

ORDINANCE NO. 686

AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF KING CITY, MISSOURI, APPROVING A FEE OF THREE (3) DOLLARS PER WATER METER, PER YEAR, TO SUPPORT THE CITY OF KING CITY'S PARTICIPATION IN THE GREAT NORTHWEST WHOLESALE WATER COMMISSION FOR A THREE YEAR PERIOD.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF KING CITY, MISSOURI, AS FOLLOWS:

Section 1: The Board of Aldermen of the City of King City, Missouri, agree that membership in the Great Northwest Wholesale Water Commission would be an advantage for the City of King City and presents an opportunity for growth for both the City of King City and the entire Northwest Missouri region.

Section 2: The Board of Aldermen of the City of King City, Missouri, acknowledges that the membership fee of three dollars (\$3.00) per water meter, per year, is a reasonable amount and does not obligate the City of King City to purchase water from the commission nor does it obligate the City of King City to incur any debt obligations.

Section 3: The Board of Aldermen of the City of King City, Missouri, acknowledges that the City's membership and fee would be for a three (3) year period and do hereby authorize the City Clerk to add a three dollar (\$3.00) charge (regional water fee) to one month's water bill each to the next three (3) calendar years with such month to be selected by the City Clerk. Any obligation beyond the three (3) year period, membership of fee shall require the approval of the Board of Aldermen.

Section 4: That the Mayor, acting as an agent of the City of King City and the City of King City's delegate to the Board of Directors of the Great Northwest Wholesale Water Commission, is hereby authorized to enter into and execute a letter agreement or memorandum of understanding, if necessary, with the Great Northwest Wholesale Water Commission or its trustee to implement the provisions of this agreement.

Section 5: This Ordinance shall be in full force and effect from and after its passage and approval.


Harley D. Weddle, Mayor

ATTEST:


Janet Smith, City Clerk

GREAT NORTHWEST WHOLESALE WATER COMMISSION

JOINT CONTRACT

THIS JOINT CONTRACT is made and entered into as of the 15th day of July, 2010, by municipalities, public water supply districts and wholesale water commissions formed under the provisions of the laws of the State of Missouri whose names are subscribed hereto (the "Contracting Parties"), acting pursuant to the authority conferred upon them by the Joint Municipal Utility Commission Act set forth in Sections 393.700 to 393.770, Revised Statutes of Missouri (the "Act");

WITNESSETH:

WHEREAS, the Contracting Parties desire, pursuant to the provisions of the Act, to create and become parties to a joint contract establishing a joint commission, as a separate governmental entity, constituting a body corporate and politic of the State of Missouri, in order to provide for the funding, financing, construction, acquisition, and operation of a wholesale water system;

NOW, THEREFORE, the Contracting Parties agree as follows:

ARTICLE I

EFFECTIVE DATE

This Joint Contract shall become effective and the existence of the Commission shall commence when at least _____ contracting municipalities, public water supply districts and/or wholesale water commissions have duly executed it.

ARTICLE II

CREATION OF COMMISSION; PURPOSE

The Contracting Parties, pursuant to the Act, hereby create a joint commission, as a separate governmental entity, constituting a body corporate and politic of the State of Missouri, to be known as the GREAT NORTHWEST WHOLESALE WATER COMMISSION (the "Commission"). The purposes of this Joint Contract and the Commission are, generally, to fund, finance, construct, acquire, and operate a wholesale water system for the Contracting Parties to meet the needs of such Contracting Parties and the residents thereof in the most economic and feasible manner.

ARTICLE III

DURATION OF JOINT CONTRACT; DISPOSITION OF ASSETS UPON DISSOLUTION

The duration of this Joint Contract and the existence of the Commission shall be perpetual unless sooner terminated by a vote evidenced by resolution of the governing bodies of at least three-fourths of the Contracting Parties; provided, however, that this Joint Contract and the existence of the Commission may not in any event be terminated so long as the Commission has any bonds, notes, or other obligations outstanding unless sufficient funds have been set aside irrevocably in trust to satisfy of the outstanding bonds, notes, or other obligations of the Commission.

Upon termination of the existence of the Commission, the property and assets of the Commission shall be distributed to another entity approved by a vote evidenced by resolution of the governing bodies of at least three-fourths of the Contracting Parties, or in the absence of a vote approving distribution of the property and assets of the Commission to another entity, the property and assets of the Commission shall be divided and distributed among the Contracting Parties that are then parties to this Joint Contract in proportion to the value of the property and assets contributed by said Contracting Parties. For, purposes of this provision, the value of contributed property and assets shall be considered to be replacement value less depreciation.

ARTICLE IV

WITHDRAWAL

Any contracting party may withdraw from the Commission upon giving 30 days' written notice to the Commission, evidenced by resolution of its governing body; provided, that if the Commission, prior to the giving of such notice, shall have incurred obligations in conformity with Article XII that mature after the effective date of the notice of withdrawal, the withdrawal shall not become effective until such obligations or debt shall have been paid by the Commission, or until sufficient funds have been set aside irrevocably in trust to satisfy such obligations, or, in the alternative, until the withdrawing contracting party shall have paid to the Commission its pro rata portion thereof, or until sufficient funds have been set aside irrevocably in trust to satisfy such portion. Any contracting party which withdraws from the Commission shall not be entitled to any property or assets of the Commission. Any contracting party that has given notice of withdrawal shall not be obligated for new indebtedness incurred after the giving of such notice.

ARTICLE V

AMENDMENT

This Contract can only be amended by the governing bodies of each contracting party. An amendment must be approved (by a simple majority vote) by three-fourths (3/4) of the governing bodies of each contracting party. e.g. If there are six contracting parties, it would take four members to approve an amendment. The vote to approve or disapprove an amendment by each contracting party would be by a simple majority.

ARTICLE VI

ADDITIONAL CONTRACTING PARTIES

Additional municipalities or districts may become additional Contracting Parties of the Commission under this Joint Contract pursuant to a supplement to this Joint Contract, subject to the provisions of any bond resolution or other contract with holders of bonds, notes, or other obligations of the Commission. Such supplement to this Joint Contract shall become effective when it has been duly executed and delivered by such additional Contracting Parties and when it has been duly approved by the existing Contracting Parties.

ARTICLE VII

ASSOCIATE MEMBERSHIP

In addition to additional Contracting Parties, other municipalities, districts, commissions or other entities may become Associate Members of the Commission. It is anticipated that there would be two circumstances in which an entity may become an Associate Member.

1. Initial contracting parties who do not end up signing water purchase contracts may choose to become Associate Members.
2. Other entities as specified herein who do not choose to become contracting parties may be Associate Members.

Associate Members would not be eligible to vote or hold office. Associate Members would be eligible to serve on committees and sub-committees and to otherwise participate in activities designated by the Commission. Associate Members would be assessed dues or fees as specified by the Commission.

ARTICLE VIII

BOARD OF DIRECTORS

(a) **Duties.** The business and affairs of the Commission shall be governed by a Board of Directors (the "Board") in which shall be vested all of the powers vested in the Commission by this Joint Contract. The Board shall have the powers, duties, and obligations set forth herein and in the Act, which duties shall include the obligation to comply or to cause compliance with the Act and with each and every term, provisions, and covenant in this Joint Contract on the part of the Commission to be kept or performed. The Board shall have the power to adopt rules and regulations, not inconsistent with this Joint Contract, the Act or laws of the State of Missouri, for management, administration, and regulations of the business and affairs of the Commission.

(b) **Number.** The Board shall consist of one director from each contracting municipality or district which becomes a contracting party to this Joint Contract.

(c) **Appointment.** The governing body of each of the Contracting Parties shall appoint by resolution or ordinance one director and one alternate director. A certified copy of such resolution or ordinance shall be provided to the Commission which shall constitute the qualification of such director and alternate. An alternate may attend and vote at meetings of the Board of Directors when the director does not attend, and such alternate shall be counted for the purpose of establishing a quorum. Initial appointments shall be made at the time the governing body of a contracting party authorizes the execution and delivery of this Joint Contract. The term of each director and alternate so appointed shall continue at the discretion of each contracting party which appointed them and until such successor shall be appointed and qualified. A vacancy occurring in the Board, whether such vacancy be the result of resignation, death, removal or disability or otherwise, shall be filled within 45 days from the date the vacancy occurs by appointment by the governing body of the contracting party which appointed the director or alternate with respect to whom the vacancy occurred, except as otherwise provided by law. Directors and alternates may be reappointed. A director or alternate shall not be deemed to have commenced his or her term of office or to have any of the powers or responsibilities of a director (i) unless such director or alternate is qualified to act as such, and (ii) until the time such director or alternate accepts the office of director or alternate either by a written acceptance or by participating in the affairs of the Commission at a meeting of the Board or otherwise.

(d) **Removal.** Any director and alternate' may be removed, with or without cause, at any time by the governing body of the contracting party which appointed such director or alternate.

(e) **Compensation of Directors.** No director shall receive compensation from the Commission for any service such director may render to it as a director. A director may be reimbursed for his or her actual expenses reasonably incurred in and about such director's performance of his or her duties as a director.

(f) **Committees.** Committees not having the authority of the Board in the management

of the Commission may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Each such committee shall have such duties and authority as are from time to time delegated to it by the Board. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any member thereof, of any responsibility imposed upon such Board by law.

(g) **Executive Committee.** The Board shall have the authority to appoint an executive committee of the Board to which the power and direction of the Board may be delegated as the Board or state statute shall specify.

(h) **Accounting and Audits.** The Board shall establish and maintain an appropriate accounting system. A complete audit shall be made of the Commission's accounts, books, and financial conditions as soon as practicable after the close of each fiscal year, and a report thereon shall be submitted to the Board and to the governing body of each contracting party.

ARTICLE IX

MEETINGS

(a) **Organizational Meeting.** The Board shall, promptly following the appointment of its directors, meet, organize and elect a Chairman, Vice Chairman, Secretary and Treasurer, and conduct such other business as it deems necessary. Promptly following the organizational meeting the Secretary shall notify the Contracting Parties in writing of the organization of the Commission.

(b) **Annual Meetings.** An annual meeting of the Board shall be held within the first 90 days in each calendar year, at such place within the State of Missouri as shall be designated in the notice of the meeting, to elect officers, to pass upon reports from the preceding fiscal year, and to transact such other business as may come before the meeting. Failure to hold the annual meeting in any year shall not cause a forfeiture or dissolution or otherwise affect the Commission.

(c) **Regular Meetings.** The Board may, from time to time, provide by resolution for the time and place for the holding of any regular meetings without notice to the Directors other than such resolution. Failure to hold regular meetings shall not cause a forfeiture or dissolution or otherwise affect the Commission.

(d) **Special Meetings.** Special meetings of the Board may be called by the Chairman or upon written request signed by not less than two directors, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the Board shall be held at such time and place as shall be fixed by the Chairman or by such directors.

(e) **Notice of Meetings.** Written notice of the annual or of any special meeting of the

Board shall be delivered to each director not less than three, nor more than 30 days, before the date fixed for such meeting, either personally, by e-mail, or by regular mail, by or at the direction of the Secretary or, upon his default, by any director. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. Mails addressed to the Director at his address as it appears on the records of the Board, with postage thereon prepaid.

(f) **Waiver of Notice.** Whenever any notice is required to be given to any director under provisions of law or this Joint Contract, a waiver thereof in writing signed by such director, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a director or alternate at any meeting of the Board shall constitute a waiver of notice of such director of such meeting except when such director or alternate attends such meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

(g) **Quorum.** The presence of a majority of the Board shall be requisite for and shall constitute a quorum for the transaction of business at all meetings. Vacant positions are not counted in determining a majority of the Board; provided, however, that in no event shall a quorum consist of less than one-third of the whole Board. The act of a majority of the directors present at a meeting at which a quorum is present shall be valid as the act of the Board except in those specific instances in which a larger vote may be required by law or this Joint Contract.

(h) **Adjournment.** Whether or not a quorum shall be present at any such meeting, the directors present shall have power successively to adjourn the meeting, without notice, or publication of notice, other than announcement at the meeting, to a specified date. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which could have been transacted at the original session of the meeting.

(i) **Voting.** Each director present at any meeting shall be entitled to cast one vote on each matter coming before such meeting for decision. If a roll call is taken, all votes shall be recorded so as to attribute each "aye" and "nay" vote, or abstinence if not voting, to the name of the respective director.

(j) **Meeting by Conference Telephone.** In accordance with Chapter 610 of the Revised Statutes of Missouri, as amended, Members of the Board, or of any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting. Notice for such meetings shall designate a place where members of the public may hear the conference call for purposes of complying with Chapter 610 of the Revised Statutes of Missouri, as amended.

ARTICLE X

OFFICERS

(a) **Officers.** The officers of the Commission shall be a Chairman, Vice Chairman, Secretary, Treasurer, and such other officers and assistant officers as may be authorized by the Board from time to time to perform such duties as may be approved by the Board, including General Manager. The officers of the Commission need not be directors. The duties, terms of employment, and compensation of all officers, agents and employees of the Commission shall be fixed by the Board. Any two offices may be held by the same director, except Chairman and Secretary.

(b) **Initial Election of Officers.** At the organizational meeting of the Commission, the directors shall elect a Chairman, Vice Chairman, Secretary, and Treasurer who shall serve as such officers of the Commission until the next succeeding annual meeting of the Board and until their successors are elected and qualified.

(c) **Regular Elections and Term of Office.** The officers shall be elected annually by the Board at the annual meeting of the Board. Officers may be re-elected. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Vacancies or new offices may be filled at any meeting of the Board. Each officer shall hold office until the next succeeding annual meeting of the Board or until his successor shall be elected and qualified, whichever is later.

(d) **Removal.** Any officer, employee or agent elected or appointed by the Board may be removed by the Board, with or without cause, whenever in its judgment the best interests of the Commission will be served thereby.

(e) **Duties of Officers.** In addition to such duties designated by the Board, the duties of the officers shall include the following:

Chairman: The Chairman shall preside at all meetings of the Board and, except as otherwise delegated by the Board, shall execute all legal instruments of the Commission. In the event the office of General Manager exists, should there be a vacancy in the office of General Manager, the Chairman shall be the principal executive officer of the Commission with full responsibility for the planning, operations, and administrative affairs of the Commission and the coordination thereof pursuant to policies and programs approved by the Board from time to time and shall perform such other duties as the Board may prescribe.

Vice Chairman: The Vice Chairman, in the absence of the Chairman, or in the event of his inability or refusal to act, shall perform the duties of the Chairman and when so acting shall have all the powers of and be subject to all the restrictions upon the Chairman. The Vice Chairman shall also perform such other duties as may be prescribed by the Board from time to time.

Secretary: The Secretary shall maintain the official records of the

Commission, including this Joint Contract, the minutes of meetings of the Board and its committees, and a register of the names and addresses of directors and officers, and shall issue notice of meetings, and may attest to all documents of the Commission. The Secretary shall perform such other duties as the Board may prescribe from time to time.

Treasurer: The Treasurer shall serve as the financial officer of the Commission and shall be responsible for the receipt, custody, investment, and disbursement of the Commission's funds and securities, and shall perform such other duties as the Board may, from time to time, prescribe.

General Manager: The Board may appoint a General Manager. The General Manager shall be the principal executive officer of the Commission with full responsibility for the planning, operations and administration of the affairs of the Commission and the coordination thereof pursuant to and in accordance with the policies and programs approved by the Board from time to time.

Other Agents. The Board from time to time may also appoint such other agents for the Commission as it shall deem necessary or advisable, each of whom shall serve at the pleasure of the Board or for such period as the Board may specify, shall exercise such powers, have such titles and perform such duties as shall be determined from time to time by the Board or determinations.

Duties of Officers May Be Delegated. If any officer of the Commission be absent or unable to act, or for any other reason that the Board may deem sufficient, the Board may delegate, for the time being, some or all of the functions, duties, powers, and responsibilities of any officer to any other officer, or to any other agent or employee of the Commission or other responsible person, provided a majority of the whole Board concurs therein.

ARTICLE XI

GENERAL POWERS

The general powers of the Commission shall be the powers set forth in the Act and the power to:

(a) plan, fund, develop, finance, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend, sell, or improve one or more wholesale water systems, either exclusively or jointly or by participation with municipally owned or investor owned public water systems, or with other municipalities, commissions or districts, or acquire any interest in or any rights to capacity of a wholesale water system, within or outside of the State of Missouri and act as an agent, or designate one or more other persons participating in a wholesale water system to act as its agent, in connection with the planning, funding, financing, acquisition, construction, operation, maintenance, repair, extension, or improvement of such project;

- (b) enter into operating, franchises, exchange, interchange, distribution, and other similar agreements with any person;
- (c) make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Commission;
- (d) employ agents and employees;
- (e) contract with any person within or outside of the State of Missouri, for the construction of any project, or for the ownership of any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds;
- (f) acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;
- (g) exercise the powers of eminent domain as provided by law;
- (h) incur debts, liabilities, or obligations including the issuance of bonds and notes pursuant to the authority granted in the Missouri Constitution and the laws of the State of Missouri;
- (i) sue and be sued in its own name;
- (j) fix, maintain, and revise fees, rates, rents, and charges for functions, services, facilities, or commodities provided by the Commission;
- (k) make, and from time to time, amend and repeal, rules and regulations not inconsistent with this Joint Contract;
- (l) conduct any and all activities authorized by the Act;
- (m) invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursements, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the Board deems appropriate;
- (n) join organizations, membership in which is deemed by the Board to be beneficial to accomplishment of the Commission's purposes;
- (o) exercise any other powers which are deemed necessary and convenient by the Board to effectuate the purposes of the Commission;
- (p) do and perform any authorized acts and things through or by means of an agent or by contracts with any person; and
- (q) the Commission shall not make any loan to any officer or director of the

Commission. No loans shall be contracted on behalf of the Commission and no evidence of any financial obligation shall be issued in its name unless authorized by a resolution of the Board.

ARTICLE XII

ACQUISITION, CONSTRUCTION, OPERATION AND MAINTENANCE OF PROJECTS

The Commission shall have the power to fund, finance, acquire, construct, operate, and maintain any of its projects, including any interest in facilities acquired under a co-ownership arrangement with others; provided, that in connection with any such co-ownership arrangement, the Commission may act as agent, or designate any other participant therein to act as agent, for the funding, financing, acquisition, construction, operation, and maintenance of such projects on behalf of all the participants therein.

ARTICLE XIII

FINANCING OF PROJECTS

The Commission may finance any of its projects in such manner as the Board shall authorize by resolution, which may include grants or loans from any governmental agency, or from any commercial lending institutions, and/or including the issuance of revenue bonds, notes, or other obligations. Revenue bonds, notes and other obligations of the Commission shall not be the debts, liabilities, or obligations of the Contracting Parties and neither the faith and credit nor the taxing power of the Contracting Parties shall be pledged to the payment of such obligations or revenue bonds. Each contracting party shall be indemnified by the Commission against all costs and expenses actually and necessarily incurred in connection with the defense of any action, suit or proceeding in which it may be involved or to which it may be a party by reason of being a contracting party to this Joint Contract.

ARTICLE XIV

ANNUAL BUDGET AND PAYMENT OF ADMINISTRATIVE EXPENSES

The Board shall prepare and submit to each contracting party, not later than 60 days prior to the commencement of each fiscal year, except the initial fiscal year, an itemized annual budget that shall set forth in reasonable detail the estimated receipts and expenditures, including administrative expenses, relating to the Commission for such year. Administrative expenses include, but are not limited to, rental of office space, acquisition of office supplies and equipment, utilities, compensation of officers and employees, and reimbursement to Directors of actual expenses reasonably incurred in or about said Director's performance of his or her duties.

In the event the Commission has insufficient funds to pay its administrative expenses, the Board may assess to each Contracting Party a share of these expenses as determined by the Board.

ARTICLE XV

INDEMNIFICATION

No Director or officer shall be liable for any actions or procedures of the Board. Each Director and officer of the Commission, whether or not then in office, shall be indemnified by the Commission against all costs and expenses actually and necessarily incurred in connection with the defense of any action, suit or proceeding in which he or she may be involved or to which he or she may be made a party by reason of his or her being or having been such director or officer, except in relation to matters as to which he or she shall be finally adjudged in such action, suit or proceeding to be liable for willful or wanton negligence or misconduct in the performance of duty. Such costs and expenses shall include amounts reasonably paid in settlement for the purpose of curtailing the costs of litigation, but only if the Commission is advised in writing by its counsel that in the opinion of such counsel the person indemnified did not commit such willful or wanton negligence or misconduct in the performance of duty. The foregoing right of indemnification shall not be exclusive of other rights to which such director or officer may be entitled as a matter of law or by agreement. The directors and officers of the Commission are not individually liable for the debts, liabilities, or obligations of the Commission.

ARTICLE XVI

PRINCIPAL PLACE OF BUSINESS

The principal place of business of the Commission shall be _____,
_____ , until such time as the Board shall determine otherwise.

ARTICLE XVII

SEAL

The Commission shall not have a seal.

ARTICLE XVIII

CONTRACTS

Except as otherwise provided by law, the Commission may authorize any officer, agent, or employee to enter into any contract, or to execute and deliver any instrument, in the name and on behalf of the Commission.

ARTICLE XIX

CHECKS, DRAFTS, ETC.

All checks, drafts, or other orders for payment of money, and all bonds or other evidences of indebtedness issued in the name of the Commission, shall be signed by such officer or officers, agents, or employees of the Commission and in such manner as shall from time to time be determined by the resolution of the Board of the Commission.

ARTICLE XX

FISCAL YEAR

The fiscal year of the Commission shall commence on the first day of January. The Board may change the fiscal year.

ARTICLE XXI

INTEREST OF CONTRACTING PARTIES

Subject to Article IV hereof, the ownership interest of each contracting party to the Commission shall be determined in the same proportion as set forth in Article III for determining the distribution of assets upon termination of the Commission.

ARTICLE XXII

SERVICES OF CONTRACTING PARTIES

In the performance of its duties the Board may utilize the services of any officer or employee of a contracting party with the approval of the governing body of such contracting party, provided, however, that said contracting party may bill the Commission for, and the

Commission shall pay, the reasonable cost of said services.

**ARTICLE XXIII
INFORMATION FROM CONTRACTING PARTIES**

Upon the request of the Commission, elected and appointed officers and employees of the Contracting Parties shall promptly furnish information, statistics and reports under their control to the Commission and shall otherwise cooperate with the Commission.

**ARTICLE XXIV
NOTICES**

Any formal notice, demand, or request provided for in this Joint Contract shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons and at the addresses provided in writing to the Commission.

**ARTICLE XXV
SEVERABILITY**

In the event that any of the terms, covenants, or conditions of this Joint Contract or their application shall be held invalid as to any person, corporation, or circumstance by any Court having jurisdiction, the remainder of this Joint Contract and the application and effect of its terms, covenants, or conditions to such persons, corporations, or circumstances shall not be affected thereby.

**ARTICLE XXVI
DUPLICATE ORIGINALS**

This Joint Contract may be executed in several counterparts, each of which will be an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the contracting municipalities and districts have caused this Joint Contract to be executed as of the day and year first above written.

CONTRACTING PARTIES