

# ORDINANCE C-16-01

## AN ORDINANCE TO AUTHORIZE THE CITY ADMINISTRATOR TO ENTER INTO A REVISED CONTRACT WITH THE CITY OF COLUMBUS FOR WATER SERVICES AND TO DECLARE AN EMERGENCY

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WHEREAS, Grove City receives its Water services from the City of Columbus; and

WHEREAS, the present Water Contract with the City of Columbus, Ohio has expired; and

WHEREAS, a new contract had been negotiated for a period of fifty (50) years with the ability to review said contract every five (5) years; and

WHEREAS, the Council of the City of Grove City had approved said contract by Ordinance No. C-59-00, on December 18, 2000; and

WHEREAS, minor non-material changes have been made to the original contract; and

WHEREAS, it is necessary for the City of Grove City to execute the attached agreement to provide these services; and

WHEREAS, an emergency exists, for the health, safety and welfare of the community, to secure Water services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

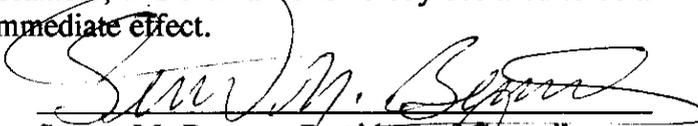
SECTION 1. City Administrator is hereby authorized to sign the Revised Water Contract with the City of Columbus, Ohio, attached hereto and made a part hereof.

SECTION 2. For reasons stated in the preamble, this ordinance is hereby declared to be an emergency measure and shall therefore go into immediate effect.

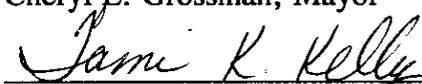
Passed: 3-5-01

Effective: 3-5-01

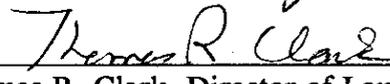
Attest:

  
Steven M. Bennett, President of Council

  
Cheryl L. Grossman, Mayor

  
Tami K. Kelly CMC/AAE, Clerk of Council

I Certify that this ordinance is correct as to form.

  
Thomas R. Clark, Director of Law

C-16-01  
CONTRACT  
BETWEEN THE CITY OF COLUMBUS  
AND  
THE CITY OF GROVE CITY  
WATER SERVICE AGREEMENT

This Contract made pursuant to Ordinance No. \_\_\_\_\_ passed and approved by the City of Grove City, Ohio, authorizing and directing its City Administrator to enter into this Contract and pursuant to Ordinance No. \_\_\_\_\_ passed and approved by the City of Columbus, Ohio, authorizing and directing its Director of Public Utilities to enter into this Contract is hereby made and entered into by and between the said City of Columbus, Ohio, a municipal corporation, and the City of Grove City, Ohio, a municipal corporation this 18 day December, 2000.

WITNESSETH:

Section 1. The City of Columbus shall, for the consideration hereinafter stated, furnish to the City of Grove City or its successors through annexation or appropriation and the inhabitants thereof, surplus water from the municipal water system of the said City of Columbus for the term of fifty (50) years hereinafter described.

The term of this agreement will commence on December 1, 2000 and shall remain in full force and effect until midnight of November 30, 2050. Unless written notice is given by either party to the other at least ten years prior to November 30, 2050 the agreement shall remain in effect for an additional, three year period. In the same manner, this agreement with any amendments hereof shall remain in effect from threeyear term to threeyear term thereafter, subject to termination at the expiration of any such term upon written notice given by either party to the other at the expiration of the previous threeyear term. Written notice of the intent to terminate this agreement must be given to the Director of Public Utilities for the City of Columbus or the City Administrator of the City of Grove City.

Section 2. Such water supply aforementioned shall be the sole supply and be furnished from the water distribution system of the City of Columbus to said City of Grove City and the inhabitants thereof through the water distribution system of the City of Grove City as the same is developed and extended during the life of this Contract, except as provided in Section 4 hereafter.

The City of Grove City shall have the further right to connect its water lines to any water mains subsequently installed by the City of Columbus within, or adjacent to, or reasonably close to the corporation lines of the City of Grove City; provided, that the Director of Public Utilities of the City of Columbus may refuse such rights when in his opinion, based upon reasonable engineering and other technical review by Department staff, such mains are of insufficient capacity to serve the proposed water service area.

The City of Columbus may make such connections between said system as is necessary to maintain pressure which will provide an adequate supply of water for consumptive demands and for fire protection. Nothing contained herein, however, shall be construed so as to hold the City of Columbus liable for lack of adequate water supply and pressure within the corporation limits of the City of Grove City, Ohio nor due to any inadequacy of the water supply of the distribution system of the City of Columbus.

The City of Columbus reserves to itself the right to make any actual connection to its water lines and/or chlorinate all water lines connected directly or indirectly to its water line and, in such event, the City of Grove City shall pay the actual cost of labor and materials plus twentyfive percent with respect to lines designated solely to service the City of Grove City and its inhabitants.

Notwithstanding the foregoing limitation and the exclusive right of Columbus to chlorinate all water lines connected directly or indirectly to its water lines, the City of Grove City may, at its option, make such connections providing the labor and materials therefore. The City of Columbus reserves to itself the right to add or delete any chemicals to the water which in the opinion of the electorate, executive, legislative or administrative bodies of the City of Columbus is deemed necessary and

shall be in the exclusive control of the City of Columbus and to each of these bodies within their specific authority. The City of Columbus is not subject to any requirements of the City of Grove City, whether through said City of Grove City's electorate, executive, legislative or administrative bodies, to add or delete chemicals to the water supply.

The City of Columbus may construct and maintain such elevated storage facilities as it deems necessary within the City of Grove City water service area to serve the total distribution system with approval of the City Administrator of the City of Grove City of the site selected by the City of Columbus. In the event the City of Grove City constructs and maintains its own elevated storage facilities, special control devices may be installed by the City of Grove City with the approval of the Director of Public Utilities of the City of Columbus to prevent loss of emergency reserves and fire storage for areas inside the Grove City corporate limits. The parties agree to work together on mutually beneficial water improvements and where possible to provide assistance and support to complete the improvements.

Section 3. During the term of this Contract, the City of Columbus shall at its own expense maintain the water main distribution system of the City of Grove City, maintain any extensions thereto, and make repairs which from time to time are required as a result of the normal use of said system. The fire hydrants, storage tanks and vault structures for pressure reducing valves shall not be considered a part of the water main distribution system. Such maintenance shall not be used as an alternative to pipeline replacement or rehabilitation where repair histories indicate that pipeline replacement or rehabilitation should be undertaken. Repairs at the expense of the City of Columbus shall therefore be limited to a number of repairs equivalent to one-hundred and fifty (150%) percent of the average repair rate for the Entire Distribution System maintained by the City of Columbus. This number, the Equivalent Maintenance Ratio (EMR), shall be defined for any given year as 150% of the total length of water mains in the City of Grove City's distribution system, divided by the total length of water mains maintained by the City of Columbus, and multiplied by the total number of water main repairs completed during the previous year on the total length of water mains maintained by the City of Columbus. This calculation rounded to the nearest whole number shall be the EMR for any given year. All repairs made by the City of Columbus on the City of Grove City's distribution system in excess of the EMR shall be paid for by the City of Grove City at actual cost of labor and material plus twenty-five percent.

The provisions of this Section shall not apply to any damage to the water main distribution system caused by any type of construction or work in the vicinity of water mains. Neither shall the City of Columbus be responsible for installing or maintaining any type of coating to the interior of any water line. Neither shall the provisions of this Section apply to replacements or relocations which may be required from time to time, except as required to make repairs. Such replacements or relocations shall be made by the City of Grove City under the supervision of the Division of Water of the City of Columbus.

Section 4. Except as provided in Section 4.1(c) the water supply aforementioned shall be restricted for usage within the corporate limits of the City of Grove City and those areas designated as Area A (sometimes referred to as the "Grove City Water Service Contract Area") depicted on Exhibit I, provided however, that properties to which water supply services are to be made available first must be annexed to the City of Grove City during the period of this contract. A

Section 4.1. Grove City and Columbus both recognize the need for future growth in order for both communities to continue to prosper. In consideration of the foregoing, the parties further agree as follows:

(a) The parties agree that as to areas located within Area A water services shall be restricted to properties lying within the Grove City corporate limits. The parties also acknowledge that unincorporated areas within Area A will become eligible for water service pursuant to this Agreement upon annexation to Grove City or Columbus during the period of this Agreement. It is also agreed that expansion adjustments or modification of Area A shall be reviewed by both parties at least every five years, or sooner, upon a showing of good cause in writing delivered by either party to the other.

(b) Grove City agrees that the portion of Area A between State Route 104 and the Scioto River shall be limited to low density residential, passive recreation and open space uses. Grove City agrees to use its best efforts to discourage development within the flood plain of the Scioto River by, among

other incentives, permitting increased densities on non-flood plain areas to property owners who agree to preserve flood plain areas as greenways.

- (c) <sup>A</sup> The parties agree that it is in their mutual best interest to designate that area depicted on Exhibit I as "Area B - Potential Expansion Area". Both Columbus and Grove City agree that the Potential Expansion Area shall constitute a shared future growth area for both parties. However, neither party shall annex land within Area B until the parties further agree to a further delineation of their respective service areas within said Area B.
- (d) ~~Grove City will take no action to initiate, approve, or in any manner support a merger with any adjacent township pursuant to Section 709.43 through 709.46, inclusive, of the Ohio Revised Code or any revision or amendment thereto. All efforts by Grove City to increase its geographic boundaries shall be through the annexation procedure. Grove City agrees that it will not initiate, or support in any manner, annexation to Grove City of properties located outside the Water Service Area designated on Exhibit I attached to this Agreement. Provided however, the parties recognize that a merger pursuant to Sections 709.43 through 709.45 of the Ohio Revised Code may occur without the initiation by Grove City. Such filing may require Grove City to participate in the activity so as to protect its citizens, to fulfill its duty as elected/appointed officials as to insure that property information is provided. The parties further agree that the term annexation shall not include merger as set forth in ORC 709.43 through 709.46, inclusive, and as subsequently amended.~~ <sup>That it agrees that it will not initiate, or support in any manner, annexation to Grove City of properties located outside Area A.</sup>

- (e) <sup>A</sup> Area C as designated on Exhibit I is the subject of a water service agreement between Columbus and the Solid Waste Authority of Central Ohio (the "SWACO Agreement"). The parties acknowledge that nothing contained in the SWACO Agreement or this Contract precludes Area C from being annexed into Grove City or Columbus.

A breach of any of the provisions of this Section 4.1 shall for the purposes of Section 14 herein, be considered a material breach of this Agreement.

Section 4.2. It is agreed by the parties that in the event a merger between Grove City and any township should occur, Columbus shall incur no obligation to service areas other than those specifically within the contract boundaries referred to in this Agreement. If Columbus elects to service areas other than those specifically within the contract boundaries referred to in this Agreement, the rate chargeable for the area outside the contract boundaries shall become ten times those set forth in Section 6 hereof unless otherwise agreed to by Columbus. Grove City consents to the provisions set forth in this section as related to the costs and expense of providing continued services under this Agreement and not as an exaction, tax or penalty in the event the conditions imposing this Section occur. Further, Grove City consents and agrees that the provisions in this section are not confiscatory nor unreasonable. Nothing herein shall affect the contract rate for the contract boundary areas referred to in this Agreement.

Section 4.3. If Columbus enters into any new Water Service Agreement or modifies, amends, extends or otherwise changes the terms of any Water Service Agreement with any political jurisdiction and the new, modified, amended, extended or otherwise changed agreement does not contain the same provisions regarding merger/annexation as set forth in Sections 4.1 and 4.2 of this Agreement, then in that event Sections 4.1 first paragraph and 4.2 herein shall become null and void.

Section 5. Any extensions of the distribution system of the City of Grove City are to be made by the City of Grove City at its own expense. All such extensions shall be made in accordance with plans and specifications approved by the Director of Public Utilities of the City of Columbus, and materials used shall be as per current specifications for water mains, valves and appurtenances approved for use at the time by the Division of Water of the City of Columbus, Ohio. Such approval or rejection shall be made by the Director of Public Utilities of the City of Columbus within thirty (30) days after detailed plans and specifications have been submitted by the City of Grove City, otherwise the City of Grove City may proceed with construction subject to any and all inspection and approval required by the City of Columbus.

Section 6. During such time as this Agreement is in full force and effect no charge by either party shall be made in respect of the public fire hydrants attached or to be attached to the water distribution system of the City of Grove City.

The City of Grove City shall be permitted to install fire hydrants on its water distribution system, after approval of the plans therefore by the Director of Public Utilities of the City of Columbus and to use water from the hydrants for fire protection and fire hydrant maintenance. The use of water from hydrants for any other use than fire protection or fire hydrant maintenance, before being used, shall be approved by the Director of Public Utilities of the City of Columbus and the City Administrator of the City of Grove City and shall be subject to applicable rates, fees and charges. The City of Grove City shall pay the applicable rates, fees and charges for all water it uses from public hydrants other than for fire protection at the rates, fees and charges as set forth in the Columbus City Codes, 1959, as amended or as may be amended or reenacted in the future, unless otherwise approved by the Director of Public Utilities of the City of Columbus.

Section 7. The City of Grove City shall install or authorize the City of Columbus to install or have installed under the supervision of the City of Columbus all taps to the water main distribution system of the City of Grove City. If the tap is installed by the City of Columbus, the charges shall be the then current applicable charge set forth in Section 1105.08, Columbus City Codes, 1959, as amended, or as may be amended or reenacted in the future. Meter fees and repair charges shall be the applicable City of Columbus fees or charges. In addition, the City of Grove City may charge and collect any additional water capacity fees, tap charges, or inspection fees which it may duly enact. All meters shall be procured through the Division of Water of the City of Columbus. Said meters are to be provided by the City of Columbus following payment by the consumer of all applicable meter charges and system capacity charges. Consumers within the City of Grove City are subject to and must comply with all applicable ordinances, provisions of the Columbus City Codes and the Rules and Regulations of the Division of Water of the City of Columbus as such ordinances, provisions of the Columbus City Codes, 1959, and the Rules and Regulations of the Division of Water of the City of Columbus may be amended, reenacted and established or reestablished in the future.

The City of Columbus shall at its own expense read meters and render bills to consumers. The City of Columbus agrees that upon presentation by the City of Grove City of a certified copy of any ordinances or legislative measures duly passed, establishing a surcharge on such rates or charges for water or sewerage service, such surcharge will be included as a separate item under the billing authorized herein and such surcharge shall be collected by Columbus and refunded to the City of Grove City, Ohio, every month together with a verified report of the amount so collected at no cost to the City of Grove City.

Section 8. The City of Columbus shall charge, and the consumers within the City of Grove City shall pay for water supplied and other services at the applicable rates, fees and charges in effect for consumers outside the corporate limits of the City of Columbus as established by the Columbus City Codes, 1959, and presently in force or as may be amended, enacted or reenacted in the future for such water supplied or services rendered. In no event shall the water rates to be charged within the City of Grove City exclusive of any surcharge levied by the City of Grove City, exceed the prevailing rate or rates of charges for water consumers outside the corporate limits of the City of Columbus as the same are provided by ordinances of the City of Columbus and in no event shall the water rates to be charged by Columbus within the City of Grove City during the term of this Contract, exceed by more than thirty (30) percent, the rates charged consumers within the corporate limits of the City of Columbus exclusive of any surcharge levied by the City of Grove City, said clause to be interpreted that the City of Grove City may impose a surcharge on said services. Also in no event during the terms of this Contract, shall the rate charged within the City of Grove City be higher than the average of all the rates paid by all other customers in Grove City's service class. These rates shall be based on a cost-of-service concept.

Section 9. The City of Grove City agrees to comply with all terms and conditions of this Contract, with all applicable rules and regulations of the Division of Water of the City of Columbus and all applicable ordinances of the City of Columbus or as the same may be amended, enacted, reenacted, established or reestablished in the future. The City of Columbus reserves the right to discontinue service to any consumer for a breach of the terms of this contract, for nonpayment of bills or

violation of applicable ordinances for the City of Columbus and Rules and Regulations of the Division of Water of the City of Columbus, or as the same may be amended, enacted, reenacted, established or reestablished in the future. Any of the above shall be sufficient reason for the City of Columbus to discontinue water service to any consumer of the City of Grove City, Ohio, without resorting to any legal proceedings in law or equity.

Section 10. The water supply aforesaid shall be for the domestic, commercial and industrial usage for the City of Grove City and its inhabitants. The Director of Public Utilities of the City of Columbus reserves the right of approval for any water service connection where usage will exceed an instantaneous demand of two-hundred gallons per minute (200 gpm). Larger consumption may be permitted if, in the opinion of the Director of Public Utilities of the City of Columbus, such usage will not impair the Columbus Service Area.

Section 11. The City of Columbus shall have the right to connect its water lines to any water lines owned or installed by the City of Grove City for the purpose of supplying water to other consumers; provided, however, that the City of Grove City may refuse such rights when such water line is of insufficient capacity to serve the proposed service area. Such connections shall be made by the City of Columbus at its cost and expense.

EXTEND — Section 12. During the term of this Contract, the City of Grove City grants to the City of Columbus the right to enter into the corporate limits of the City of Grove City and its streets, highways and alleys or other public easements for the purpose of the Contract and for the further purpose of laying any large feeder mains which may be deemed necessary by the Director of Public Utilities of the City of Columbus on the basis of sound engineering principles to build up an adequate feeder main distribution system in the entire area to be serviced by the City of Columbus, included but not being limited to corporate areas of the City of Grove City. The plans and specifications for laying and extending such large feeder mains shall be submitted to the City of Grove City for approval from an engineering standpoint. Such approval from an engineering standpoint or rejection fully supported by the engineering reasons, therefore, shall be made by the City of Grove City within thirty (30) days after submission of said plans and specifications. Failure of the City of Grove City to submit in writing, rejections of any parts of the plans and specifications or in their entirety shall constitute approval of the City of Grove City and acquiescence in such plans and specifications and the City of Columbus is hereby given the right to proceed with the construction. The City of Columbus pledges itself to make such large feeder main installations at its own expense and to restore all streets, highways or alleys to the extent practical to the same condition in which they found prior to such installation. The rights to preserve, maintain, operate and repair any facility so constructed shall continue after the expiration of this Contract and the ownership shall remain in the City of Columbus.

The City of Grove City will submit a copy of changes or additions to the water distribution system and a set of plans as built for all water facilities installed, to the Division of Water of the City of Columbus for record purposes.

The City of Columbus shall furnish the City of Grove City copies of water distribution drawings as built, and any subsequent changes thereto, and of all water facilities within or adjacent to the Grove City corporate limits.

The City of Columbus agrees to provide to Grove City, upon request, any available information about the Columbus and Grove City water system which may be necessary in order to determine the adequacy of water service being provided to the City of Grove City.

Section 13. The parties agree that if any portion of this Agreement proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other portion of this Agreement unless it clearly appears that such other portion is wholly or necessarily dependent for its operation upon the portion so held invalid or unconstitutional.

Section 14. Failure on the part of either party to this Agreement to faithfully discharge its obligations and responsibilities hereunder, either in whole or in part, shall vest in the other party to the agreement the right to terminate same, effective ninety (90) days after written notice of such failure and the intent to terminate is delivered to the offending party, provided that the offending party shall

have the right to cure or correct such failure to faithfully discharge its obligations and responsibilities and upon demonstration thereof, such notice of termination shall not be effective and this agreement shall remain in full force and effect without prejudice to Columbus' right to collect amounts due and owing to Columbus arising under the terms of this Contract prior to notice of termination.

Section 15. It is further agreed that the City of Columbus shall have the right to temporarily shut off the water supply of the City of Grove City or any part thereof whenever alterations, additions, or maintenance operations make it necessary. The City of Columbus, Division of Water, shall give the City of Grove City responsible notice and probable duration of such shut offs, except in the case of serious break or accident, wherein water service will be discontinued immediately and notice will follow as soon as possible. Under no circumstances will the City of Columbus be held liable or responsible for any damage that may result in the City of Grove City or its inhabitants thereof due to any necessary discontinuance of water service.

THE CITY OF COLUMBUS, OHIO

By \_\_\_\_\_  
Director of Public Utilities

THE CITY OF GROVE CITY

By \_\_\_\_\_  
City Administrator

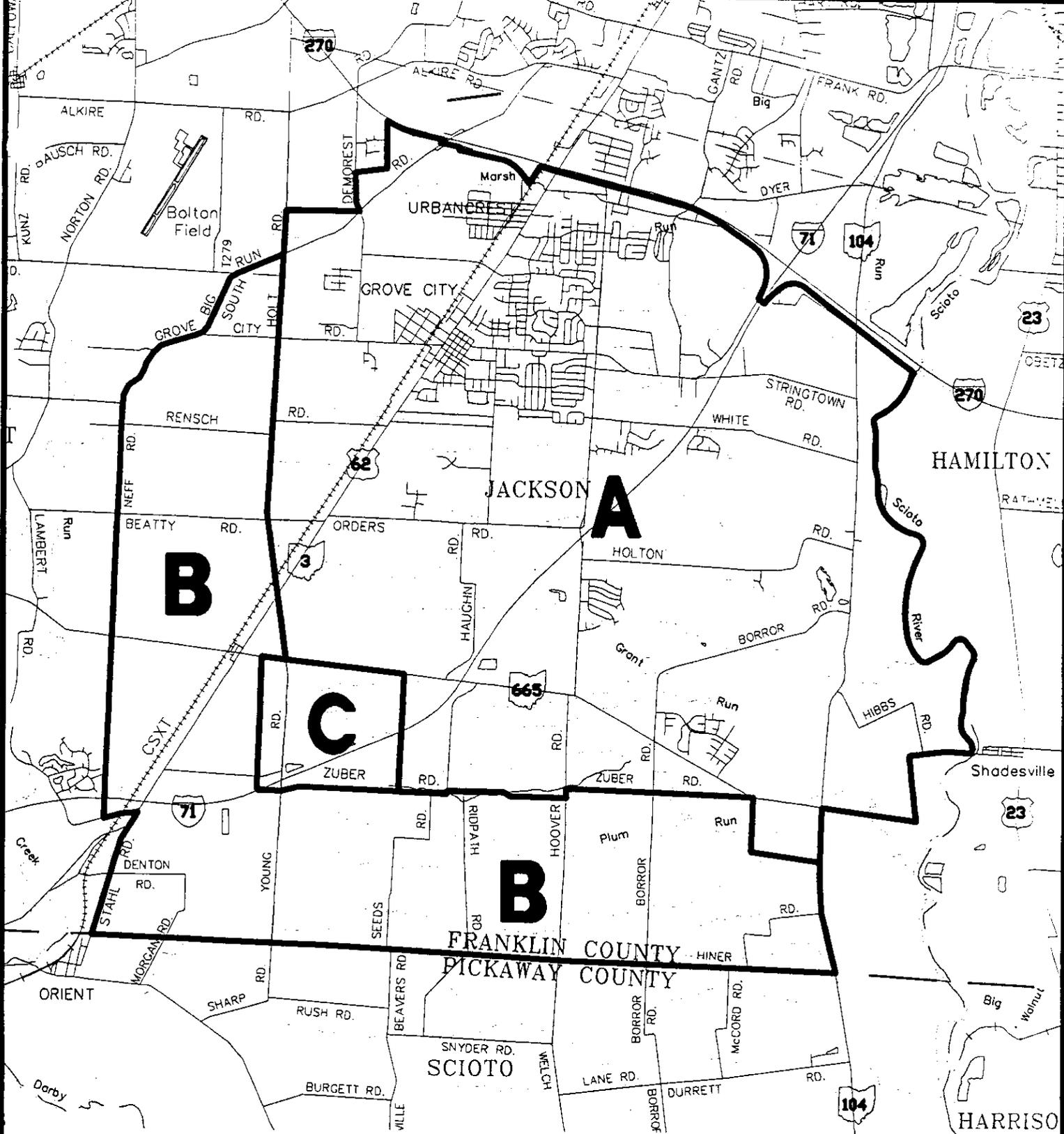
By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney  
City of Columbus

\_\_\_\_\_  
City Attorney  
City of Grove City

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### WATER SERVICE AREA EXHIBIT

- AREA A – Grove City Water Service Contract Area
- AREA B – Potential Expansion Area
- AREA C – SWACO Service Area

### EXHIBIT I