

SECOND AMENDMENT TO THE WATER SUPPLY AGREEMENT

Between

ORCHARD HEIGHTS WATER ASSOCIATION

("Orchard Heights")

And

CITY OF SALEM

(An Oregon municipal corporation)

("City")

WHEREAS, Orchard Heights and City entered into a Water Supply Agreement (Agreement) for the purpose of supplying a portion of their water needs on April 29, 2011.

WHEREAS, Orchard Heights and City wish to amend the Agreement as set forth in this Amendment.

NOW THEREFORE in consideration of the mutual benefits and obligations set forth herein, the parties amend the Agreement as follows:

Section 1. Section 8 of the Agreement is replaced with the following:

Section 8. Annexation. If portions of the Orchard Heights service area are annexed to the City, members of the Orchard Heights Water Association in the annexed area ~~will~~may, at the City's discretion, become individual City customers if City water is available to the annexed property.

8.1 Individual Meter and Water Service Connection. Upon annexation of Orchard Heights water system customers to the City, each customer ~~will~~may, at the City's discretion, be individually connected to the City's water supply system and billed directly by the City for service as registered by their City meter.

8.2 Use of Orchard Heights Water Association Mains. Where annexed properties to the City ~~do not~~ have access to ~~the City's~~ water but not a City main-system, the City may choose to serve City customers via an existing Orchard Heights main until the City provides service from its system. In these cases, the City shall reimburse Orchard Heights for the use of the Association's mains on a per customer basis at the same rate charged by Orchard Heights to their customers served by the water main. The City ~~shall~~may then be solely responsible for payment of the water service to Orchard Heights, or may install individual meters per Section 8.1. There will be no charge for installing

individual meters. The City and Orchard Heights anticipate that the process for meter reading and billing will be accomplished as follows:

- (a) Where individual meters are installed by the City, the City Orchard Heights shall read the customer's meter on the same regular schedule as all other Orchard Heights customers defined by the City. The City shall reimburse Orchard Heights the membership and Capital Improvement fees previously paid by the customer.
- (b) Where individual meters are not installed by the City, Orchard Heights shall invoice the City for the water consumption plus any fees and assessments also charged to Orchard Heights customers served by the same water main.
- (c) City shall pay the Orchard Heights invoice in a timely manner and shall be subject to the same late payment penalties as other Orchard Heights customers.

8.3 Water SDCs. Upon annexation of Pproperties now part of the Orchard Heights service area, and that existed at the time of this agreement, upon annexation by the City, shall receive a credit for the SDC paid by Orchard Heights as part of the Bulk Meter fee, which credit will take the place of any SDC owed at the time of the annexation by those members when they connect to the City water system. Any lots created after the date of this agreement will be charged SDC fees consistent with the prevailing rates at the time of connection to the City's water system.

Section 2. To the extent the original Agreement and First Amendment and this Amendment conflict, this Amendment shall control. Except as modified by this Amendment, the original and first Amendment of the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the Parties have, by approval of their respective governing bodies, caused this Agreement to be executed:

Orchard Heights Water Association

City of Salem

By: _____
Jennifer Meltzer, President

By: _____
Steven D. Powers, City Manager
City of Salem

Date: _____

Date: _____

Reviewed By:

Peter Fernandez, PE
Public Works Director