



RESOLUTION NO. 7051

A RESOLUTION AUTHORIZING EXECUTION OF A REVISED INTERGOVERNMENTAL AGREEMENT WITH THE NORTH ALBANY COUNTY SERVICE DISTRICT TO INCORPORATE THE DUMBECK LANE DOMESTIC WATER SUPPLY DISTRICT.

WHEREAS, the City of Albany provides water services to two water districts outside the Urban Growth Boundary (UGB). These include the North Albany County Service District (NACSD) and the Dumbeck Lane Domestic Water Supply District (Dumbeck); and

WHEREAS, the Dumbeck district is a wholesale customer to the City of Albany, while the NACSD is a county service district that, under a 1990 agreement with the City, provides water service to customers outside the UGB in rural Benton County; and

WHEREAS, the Dumbeck district was unable to maintain its board and in order to maintain water services to its customers, properties within Dumbeck were annexed into the NACSD; and

WHEREAS, the newly negotiated intergovernmental agreement calls for adoption of the agreement by resolution.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council hereby authorizes the mayor and city manager to execute the attached intergovernmental agreement with the NACSD, provided as Attachment A.

DATED THIS 22<sup>ND</sup> DAY OF SEPTEMBER 2021.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk



**CITY OF ALBANY AND THE NORTH ALBANY COUNTY SERVICE DISTRICT  
WATER SERVICES AGREEMENT  
~~ALBANY/NACSD SEWER AND WATER MAINTENANCE  
TRANSITION PLAN AND MANAGEMENT AGREEMENT~~**

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, ~~1990~~ **2021** pursuant to ORS Chapter 190. The Agreement is by and between the CITY OF ALBANY, an Oregon a Municipal Corporation, **hereinafter referred to as "City"**, and the NORTH ALBANY COUNTY SERVICE DISTRICT, a **Special District, hereinafter referred to as the "NACSD."** (~~"District"~~); **The NACSD is a county service district outside the Urban Growth Boundary of the City in rural Benton County that was created in 1990 and that is administered by Benton County with the county commissioners as its governing body. Pursuant to a 1990 agreement between the City and the NACSD, the City currently pursuant to ORS Chapter 451 to provides sewer and water service to customers in the NACSD.**~~the North Albany area.~~

**The City has also provided water supply, operations and maintenance to the Dumbeck Lane Water Service District (Dumbeck) pursuant to, originally, the 2006 Wholesale Domestic Water Sales Agreement and the 2007 Water Distribution System Maintenance Agreement. Both Dumbeck agreements were updated in 2014. The Dumbeck district was unable to maintain governance of its board and was dissolved in September, 2021, and the real property within Dumbeck was annexed into the NACSD on September 21, 2021.**

**This agreement redefines the 1990 NACSD Agreement to provide water service to properties that were formerly within the Dumbeck Lane Water Service District. Exhibit A provides a map and table with the boundaries of the service district, including the annexed properties.**

**This agreement supersedes the previous agreements between the City, the NACSD, and Dumbeck as referenced above.**

**RECITALS**

WHEREAS, on May 16, 1989, the Oregon State Health Division adopted Findings of Fact pursuant ORS 222.840 to 222.915 declaring a health hazard to exist in certain portions of North Albany; and

WHEREAS, on November 13, 1989, the District Governing Body, with the support of the City Council, submitted an alternative plan to health hazard annexation pursuant to ORS 222.885; and WHEREAS, on January 19, 1990, the Oregon State Environmental Quality Commission (EQC) granted preliminary approval to the alternative plan; and

WHEREAS, the alternative plan requires transfer of water and sewer facilities to the City and provision of such services by the City; and

WHEREAS, Comprehensive Plan Policies have been adopted requiring that Albany be the provider of water and sewer services within the Urban Growth Boundary; ~~and requiring eventual annexation of the area to the City of Albany;~~ and

**WHEREAS, on May 27, 1991 City of Albany Ordinance No 4957 was passed to annex the remainder of the district inside the UGB; and,**

**WHEREAS, the City of Albany has also provided water service to the Dumbeck customers outside the UGB pursuant to a separate agreement dated December 10, 2014; and,**

**WHEREAS, Dumbeck is dissolved and, in order to maintain water services to its customers, properties within Dumbeck were annexed into the NACSD.**

THEREFORE, THE CITY AND THE DISTRICT AGREE:

#### I. PURPOSE

It is the policy of the parties that the City is the logical and appropriate provider of ~~sewer and~~ water services within the North Albany area, and that assumption by the City of such service will provide superior long-term service. ~~and will encourage the eventual annexation of the Urban Growth Boundary to the City pursuant to the requirements of the City and Benton County Comprehensive Plans.~~ To further this purpose, it is agreed that the City shall be the sole supplier of water ~~and sewer services for the North Albany Urban Growth Boundary,~~ and to areas **within the NACSD.** ~~outside the boundary currently receiving water service from the district. It is the further intent of the parties to transfer sewer and water facilities and operations currently owned and provided by the District to the City in order to implement the Alternative Plan to Health Hazard Annexation.~~ The District shall remain as the taxing and legislative authority for the area within the current boundaries until such time as the parties agree that dissolution of the District is in the best interest of the citizens or the City chooses to withdraw annexed territory pursuant to state law.

#### II. TRANSFER OF OPERATIONS

1. On July 1, 1990, the City ~~shall assumed~~ **assumed** administration, operation and maintenance of the water ~~and sewer~~ systems in North Albany from the District. The City ~~shall assumed~~ all rights and responsibilities save those expressly reserved to the District by this agreement. ~~The This~~ transfer **included** ~~includes~~ delegation of authority to form local improvement districts and levy special assessments for the purpose of constructing sewer and water facilities.
2. On July 1, 1990, the District ~~shall transfer~~ **transferred** to the City all funds ~~currently~~ contained in North Albany County Service District accounts, excluding the water bond debt service fund which **was retired in the early 2000s.** ~~will be transferred to the County. continue to be maintained and serviced by the District.~~ The City may expend revenues from time to time to cover the costs of providing the services under this agreement. The District may bill the City and the City shall reimburse the District for the reasonable cost of its remaining administrative duties including insurance, legal costs, changes of District organization, audit costs, etc. Both the City and the District shall be allowed to inspect the records and accounts of the other for the purposes of compiling and completing the Comprehensive Annual Financial Report required by state law.

3. The City shall provide, at a minimum, the water services ~~provided~~ **provides** by the District on June 23, 1990. The City agrees to provide water service to all of the current water service customers of the District **and to those customers annexed into the District from Dumbeck. The City shall retain the exclusive right to determine whether to extend water services to properties annexed from Dumbeck, but which did not have water service at the time of annexation.**, including to current customers located outside of the District and outside of the ~~Urban Growth Boundary~~. However, nothing in this agreement shall be construed to prevent the City from limiting water service when necessary or prudent to manage the water system or water resource (e.g., where rationing is required, where repairs require interruption of service, where a natural disaster affects service, etc.).
4. ~~The District employees providing operation, maintenance, and billing service on June 30, 1990, shall be transferred to the City on July 1, 1990, pursuant to ORS 236.610 to 236.650. Because of the economies of scale, the City and the District recognize that the City will not require the same number or types of employees as the District. The District shall furnish the employment records of the transferred employees to the City at the time of transfer.~~
5. ~~The North Albany County Service District Advisory Committee (NACSD AC) shall be retained to advise the City and the District. The District Capital Improvement Plan (CIP) and the proposed budget shall be submitted to the NACSD AC each year for its review and recommendation. In addition, three members from the NACSD AC shall be selected by the District Governing body to serve on the District Budget committee appointed pursuant to local budget law.~~

### III. WATER AND SEWER RATES

#### 1. Water Rates:

- (a) ~~The District agrees to raise its water rates prior to transfer to reflect reasonable costs of operations and systems development. The rates shall be increased as follows:~~
  - (A) ~~The base rate for all customers shall be increased by \$2.50 per month, effective July 1, 1990.~~
  - (B) ~~The rate for water usage over the minimum 12,000 gallons per month shall be increased to \$.95 per thousand gallons, effective October 1, 1990.~~
  - (C) ~~A capital improvement fee of \$5.00 per month shall be charged to each District customer, effective July 1, 1990. Revenue raised by this fee shall be placed by the City into a North Albany Capital Improvement Fund, dedicated to use for capital improvements to the District water system. The base connection fee assessed pursuant to the District Water Operations Ordinance shall also be placed in the North Albany Capital improvement fund.~~

1. **Rate Changes in the District** ~~The City shall continue to charge these rates at time of transfer. Thereafter, changes of the rates provided in subsections (a)(A) and (a)(B) shall be linked to water rate changes enacted by the City for customers within the City limits. The District rates shall increase or decrease the water rates in subsections (a)(A) and (a)(B) of this section so that annual District revenue from these rates will be increased or decreased by the same percentage as annual City water rates revenue is are increased or decreased. by water rate changes within the City limits. The City shall provide the District with twenty days notice and opportunity to comment before changing water rates.~~

~~(e) Upon annexation to the City of territory currently served by the District, customers in the annexed territory will be charged the same water rates paid by customers located within the City limits.~~

~~(d) Pursuant to the District Water Operations Ordinance, customers located outside of the boundaries of the District are charged an additional monthly fee and an additional connection fee assessment in lieu of bond tax payments. The City shall remit revenues raised from these fees to the District, which shall credit such funds to the water bond debt service fund.~~

~~2. Sewer rates; Sewer rates will remain the same as they exist on July 1, 1990, until such time as the new North Albany sewer system is constructed pursuant to the alternative plan and begins service. At such time, new sewer rates will be established by mutual agreement.~~

#### ~~IV. TRANSFER OF DISTRICT PROPERTY~~

~~1. Personal property owned by the District used for the operation and maintenance of the District water and sewer facilities shall be transferred to the City on July 1, 1990.~~

~~2. The District shall convey its real property, including all easements and improvements, to the City within six months of the date assessments are levied against benefitted property in North Albany for the construction of the sewer system to alleviate the health hazard. The City and the District recognize that transfer of the water facilities is subject to review and approval by the Farmers Home Administration (FmHA), which issued the installment water bond by which the District acquired the water facilities. The City and the District further recognized that transfer of sewer facilities may also be subject to conditions in the bonding agreement.~~

#### ~~IV. TERM; AMENDMENT~~

~~1. This agreement shall be effective through December 31, 2031 at which time it shall automatically renew for successive ten-year terms unless either party has provided the other party with no more than 360 days' and no less than 180 days' written notice from the renewal date of its intent to reopen this agreement for purposes of revising or updating terms and provisions. If, upon reopening of this agreement, the parties are unable to agree on new terms or provisions, this agreement may be terminated, in writing, by either party. Written notice of termination shall not be effective less than two years from the date of written notice to reopen the agreement. continue until~~

~~terminated pursuant to subsection (2) of this section, and may only be amended in writing by mutual consent of the parties.~~

~~2. As stated above, this agreement is intended to implement the alternative plan to health hazard annexation submitted by the District and the City of Albany on November 13, 1989. If the EQC certifies approval of the alternative plan pursuant to ORS 222.898 (2), then this agreement may only be terminated upon mutual consent of the parties. If the EQC disapproves the alternative plan and terminates proceedings pursuant to ORS 222.898 (4), or if the EQC's approval is reversed or remanded by a court of competent jurisdiction, then this agreement may be terminated by either party with six months written notice to the other. If the agreement is terminated, any and all District assets transferred to the City pursuant to Section IV(2) shall be transferred back to the District, and any and all District Assets transferred to the City pursuant to Section IV(1) that have not been expended or which retain value shall be transferred back to the District.~~

**2. Termination for Breach:**

~~(a) In the event that the District fails to discharge any obligation of this agreement, the City may terminate this agreement and discontinue all water service and other obligations incurred herein. Exercise of this remedy by the City shall not require the return of any real or personal property transferred to the City by the District pursuant to Section IV of this agreement. This remedy is cumulative and in addition to all other remedies available at law or equity.~~

~~(b) In the event that the City fails to discharge any obligation of this agreement, the District may terminate this agreement, and any and all District assets transferred to the City pursuant to Section IV(2) shall be transferred back to the District, and any and all District Assets transferred to the City pursuant to Section IV(1) that have not been expended or which retain value shall be transferred back to the District.~~

**3. In the event the City anticipates or experiences a significant water shortage or a water delivery problem which affects or will affect water supply customers, the parties agree to meet to address the problem in a timely manner. Both parties agree that if such a circumstance arises, it is in the public health and safety interests of both the District and the City to develop a solution, to the extent possible, that preserves the City's ability to maintain water supply services to City of Albany customers, while at the same time maintaining minimum water supply to District customers.**

## VI. MEDIATION

It is the intent of the parties that this agreement will be carried out in good faith and with mutual cooperation. To accomplish this purpose, the parties agree to submit any dispute under this agreement which the parties are unable to resolve to mediation before seeking termination for breach ~~pursuant to Section V(3)~~ or pursuing other legal action to

enforce the terms and conditions of this agreement. ~~The mediator shall be selected and shall conduct the mediation pursuant to the rules and regulations of the Oregon State Mediation and Conciliation Service.~~

VII. NON-SEVERABILITY

Should it be determined by any court of competent jurisdiction that any portion of this agreement is void as a matter of law, and if such determination prevents any party from discharging its obligations under this agreement, this agreement may be terminated for breach at the option of the party not in breach.

Adopted this 21st day of September 21 , 2021.

Signed this 21st day of September , 2021.

GOVERNING BODY  
NORTH ALBANY COUNTY SERVICE DISTRICT

\_\_\_\_\_  
Xanthippe Augerot, Chair

\_\_\_\_\_  
Nancy Wyse, Commissioner

Approved as to form:

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Pat Malone, Commissioner

**CITY OF ALBANY:**

DATED this \_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Alexander D. Johnson, II, Mayor

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Peter Troedsson, City Manager

APPROVED AS TO FORM:

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Sean Kidd, Albany City Attorney



**Table 2 - 2021 WQIA Service Potential - Parcel Master Table**

Parcel ID	Address	Service Status	Special Case
1000000001	1000000001	Potential Service	
1000000002	1000000002	With Service	
1000000003	1000000003	With Service/Potential Service	
1000000004	1000000004	Potential Service	
1000000005	1000000005	With Service	
1000000006	1000000006	With Service/Potential Service	
1000000007	1000000007	Potential Service	
1000000008	1000000008	With Service	
1000000009	1000000009	With Service/Potential Service	
1000000010	1000000010	Potential Service	
1000000011	1000000011	With Service	
1000000012	1000000012	With Service/Potential Service	
1000000013	1000000013	Potential Service	
1000000014	1000000014	With Service	
1000000015	1000000015	With Service/Potential Service	
1000000016	1000000016	Potential Service	
1000000017	1000000017	With Service	
1000000018	1000000018	With Service/Potential Service	
1000000019	1000000019	Potential Service	
1000000020	1000000020	With Service	
1000000021	1000000021	With Service/Potential Service	
1000000022	1000000022	Potential Service	
1000000023	1000000023	With Service	
1000000024	1000000024	With Service/Potential Service	
1000000025	1000000025	Potential Service	
1000000026	1000000026	With Service	
1000000027	1000000027	With Service/Potential Service	
1000000028	1000000028	Potential Service	
1000000029	1000000029	With Service	
1000000030	1000000030	With Service/Potential Service	
1000000031	1000000031	Potential Service	
1000000032	1000000032	With Service	
1000000033	1000000033	With Service/Potential Service	
1000000034	1000000034	Potential Service	
1000000035	1000000035	With Service	
1000000036	1000000036	With Service/Potential Service	
1000000037	1000000037	Potential Service	
1000000038	1000000038	With Service	
1000000039	1000000039	With Service/Potential Service	
1000000040	1000000040	Potential Service	
1000000041	1000000041	With Service	
1000000042	1000000042	With Service/Potential Service	
1000000043	1000000043	Potential Service	
1000000044	1000000044	With Service	
1000000045	1000000045	With Service/Potential Service	
1000000046	1000000046	Potential Service	
1000000047	1000000047	With Service	
1000000048	1000000048	With Service/Potential Service	
1000000049	1000000049	Potential Service	
1000000050	1000000050	With Service	
1000000051	1000000051	With Service/Potential Service	
1000000052	1000000052	Potential Service	
1000000053	1000000053	With Service	
1000000054	1000000054	With Service/Potential Service	
1000000055	1000000055	Potential Service	
1000000056	1000000056	With Service	
1000000057	1000000057	With Service/Potential Service	
1000000058	1000000058	Potential Service	
1000000059	1000000059	With Service	
1000000060	1000000060	With Service/Potential Service	
1000000061	1000000061	Potential Service	
1000000062	1000000062	With Service	
1000000063	1000000063	With Service/Potential Service	
1000000064	1000000064	Potential Service	
1000000065	1000000065	With Service	
1000000066	1000000066	With Service/Potential Service	
1000000067	1000000067	Potential Service	
1000000068	1000000068	With Service	
1000000069	1000000069	With Service/Potential Service	
1000000070	1000000070	Potential Service	
1000000071	1000000071	With Service	
1000000072	1000000072	With Service/Potential Service	
1000000073	1000000073	Potential Service	
1000000074	1000000074	With Service	
1000000075	1000000075	With Service/Potential Service	
1000000076	1000000076	Potential Service	
1000000077	1000000077	With Service	
1000000078	1000000078	With Service/Potential Service	
1000000079	1000000079	Potential Service	
1000000080	1000000080	With Service	
1000000081	1000000081	With Service/Potential Service	
1000000082	1000000082	Potential Service	
1000000083	1000000083	With Service	
1000000084	1000000084	With Service/Potential Service	
1000000085	1000000085	Potential Service	
1000000086	1000000086	With Service	
1000000087	1000000087	With Service/Potential Service	
1000000088	1000000088	Potential Service	
1000000089	1000000089	With Service	
1000000090	1000000090	With Service/Potential Service	
1000000091	1000000091	Potential Service	
1000000092	1000000092	With Service	
1000000093	1000000093	With Service/Potential Service	
1000000094	1000000094	Potential Service	
1000000095	1000000095	With Service	
1000000096	1000000096	With Service/Potential Service	
1000000097	1000000097	Potential Service	
1000000098	1000000098	With Service	
1000000099	1000000099	With Service/Potential Service	
1000000100	1000000100	Potential Service	

**Jurisdictional Boundaries**

- Albany City Limits
- Urban Growth Boundary

**Service Status**

- Potential Service
- With Service
- With Service/Potential Service
- Special Case

Parcel ID - See related table

