



RESOLUTION 2010-023

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO THE WATER SUPPLY AGREEMENT WITH THE CITY OF TUALATIN ("TUALATIN") AND TUALATIN VALLEY WATER DISTRICT ("TVWD")

WHEREAS, on or about June 7, 2007, TVWD entered into a Water Supply Agreement with the cities of Tualatin and Sherwood ("Agreement") whereby Tualatin agreed to purchase up to three million gallons of interruptible water from the City of Portland for the use and benefit of Sherwood, with TVWD providing substitute water to Sherwood if interruptible water was not available; and

WHEREAS, the Agreement provides for a term ending on October 1, 2010, with the opportunity for renewal for an additional five year period; and

WHEREAS, the parties desire to renew and extend the term of the Agreement pending completion by Sherwood of its connection to the Wilsonville Water Treatment Plant and begin to draw water from that facility; and

WHEREAS, the Agreement also contemplates continued operation of Sherwood water system by TVWD under separate agreement, but circumstances have changed in that Sherwood has now resumed providing reclaimed all operational functions for it system; and

WHEREAS, the Parties hereto wish to amend the Agreement and being fully advised,

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

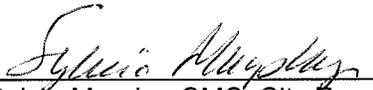
Section 1. The City Manager is authorized to enter into a first amendment to the water supply agreement with the City of Tualatin and Tualatin Valley Water District for the purpose of continuing to supply and external water supply to the City of Sherwood.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 18th day of May 2010.


Keith S. Mays, Mayor

Attest:


Sylvia Murphy, CMC, City Recorder

FIRST AMENDMENT TO WATER SUPPLY AGREEMENT

This First Amendment to Water Supply Agreement (“First Amendment”) is effective this ___ day of _____, 2010, by and between the City of Tualatin, an Oregon municipal corporation (“Tualatin”), the City of Sherwood, an Oregon municipal corporation (“Sherwood”), and Tualatin Valley Water District, a water supply district organized pursuant to ORS Chapter 264 (“TVWD”) referred to collectively as (the “Parties”).

Recitals

WHEREAS, on or about June 1, 2007, the Parties entered into a Water Supply Agreement with the Cities of Tualatin and Sherwood (“Agreement”) whereby Tualatin agreed to purchase up to three million gallons per day of interruptible water from the City of Portland for the use and benefit of Sherwood, with TVWD providing substitute water to Sherwood if interruptible water was not available; and

WHEREAS, the Agreement provides for a term ending on October 1, 2010, with the opportunity for renewal for an additional five year period; and

WHEREAS, the Parties desire to renew and extend the term of the Agreement pending completion by Sherwood of its connection to the Wilsonville Water Treatment Plant and begin to draw water from that facility; and

WHEREAS, the Agreement also contemplates continued operation of Sherwood’s water system by TVWD under separate agreement, but circumstances have changed in that Sherwood has now resumed providing reclaimed all operational functions for its water system; and

WHEREAS, the Parties hereto wish to amend the Agreement and being fully advised,

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Renewal. The Parties agree that the Agreement shall be renewed pursuant Sections 3 and 11 of the Agreement, and that the term shall be from the date of this First Amendment until October 1, 2015.
2. Role of TVWD. The Parties acknowledge and agree that TVWD’s obligations under the Agreement with respect to substitute water, if interruptible water is not available, shall remain in full force and effect, and that TVWD has no agreement with Sherwood for the operation and maintenance of the Sherwood water system.
3. Detrimental Fiscal and Operational Impacts to Tualatin and TVWD. The Parties agree to modify Section 9 of the Agreement as follows:

“9. Detrimental Fiscal and Operational Impacts to Tualatin and TVWD. Sherwood agrees that it will hold harmless and indemnify Tualatin or TVWD from fiscal or operational impacts as a result of this Agreement. By way illustration, if Tualatin’s peaking factor or TVWD’s peaking factor, under its contract with the City of Portland or any other provision of the contract is affected by this Agreement, it shall be the responsibility of Sherwood to hold Tualatin or TVWD harmless therefrom. Notwithstanding the above, Tualatin or TVWD agree that, so long as the rates for water supply and wheeling in Section 8 above are paid, there are no detrimental fiscal impacts to either. Further, Sherwood agrees to negotiate modifications to this agreement as necessary to prevent any detrimental operational impacts to Tualatin’s distribution system as a result hereof.”

4. Effect. Except as specifically modified herein, the Agreement shall remain in full force and effect.

In witness whereof, the Parties have executed this Agreement on the first date above mentioned.

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

CITY OF TUALATIN

CITY OF SHERWOOD

Mayor

City Manager

City Recorder

City Recorder

APPROVED AS TO FORM

APPROVED AS TO FORM

City Attorney

City Attorney

APPROVED AS TO FORM

TUALATIN VALLEY WATER DISTRICT

District Attorney

Richard Burke, President

Marilyn McWilliams, Secretary