CITY OF KENT,
WASHINGTON

ORDINANCE NO. L.L.3b

AN ORDINANCE of the City of Kent, Washington, approving and authorizing the execution of a contract with Water District No. 75, King County, Washington, relating to water service and the operation and maintenance of water distribution facilities within the City of Kent now operated by Water District No. 75.

THE CITY COUNCIL OF THE CITY OF KENT DO ORDAIN

AS FOLLOWS:

The contract between the City and Water District No. 75, King County, Washington, relating to the furnishing of water service and the operation of certain water distribution facilities within the City and the Water District, a copy of which contract is on file with the City Clerk and by this reference incorporated in this Ordinance, is approved, and the Mayor of the City is authorized to execute the same on behalf of the City. Upon execution of the contract by the Mayor of the City and the authorized representative of the Water District, the contract shall be binding upon the City, and the City Council and the officers of the City are authorized to execute and carry out all of the contract provisions relating to the City's rights or responsibilities.

DATED this 6-3 day of July, 1962, at a regular meeting of the City Council of City.

ATTEST:  
City Clerk

FORM APPROVED:
City Attorney

Mayor
IN CONSIDERATION OF THE COVENANTS AND CONDITIONS HEREAFTER CONTAINED, EACH OF WHICH ARE CONDITIONED UPON THE OTHER AND ARE MATERIAL TO EITHER GOVERNMENTAL BODIES' OBLIGATIONS TO PERFORM THE TERMS HEREOF, IT IS AGREED AS FOLLOWS:

1. (a) The City shall assume the operation and maintenance of the District's facilities and shall furnish water to all water users within the entire territorial limits of the Water District lying east of Primary State Highway No. 1 (hereinafter referred to as "the freeway") and south and west of Secondary State Highway No. 5A (hereinafter referred to as the "Kent-Des Moines Road"), and which lie within the City's territorial limits.

(b) If and when additional areas within the above described area are annexed to the City then, in that event, the City shall assume the operation and maintenance of the Water District's facilities and shall furnish water to all water users within said annexed area.

(c) The City shall immediately commence to serve the following additions to King County contained within the above-described area: Green Valley Divisions No. 1 and 2, Burkland's First Addition, Linda Heights Replat, and Skyhill Addition. It is recognized that in some instances the City cannot immediately furnish water service to all of the water users within the above-described area or, in the event of annexation, the City may not be able to immediately furnish water service within the newly annexed areas. In such cases, the Water District will continue to serve such areas, to the extent it is practicable and economically feasible, until such time as the City is prepared to serve those areas.

(d) The City shall, subject to the provisions hereinafter contained, bill and collect all water service charges from water users it serves. The Water District shall bill and collect all water service charges from water users it serves.
AGREEMENT
CITY OF KENT
WATER DISTRICT NO. 75, KING COUNTY

WHEREAS, the City of Kent, hereinafter referred to as the "City" has, over approximately the past four years, annexed various and sundry portions of Water District No. 75, King County, hereinafter referred to as the "Water District"; and

WHEREAS, the Water District has objected to said annexations and has refused to honor the City's demands that the Water District's facilities within the annexed territories be relinquished to the City of Kent; and

WHEREAS, the foregoing has resulted in numerous legal actions between the City and the Water District, two of which actions are still pending before the courts of the State of Washington, and one of which concerns the constitutionality of Chap. 248, § 2 and 3, Laws of the State of Washington of 1951; and

WHEREAS, said litigation has been extended, complex and costly for both governmental bodies and has had an adverse effect upon development and persons within the disputed areas; and

WHEREAS, to avoid further expense and controversy and to define the areas of water service by each of the municipalities, the City and the Water District desire to enter into a contract for settlement of the litigation and for water service within the disputed areas; and

WHEREAS, said contract is pursuant to the laws of the State of Washington and the general powers of each of said governmental bodies; and

WHEREAS, said contract will not adversely affect the revenues necessary to pay the maintenance and operation of the District's facilities and payment of the District's obligations; NOW, THEREFORE
2. The Water District shall continue to serve all areas lying east of the freeway and north of the Kent-Des Moines Road which lie within the territorial limits of the Water District, subject to the following provisions:

(a) If at any time within the term of the five year franchise hereinafter provided for, or any extensions or renewals thereof, the City of Kent shall install sewers within the aforesaid area and within its territorial limits as presently constituted and as hereinafter extended by annexations, if any, the City shall be entitled to also furnish water to such sewer users and shall, in the event the Water District has facilities within the severed area, assume the operation and maintenance of the said Water District's facilities.

(b) Upon expiration of the five year franchise hereinafter provided for, or any extensions or renewals thereof, the City will assume the operation and maintenance of Water District facilities lying within the territorial boundaries of both the City and the Water District and shall serve the water users within such areas.

(c) The City shall, subject to the provisions hereinafter contained, bill and collect all water service charges from water users it serves. The Water District shall bill and collect all water service charges from water users it serves.

(d) It is recognized that upon expiration of the five year franchise hereinafter provided for, or any extensions or renewals thereof, the City may, in all instances, be able to immediately furnish water service to all of the water users within its then territorial boundaries within the above described area. In such event, the Water District will continue to serve such areas, to the extent it is practicable and economically feasible, until such time as the City is prepared to serve those areas.

3. The Water District shall serve all water users west of the freeway situated within the territorial limits of both the City and the Water District as said territorial limits are presently constituted or as hereinafter extended by annexation to either the City or the Water District for the period of the fifty (50) year franchise hereinafter provided for. The Water District shall continue to exercise, west of the freeway, all rights, privileges, powers and functions of the District as provided by law as if there had been no annexation, including but not by way of limitation
the right to levy and collect special assessments, adopt and
carry out the provisions of its comprehensive plan, or amend-
ments thereto, for a system of improvements, and issue and sell
revenue and general obligation bonds within the aforesaid area.

4. Notwithstanding any provisions of paragraphs 1 through
3 above, the Water District shall retain title to and exclusive
use of all mains and facilities outside the territorial limits
of the City and, in addition, shall maintain title to and ex­
clusive use of the following described waterline contained within
the territorial limits of the City: Commencing at the inter­
section of the freeway and the Military Road, thence southerly
along the Military Road to South 240th St., thence west along
South 240th St. to and across the freeway. Provided, however,
that until such time as the City annexes the entire area contained
within Valley Vista, Suburban View and Rancho Linda Additions, the
Water District shall retain title to and exclusive use of the
existing main lying in the Military Road between South 240th St.
and South 242nd St.

5. The City agrees to grant franchises to the Water Dis­
trict, subject to the terms and conditions of this agreement, as
follows:

(i) A five (5) year franchise for the area
described in paragraph 2 above of this agreement.

(ii) A fifty (50) year franchise for the area
described in paragraph 3 above of this agreement.

Said franchises shall, subject to the terms and conditions
of this agreement, grant to the Water District the exclusive right
to serve water to users within said areas, shall provide that the
City of Kent shall not serve water to the users within said areas,
shall provide that the Water District shall have the right to enter
upon and in the streets within said areas for the purposes of
installation of water mains and distribution facilities and repair
and replacement of such facilities, subject to reasonable requests of the City concerning safety and street restoration, shall provide that the City will, subject to City Ordinances and regulations concerning the same, grant to the Water District such permits and easements as are necessary and reasonable, and shall further provide that the City and Water District will cooperate to implement the intent and purpose of this agreement and of said franchises.

6. The City shall pay from the water fund of the City to the Water District, semi-annually on or before June 1 and December 1 of each year, one-half (1/2) of an amount of money determined by the following formula:

There shall be determined what percentage of the total revenues of the Water District derived from charges for water service during the twelve (12) month periods immediately preceding each and every respective date of annexation by the City of Water District territory is represented by the charges for water service within each of the respective territories so annexed during the said 12 month periods immediately preceding each and every respective date of annexation. The percentage amounts so determined shall be multiplied by the debt service requirements for each year of all then outstanding water revenue bonds of the Water District, which bonds were also outstanding on the respective dates of each and every annexation to the City of those territories within the Water District, as calculated and ascertained on or before the 15th day of January of each and every year. The product so determined shall be deemed the City's share of the annual debt service requirements of the Water District due from territories annexed to the City.

For the purpose of the first payment due December 1, 1962, in lieu of the payment representing one-half (1/2) of a percentage of the revenue bond debt service requirements, the City shall pay that fraction of the percentage amount that the period between the date of this agreement and December 1, 1962 is a fraction of the year of 1962. The same method of pro-rating, as above, shall be utilized in the case of any future annexations.

The previous twelve (12) month revenues from those water users within the City which continue to receive service from the Water District pursuant to paragraphs 1(c) and 2(d) of this contract shall not be counted as revenue from within the annexed territories for the purpose of determining the City's payments until those water users are served by the City. On the first semi-annual payment date following the commencement of City service to those users, the percentage amount based solely on the revenues of those users shall be determined separately and prorated from the date of commence-
ment of the City's service to that first semi-
annual payment date.

7. Nothing contained herein shall impair the Water Dis-
trict's right to collect assessments presently levied against
properties within the territorial limits of the City of Kent nor
impair the Water District's right to make levies against properties
within the territorial limits of the Water District for general
obligation bonds of the District, nor likewise prevent the City
from the exercise of the same authority within the territory to be
served by the City under this agreement.

8. In the interim, until the City serves all water users
east of the freeway, the City and the Water District shall cooperate
in extension and development of the City's and Water District's
facilities so that duplicating or overlapping facilities or ser-
vices will be made unnecessary. The Water District agrees not to,
directly or indirectly, contest or hinder present or future annexa-
tions, if any, to the City.

9. It is recognized that the water facilities contained
within the Capehart Housing Project and the Nike installation east
of the freeway are owned by the Federal government and the Water
District is presently serving said areas pursuant to contract with
the Federal government. The Water District does hereby assign and
transfer said contracts and the right to serve said areas to the
City and does further agree to cooperate with the City in obtaining
Federal approval of such assignment, if necessary.

10. The City shall grant such permits and easements as are
reasonably necessary for the Water District to serve, by mains
situate east of the freeway, the Water District's water users west
of the freeway.

11. Wherever in this agreement is is provided that the
City will assume the operation and maintenance of the Water District's
facilities, it shall be interpreted to mean that the Water District
shall transfer and convey said facilities to the City and said
facilities shall be severed from the Water District.
12. This agreement shall be subject to present and future statutes of the State of Washington; provided, however, that this shall not be construed to include § 2 and 3, Chap. 248, Laws of the State of Washington of 1951.

13. This agreement shall be effective upon approval hereof by Ordinance of the City and resolution of the Water District and authorized execution hereof, on behalf of each governmental body, by the Mayor of the City and the President of the Board of Commissioners of the Water District.

14. Upon approval, as aforesaid, of this agreement by ordinance and resolution, the City agrees to withdraw its presently pending lawsuit against the Water District and the Water District agrees to withdraw its presently pending suit against the City.

EXECUTED IN DUPLICATE this 3 day of July, 1962.

Alex Thornton, as Mayor of, and For and on behalf of the CITY OF KENT, pursuant to Ordinance No. 1136 of the City of Kent adopted at a meeting of the City Council held on the 2 day of July, 1962.

Attest:

City Clerk, City of Kent

EXECUTED This ___ day of ____________, 1962.

Henry Lyle, as President of the Board of Water Commissioners of Water District No. 75, King County, pursuant to Resolution No. ___ of the Water District No. 75, King County, held on the ___ day of _________, 1962.
CERTIFICATION

I, CHARLES BRIDGES, City Clerk of the City of Kent, Washington, certify that the attached Ordinance is a true and correct copy of Ordinance No. 1036 passed by the City Council at a regular meeting thereof, and approved by the Mayor on July 25, 1962, as that Ordinance appears on the Minute Book of the City Council.

DATED this ___ day of July, 1962.

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Charles Bridges, City Clerk