

ORDINANCE NO. 58 -90

By: Richard F. Weber

An Ordinance to authorize the Mayor and Auditor to execute a contract with the City of Columbus for the purchase of water and to declare an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the Mayor and Auditor be, and they hereby are, authorized and directed to execute a contract between the City and the City of Columbus for the purchase of water substantially in the form attached hereto as Exhibit A and incorporated herein by this reference.

Section 2. That this Ordinance is an emergency measure necessary for the immediate preservation of the public peace, health and safety, said emergency being the necessity of providing uninterrupted water supply to residents of the City, and shall, therefore, be in force and effect immediately upon its passage and approval by the Mayor.

Passed: July 24, 1990

[Signature]
President of Council

Attest: [Signature]
Clerk of Council

Approved: Jul 24, 1990

[Signature]
David H. Madison, Mayor

June 26, 1990 - 1st reading
July 10, 1990 - 2nd reading
July 24, 1990 - 3rd reading
adopt.



City of Columbus
Mayor Dana G. Rinehart

Public Utilities and Aviation Department

G. Raymond Lorello, Director

September 25, 1990

The Honorable David H. Madison
Mayor
City of Bexley
2242 East Main Street
Bexley, Ohio 43209

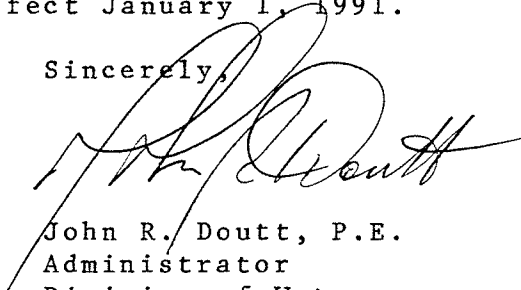
RE: Water Services Contract

Dear Mayor Madison:

Enclosed is a fully executed agreement to provide water services to the City of Bexley.

The wholesale rate, as specified in Section 8 of the agreement, will go into effect January 1, 1991.

Sincerely,



John R. Douth, P.E.
Administrator
Division of Water

JRD:cjg

Enclosure

pc: Director Lorello (original)
Jeff Hubbard
Craig Charleston
Sue Smith
John Funk
Barbara Covington
Greg Moore
File (madisonexecuted)

Utilities Complex

910 Dublin Road, Columbus, Ohio 43215-1116

Director's Office 614/645-6141
Electricity Division 614/645-8371
Sewerage and Drainage Division 614/645-7175
Water Division 614/645-7020
FAX 614/645-3801

Municipal Electric Plant

2500 Jackson Pike
Columbus, Ohio 43223

614/645-3147
FAX 614/645-3654

Airports Division

Port Columbus International Airport

614/239-4000
FAX 614/239-4066

4600 International Gateway
Columbus, Ohio 43219

Bolton Field Airport
2000 Norton Road, Columbus, Ohio 43228

614/645-3634

The City of Columbus is an Equal Opportunity Employer

CONTRACT

BETWEEN

THE CITY OF COLUMBUS, OHIO

AND

THE CITY OF BEXLEY, OHIO

This Contract, made pursuant to Ordinance No. 58-90, passed and approved by the City of Bexley, Ohio, authorizing and directing its Mayor and Auditor to enter into this Agreement, and pursuant to Ordinance No. 2316-90, passed and approved by the City of Columbus, Ohio September 10, 1990, authorizing and directing its Director of Public Utilities and Aviation to enter into this Agreement, is hereby entered into by and between said City of Columbus, Ohio a municipal corporation, and the City of Bexley, Ohio a municipal corporation, this tenth day of September, 1990.

WITNESSETH:

Section 1. The City of Columbus shall, for the consideration hereinafter stated, furnish to the City of Bexley, Ohio or its successors through annexation pursuant to Ohio Revised Code 709.02 through 709.12, and to the inhabitants thereof, surplus water from the municipal water system of the said City of Columbus for the term of years hereinafter described.

The term of this agreement will commence on January 1, 1991, and shall remain in full force and effect for twenty years until midnight of January 1, 2011. Unless written notice is given by either party to the other at least three years prior to January 1, 2001, the agreement shall remain in effect for an additional three year period. In the same manner, this agreement with any amendments thereof shall remain in effect from three-year term to three-year term thereafter, subject to termination after the expiration of any such term upon written notice given by either party to the other at or before the expiration of the previous three-year term. Written notice of the intent to terminate this agreement must be given to the Director of Public Utilities and Aviation for the City of Columbus or the Mayor of the City of Bexley.

Section 2. Such water aforementioned shall be furnished from the water distribution system of the City of Columbus to the City of Bexley through pipes, valves, hydrants, and meters furnished and installed at the entire cost of the City of Bexley. Connections shall be made to the Columbus distribution system at locations mutually agreed upon in writing between the parties to this Contract. The City of Bexley shall have the further right to connect its water lines to any other water mains subsequently installed within or adjacent to the corporation lines of the City of Bexley by the City of Columbus; provided, that the Director of Public Utilities and Aviation of the City of Columbus may refuse such right when in his opinion such water mains are of insufficient capacity or pressure to serve the proposed water service area.

At any connection point where water is furnished such water shall be measured by a meter or meters of the type and capacity approved by the Director of Public Utilities and Aviation of the City of Columbus. Said meters are to be provided by the City of Columbus following payment by the City of Bexley of all applicable meter charges and system capacity charges. Said meters are to be transported from their point of storage by the City of Bexley and set by the City of Bexley in accordance with the standard plans and specifications as required by the Division of Water of the City of Columbus. Such meters shall be installed in an adequate protective structure at a location approved by the Director of Public Utilities and Aviation of the City

of Columbus. The installation of all meters, protective structures, water mains and appurtenant work shall be at the sole cost and expense of the City of Bexley. Maintenance of the meters shall be at the expense of the City of Columbus. All other required maintenance or replacement of the meter setting or protective structure as determined by the Administrator of the Division of Water, of the City of Columbus, shall be at the expense of the City of Bexley. The City of Columbus shall have free access to these meters, for the purpose of reading the meters, at any time throughout the duration of this Contract.

The City of Columbus reserves to itself the right to change at anytime, the type or capacity of any meter measuring the flow of water from the City of Columbus into the City of Bexley, whenever, in the opinion of the Administrator of the Division of Water of the City of Columbus, such changes are necessary to improve the accuracy of the metering system and that said changes can be made without appreciably affecting the quality of service to the City of Bexley. Said meter changes shall be made at the sole expense of the City of Columbus.

The City of Columbus reserves to itself the right to approve any actual connection to its lines and the chlorination of any lines to be supplied with water from the water distribution system of the City of Columbus. Such approval shall extend to all phases of the work including but not limited to equipment, material, personnel, location, time and technique. In the event that such work is performed by the City of Columbus, the City of Bexley shall pay the actual cost of labor and materials plus twenty-five percent.

The City of Columbus reserves to itself the right to add or delete any chemicals to the water which is deemed necessary by the electorate, executive, legislative, or administrative bodies of the City of Columbus, each within their specific authority. Conversely, the City of Columbus is not subject to any requirements of the City of Bexley, whether through said City's electorate, executive, legislative, or administrative bodies, to add or delete chemicals to the water supply.

Section 3. The water main or mains to be constructed and maintained by the City of Bexley between their distribution system and that of the City of Columbus, Ohio, shall be for transmission purposes only and shall be the exclusive property of the City of Bexley. No taps shall be made to said transmission main by the City of Bexley beyond its corporation limits without the written approval of the Director of Public Utilities and Aviation of the City of Columbus, Ohio.

Section 4. The water supply aforementioned shall be restricted for usage within the corporate limits of the City of Bexley as such limits exist on the date of execution of this contract; provided, however, that such supply may be given by the City of Bexley to any properties currently receiving such service even though such properties may not be within the corporate limits of the City of Bexley.

The City of Bexley agrees that should any of the area defined under this Contract annex to the City of Columbus, or other suburban community, the City of Columbus, or other suburban community, shall have the right to serve with water such annexed area irrespective of this Agreement.

Section 5. The water supply aforesaid shall be for the domestic, commercial and industrial usage of the City of Bexley and its inhabitants. The Administrator of the Division of Water, of the City of Columbus, reserves the right of approval for any water service connection within the service area of the City of Bexley wherever the peak instantaneous demand will exceed two hundred gallons per minute (200 gpm). Water usage at this rate or larger will be permitted, if,

in the opinion of the Director of Public Utilities and Aviation of the City of Columbus, such usage will not impair the planned development of the Columbus Service Area. During the term of this Contract the City of Bexley agrees that the only water to be used or permitted in any portion of their distribution system served by the City of Columbus shall be water supplied from the water distribution system of the City of Columbus. Further, any portion of the water distribution system of the City of Bexley served by the City of Columbus shall be effectively isolated from other water supply sources.

Section 6. The City of Columbus shall have the right to connect its water lines to any water lines owned or installed by the City of Bexley for the purpose of supplying water to other consumers; provided, however, that the City of Bexley may refuse such right when such water line is of insufficient capacity to provide water service to the intended area. Whenever practical, as determined by the Administrator of the Division of Water, of the City of Columbus, water at any such connection shall be metered in like fashion to that entering the City of Bexley water system and the City of Columbus shall be solely responsible for the cost of installing any necessary meters. Where master metering is not practical the volumes of water taken from the distribution system of the City of Bexley as recorded on individual meters, read by the Division of Water, of the City of Columbus, shall be credited to the City of Bexley's water consumption on the billing following the most recent reading of said individual meters. Prior to making any such individual connection to a water line owned or installed by the City of Bexley for other consumers, written permission must first be obtained from the Administrator of the Division of Water, of the City of Columbus. A tapping permit must then be obtained from the City of Bexley and all applicable fees shall be paid to the City of Bexley before a service agreement is requested with the City of Columbus.

Conversely, the City of Bexley may grant, in writing, permission to inhabitants of the City of Bexley to request tapping permits from the Division of Water, of the City of Columbus, for individual connections to water lines owned or installed by the City of Columbus. Upon approval of said request and payment of all applicable fees to the Division of Water, of the City of Columbus, said inhabitants shall obtain a water service agreement with the City of Bexley. The volumes of water taken from the distribution system of the City of Columbus as recorded on individual meters read by the City of Bexley shall be added to the City of Bexley's water consumption on the billing following the most recent reading of said individual meters.

The City of Columbus and the City of Bexley reserve to themselves the right to make any actual connections to their respective water lines, and in such event, the party obtaining water service from the connection shall pay the actual cost of labor and materials plus twenty-five percent.

Section 7. All water main extensions or additions between the City of Columbus distribution system and the meters referred to in Section 2 shall be installed according to the current specifications for water mains, valves and appurtenances in use at the time by the Division of Water of the City of Columbus, Ohio. Plans and specifications for such lines shall first be submitted to the Director of Public Utilities and Aviation of the City of Columbus, Ohio, for his written approval that such plans and specifications are in accordance with current specifications in use in the City of Columbus. Such approval or rejection fully supported by evidence showing that the plans and specifications vary from the current City of Columbus Specifications shall be made by the Director of Public Utilities and Aviation within thirty (30) days after detailed plans and specifications have been submitted by the City of Bexley; otherwise the City of Bexley may proceed with construction without prejudice in full conformity with such plans and specifications.

No cross-connections shall be made or permitted with any other water supply than that of the City of Columbus.

Section 1105.11 of the Columbus City Codes, 1959, as amended, or as same may be amended or reenacted in the future shall not apply to lines built by the City of Bexley, or by authorization of the City of Bexley so long as there are no funds of the City of Columbus invested and there is no cost to the City of Columbus.

Section 8. The aforesaid meters shall be read by meter readers of the City of Columbus. Twenty-four hour notice of the meter readings shall be given to the City of Bexley and a representative of the City of Bexley shall have the right to accompany the meter readers of the City of Columbus when said readings are taken. The amount of water consumed shall be computed and a bill presented to the City of Bexley not to exceed four times annually. The City of Bexley shall, within thirty-five (35) days after the bill is mailed, make payment thereof in full to the Treasurer of the City of Columbus. Failure to make full payment within the thirty-five (35) days following the mailing of said bill, will result in the addition of a penalty to the unpaid bill. The amount of the penalty shall be 10% (ten percent) of the unpaid bill and shall be due at the time of payment of the overdue bill.

Further, failure to make full payment by the City of Bexley to the City of Columbus within thirty (30) days of the due date shall be sufficient reason for the City of Columbus to discontinue the water supply service to the City of Bexley without resorting to any legal proceedings in law or equity, and the City of Bexley shall save the City of Columbus harmless from each, every and all claims or suits for damages to the persons and/or properties, to the inhabitants of the City of Bexley and/or to the City of Columbus.

The water rates to be charged to the City of Bexley for water furnished pursuant to this contract shall be as follows:

During the first year of the contract; 75% of the prevailing rate as specified in Section 1105.055A of the Columbus City Code.

During the second year of this contract; 85% of the prevailing rate as specified in Section 1105.055A of the Columbus City Code.

During the third year of this contract; 95% of the prevailing rate as specified in Section 1105.055A of the Columbus City Code.

During the fourth and subsequent years of this contract; the prevailing rates as specified in Section 1105.055A of the Columbus City Code.

During the length of this contract, the City of Columbus will give the City of Bexley a minimum of 30 days notification prior to any rate change.

In the event of failure of any meter the amount of water consumed shall be estimated by the Administrator of the Division of Water, of the City of Columbus. Such estimates shall be based on the average daily consumption used during any similar period.

Section 9. During the terms of this Contract, the City of Bexley grants to the City of Columbus the right to enter into the corporate limits of the City of Bexley and its streets, highways, and alleys or other public easements for the purpose of this Contract and for the further purpose of laying any large feeder mains which may be deemed necessary by the Director of Public Utilities and Aviation of the City of Columbus on the basis of sound engineering principles, to provide water service to areas including but not being limited to the corporate area of the City of Bexley.

The City of Columbus pledges to make such large feeder main installations at its own expense and to restore all streets, highways or alleys to the extent possible to the same condition in which they were found prior to such installation. The City of Columbus will and shall have the right and duty to reinstall, reconstruct, preserve, maintain and repair any facility so constructed as aforesaid as such may become necessary and such right and duty shall continue after the expiration of the Contract. During the period of this Contract, the City of Bexley may connect any main or mains of its distribution system to any such feeder main aforesaid with the approval of the Director of Public Utilities and Aviation of the City of Columbus. Such connections shall be made by the City of Columbus and paid for by the City of Bexley under the same terms as provided in Section 2 of this Contract.

Plans and/or specifications for any water line extensions proposed by the City of Columbus through the City of Bexley shall be submitted to the City of Bexley for their review and approval from an engineering viewpoint. Such approval or rejection, fully supported by sound engineering reasons, shall be made within thirty (30) days of submission, otherwise, the City of Columbus may proceed with construction without prejudice in full conformity with said plans and specifications.

The City of Bexley shall, upon request, submit to the City of Columbus location maps showing its current total water distribution system with all changes or additions brought to date. Also, the City of Bexley will submit to the Division of Water of the City of Columbus a copy of a set of plans as built for record purposes for all water facilities installed.

Section 10. It is further agreed that if the City of Bexley neglects to comply with or violates any of the terms or conditions of this Contract, the City of Columbus shall notify the Mayor of the City of Bexley in writing of such neglect or violation and said noncompliance or violation shall be corrected within ninety (90) days after the issuance of such notice to the City of Bexley.

Failure to correct any noncompliance of contractual agreements to which the City of Bexley agrees herein shall give the City of Columbus the absolute right to make its own corrections pursuant to its own plans and specifications and bill the costs thereof to the City of Bexley which the City of Bexley agrees that it shall be liable for in law to make payment within 30 days to the City of Columbus for said costs and expense. In the alternative, the City of Columbus reserves the right, through its Director of Public Utilities and Aviation, to terminate the contract after 90 days written notice to the City of Bexley for failure to correct noncompliance or other material breach of this Contract as the same may be determined by the discretion of said Director.

Section 11. It is further agreed that the City of Bexley shall enforce all applicable ordinances of the City of Columbus, or as the same may be enacted, reenacted, amended, established or reestablished. Should the City of Bexley fail or neglect to comply with or violates any of the terms or conditions of this Contract, the City of Columbus shall notify the Mayor of the City of Bexley in writing of such neglect or violation and said noncompliance or violation shall be corrected within ninety (90) days after the issuance of such notice to the City of Bexley. Failure of said City of Bexley to correct a noncompliance, breach or violation of this agreement, within ninety (90) days after notice to the City of Bexley shall constitute a material breach of this agreement and shall automatically terminate this agreement without further notice providing and excepting that any rights the City of Columbus may have, whether legal or equitable under this agreement, shall not terminate for the purpose of enforcing collection of amounts due and owing to the City of Columbus or to the cost and expense of the City of Columbus as that result from such termination regardless of the nature of such cost or expense.

Section 12. If is further agreed that the City of Columbus shall have the right to temporarily shut off the water supply of the City of Bexley or any part thereof whenever alterations, additions, maintenance operations, or breaks in the lines due to negligence or accidents make it necessary.

The City of Columbus, Division of Water, shall give the City of Bexley reasonable notice of the anticipated shut off and the probable duration of such shut off. In cases of serious breaks or accidents or emergencies that, in the opinion of the Administrator of the Division of Water or his authorized agent, require immediate discontinuance of water service, water service will be discontinued without prior notice.

In the latter case the City of Columbus, Division of Water, as soon as practicable shall give the City of Bexley notice of the reason for interruption of water service and an estimate of the possible duration of such interruption. Under no circumstances will the City of Columbus be held liable or responsible for any damage that may result to the City of Bexley or the inhabitants thereof due to any necessary or emergency discontinuance of water service.

Section 13. The City of Bexley further agrees that the rate or rates to be charged water consumers under this contract shall never be less than those charged consumers within the corporate limits of the City of Columbus for similar consumption.

Section 14. The City of Bexley will take no action to initiate a merger with any adjacent Township pursuant to Section 709.43 through 709.46 of the Ohio Revised Code or any revision of or amendment to said Sections. All efforts by the City of Bexley to increase its geographic boundaries shall be through the annexation procedure. The City of Bexley agrees that it will not initiate or support any actions to annex to the City of Bexley properties located outside the boundaries of its service area.

The parties recognize that a merger pursuant to Sections 709.43 through 709.46 of the Ohio Revised Code may occur without the initiation of the City of Bexley. Such filing may require the City of Bexley to participate in the activity so as to protect its citizens, to fulfill its duty as elected/appointed officials and to insure that proper information is provided.

The parties agree that the term annexation shall not include annexation by merger as set forth in Ohio Revised Code 709.43 - 709.46.

THE CITY OF COLUMBUS, OHIO

By *Raymond Coe* 9/20/90
Director of Public Utilities and
Aviation *Raymond Coe*

THE CITY OF BEXLEY, OHIO

By *D. Madison*
Mayor of the City of Bexley

By *John I. Workman*
Auditor of the City of Bexley

APPROVED AS TO FORM:
APPROVED AS TO FORM

Non Okner
City Attorney
City of Columbus, Ohio *R 9/11/90*

James H. Quors
Attorney
City of Bexley, Ohio