.

In the event the above-described unincorporated area should be annexed by the City of Redmond, then the cities of Redmond and Bellevue shall negotiate an agreement concerning the provision of water service to the area and the terms therefor, as between the two cities. Said agreement may designate the main on 156th Avenue NE between NE 40th Street and the Bellevue-Redmond Road as a joint-use main and may assign to the City of Redmond the responsibility for maintenance, operation and replacement of said main. The agreement shall also provide for the installation of any new joint-use mains that may be required to serve said area.

11. Water Mains - Joint Use. The existing water mains on 148th Avenue NE between NE 18th Place, at the southernmost portion, and NE 50th Street, at the northernmost portion; and on NE 20th Street and the Bellevue-Redmond Road between 148th Avenue NE, on the westerly side, and 156th Avenue NE on the easterly side shall be joint-use mains. The City of Bellevue shall be responsible for maintenance, operation and replacement of said mains. After each meter reading, City of Redmond shall report to City of Bellevue the water consumption from individual services along the mains within the City of Redmond and shall reimburse City of Bellevue for water used. The City of Redmond shall be responsible for maintenance, operation and replacement of the existing water main on 156th Avenue NE between the Bellevue-Redmond Road and a point approximately 270 feet North of NE 32nd Street, which shall be a joint use main. Redmond shall also be responsible for the existing water main on 154th Avenue NE between NE 40th Street and a point approximately 800 feet north of NE 36th Street, said point being on the present corporate limit line, which shall be a joint-use main. When said main is replaced by a new main on 156th Avenue NE, the new main shall be a joint-use main and shall be the responsibility of the City of Redmond. After each meter reading, the City of Bellevue shall report to the City of Redmond the water consumption from individual services along said mains within the City of Bellevue and the unincorporated areas and shall reimburse the City of Redmond for water used.

The existing water main on the Bellevue-Redmond Road between 156th Avenue NE and NE 30th Street shall be for the exclusive use of the City of Bellevue. If, in the future, a party to this agreement should desire that such main be a joint-use main, the question shall be subject to negotiation. The City of Redmond shall have the right to install a main on NE 40th Street between 156th Avenue NE and 164th Avenue NE to serve the north side of NE 40th Street.

12. Master Meters.

(a) All master meters shall be read, maintained, operated and replaced by the City of Bellevue.

(b) A master meter shall be installed at the intersection of 148th Avenue N.E. and N.E. 40th, at the intersection of 156th Avenue N.E. and the Bellevue-Redmond Road, at the intersection of 148th Avenue N.E. and N.E. 36th Street, and at the intersection of 148 Avenue N.E. and N.E. 24th Street.

(c) The initial cost of the master meter at N.E. 40th Street shall be paid by the City of Redmond. The initial cost of the master meter at 156th Avenue N.E. shall be paid by the City of Bellevue. The cost of additional master meters which may be required will be divided equitably between said cities.

13. Transfer of Facilities to City of Redmond - Consideration. Title to those certain water mains and facilities of District lying within the boundaries of the City of Redmond, as shown on Exhibit C, shall be transferred by District to Redmond on or before January 1, 1973, in consideration of payment by Redmond to the King County Treasurer of \$30,221 in three equal annual installments commencing on January 1, 1973, together with interest of 4.6% per annum on the declining balance, said sum representing that portion of the outstanding indebtedness of District which is attributable to the portion of District within the boundaries of City of Redmond as agreed between the parties and approved by District Resolution No. 186. Said sum shall be applied toward payment of principal and interest on bonded indebtedness and other indebtedness of District. Forty (40) percent of the engineering expense and segregation expense incurred in connection with said transfer shall be paid by District and 60% of said expenses shall be paid by Redmond.

14. Supply of Water.

(a) Any restriction of the supply of water to City of Redmond shall be on an equitable basis in relation to the service provided to other customers of the water system in the general vicinity.

(b) If noncompatible water sources are used in the future, the party desiring to make the change shall negotiate such change with the other party. The change may result in cross ties being installed at the changing party's expense.

15. Water Purveyor's Rate. It is agreed that the water purveyor's rate to be charged to City of Redmond after the Title Transfer Date shall be the then-current rate charged by the City of Seattle plus 30%. The then-current Seattle rate shall be computed to include any demand charge applied by the City of Seattle. The water purveyor rate structure shall be subject to review periodically.

16. Hold Harmless and Payment of Expenses. It is contemplated that the District will continue its corporate existence for some time after the Title Transfer Date to perform such functions as may be required by law and to accomplish the winding up of its affairs until it is dissolved by an appropriate order of the Superior Court of the State of Washington for King County, but District agrees to initiate and implement dissolution of the District after the Title Transfer Date as expeditiously as may be consistent with District obligations. During such interim period, the City shall pay out of the revenues of the Water System all expenses of the District including, but not limited to, auditing costs, clerical, financial and legal services, commissioners' meetings and election costs and costs incident to final dissolution. Counsel for the District shall continue to press or defend any then outstanding claims by or against the District and to recommend settlement thereof to the District. Upon approval by the District Commissioners of the settlement of any such claim or entry of judgment thereon, the City shall pay any District liability thereon out of the revenues of the City Water Utility or shall receive any net proceeds thereof which may be due the District and deposit same to the account of the City Water Utility. Solely out of the revenues of the Water System and moneys received pursuant to this contract, the City further agrees to pay and to save the District and its commissioners, employees, agents and advisors harmless and defend them from the payment of any and all legal liability for which the District is not insured and which is now or hereafter incurred in connection with the performance of the functions of the District and the duties of the commissioners thereof, including any costs, expenses and attorneys' fees incurred in the defense of the District or its commissioners, employees, agents or advisors.

17. Records Made Available and Documents Executed. The District shall make available to the City all records which it has pertaining to the construction

of the Water System, schedules of Water Service Charges and Connection Charges and Charges in Lieu of Assessment theretofore made by the District. The District shall furnish to the City records of water connections which have been made by the District, water customers served by the District, as-built drawings of water mains and facilities and such other documents as the City may require to carry out this contract. All parties agree that they shall enter into and execute such instruments, deeds or other documents as may be required to give effect to this contract as may be approved by the parties' attorneys.

18. Liability for Damages, Repair and Replacement. The District shall be liable for and shall be entitled to expend funds, whether budgeted or not, for all damages and claims resulting from the operation or use of the Water System prior to the Title Transfer Date. The District shall also be liable for all damages and claims incurred in the construction of additions or extensions to or improvements of the Water System prior to the Title Transfer Date. After the Title Transfer Date, the City shall be solely liable for all damages or claims in connection with or arising out of the operation, maintenance, construction, repair or replacement of the Water System. The City shall from and after the Title Transfer Date have the duty to make necessary repairs and replacement of the Water System sufficient to maintain same in good repair and working order and to provide service to all residents and properties within the District in accordance with the provisions of this contract.

Notwithstanding the liability provisions of this paragraph, the City shall be liable for and shall defend and hold harmless the District from any and all claims arising out of the City's maintenance and operation of the Water System and responsibilities for other performances under this contract.

19. Insurance. After the Title Transfer Date, the City shall maintain such insurance against casualty or loss to the System and against public liability as required by District operation, assets and obligations and as shall normally be maintained by private utilities under similar circumstances.

20. Effective Date - Term of Contract. This contract shall be effective upon its execution by all the parties hereto and shall continue in effect for a term of ninety-nine years from and after the date hereof, unless amended by mutual agreement.

IN WITNESS WHEREOF, the parties have executed this contract as of the day and year first above written.

Attest: *Patricia K. Tumbler*
City Clerk

CITY OF BELLEVUE
By *Joe Miller*
City Manager

Attest: _____
City Clerk

CITY OF REDMOND
By 3
Mayor

APPROVED AS TO FORM:
Steve M. ... ATTORNEY
CITY OF REDMOND, WASHINGTON

WATER DISTRICT NO. 99,
KING COUNTY, WASHINGTON
By *Don B. Williams*
Commissioner

By *Henry ...*
Commissioner

By *Gary A. Zimmerman*
Commissioner