

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of an Order Approving an Agreement for Wastewater Treatment Between Clackamas County Service District No. 1 and Tri-City Service District

ORDER NO. 99-33

THIS MATTER came regularly before the Board of County Commissioners acting as the governing body for both Clackamas County Service District No. 1 and Tri-City Service District, county service districts.

WHEREAS, Clackamas County Service District No. 1 ("CCSD") and Tri-City Service District ("TCSD") desire to plan and provide for the long term capital and operational needs of wastewater treatment facilities to serve their respective service areas which may include mandated technological and regulatory changes, mitigation, construction of new facilities and repairs, as necessary to provide sanitary sewer services; and

WHEREAS, CCSD needs to relieve loadings on the Kellogg Creek Water Pollution Control Plant Facilities to facilitate consistent permit compliance to accommodate near term growth and provide additional treatment capacity during the evaluation, planning, permitting, financing, design and construction of new wastewater treatment facilities for anticipated growth under the Metro 2040 Regional Plan; and

WHEREAS, TCSD needs incremental expansion of the Tri-City treatment facility to address existing peak wet weather flow performance problems within Tri-City and to provide capacity for the addition of lands and users to TCSD under Metro 2040; and

WHEREAS, because of the present demands in CCSD and the time required to bring new treatment facilities on line, the Districts believe that it is appropriate for CCSD to construct transmission facilities necessary to divert a portion of sewage flows and loads from the easterly portion of CCSD to the Tri-City Plant and utilize available dry weather capacity of the existing Tri-City Treatment Facility and provide a process for contracting capacity when Tri-City Facilities are expanded; and

WHEREAS, the TCSD Sewerage Master Plan dated November, 1998 ("Sewerage Master Plan") has established that necessary expansion of the Tri-City Plant and Tri-City customer requirements can be done in a coordinated and cost-effective manner that would accommodate the interim needs of CCSD; and

WHEREAS, the interim accommodation of CCSD flows and loads will optimize performance and utilization of the TCSD and Kellogg Plants and benefit TCSD ratepayers by temporary use of excess capacity through managed flow diversion for effective and efficient system and plant management; and

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
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ORDER NO. 99-33

WHEREAS, the CCSD Citizens Task Force, TCSD Citizen Task Force, TCSD Advisory Committee and the Cities of West Linn, Gladstone and Oregon City have endorsed the Sewerage Master Plan and the Agreement between TCSD and CCSD, attached as Exhibit 1, to accomplish these tasks, and being fully advised, it is

ORDERED that the Agreement for Wastewater Treatment between CCSD and TCSD, attached hereto as Exhibit 1 and incorporated by reference, is hereby approved.

DATED this 25th day of February, 1999.

BOARD OF COUNTY COMMISSIONERS OF CLACKAMAS COUNTY, OREGON, acting as the governing body of Tri-City Service District and Clackamas County Service District No. 1


Bill Kennemer, Chair


Millicent Morrison, Recording Secretary

**AGREEMENT FOR WASTEWATER TREATMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
TRI-CITY SERVICE DISTRICT**

THIS AGREEMENT is made this 25 day of February, 1999, by and between Clackamas County Service District No. 1, a county service district, and Tri-City Service District, a county service district.

WHEREAS, Clackamas County Service District No. 1 ("CCSD") and Tri-City Service District ("TCSD") desire to plan and provide for the long term capital and operational needs of wastewater treatment facilities to serve their respective service areas which may include mandated technological and regulatory changes, mitigation, construction of new facilities and repairs, as necessary to provide sanitary sewer services; and

WHEREAS, CCSD needs to relieve loadings on the Kellogg Creek Water Pollution Control Plant Facilities to facilitate consistent permit compliance to accommodate near term growth and provide additional treatment capacity during the evaluation, planning, permitting, financing, design and construction of new wastewater treatment facilities for anticipated growth under the Metro 2040 Regional Plan; and

WHEREAS, TCSD has made a decision on incremental expansion of the Tri-City treatment facility to address existing peak wet weather flow performance problems within Tri-City and to provide capacity for the addition of lands and users to TCSD under Metro 2040; and

WHEREAS, because of the present demands in Service District No. 1 and the time required to bring new treatment facilities on line, the Districts believe that it is appropriate for CCSD to construct transmission facilities necessary to divert a portion of sewage flows and loads from the easterly portion of CCSD to the Tri-City Plant and utilize available dry weather capacity of the existing Tri-City Treatment Facility and provide a process for contracting capacity if Tri-City Facilities are expanded;

WHEREAS, Engineering Analysis has established that necessary expansion of the Tri-City Plant and Tri-City customer requirements can be done in a coordinated and cost-effective manner that would accommodate the interim needs of CCSD;

WHEREAS, the interim accommodation of CCSD flows and loads will optimize performance and utilization of the TCSD and Kellogg Plants and benefit TCSD ratepayers by temporary use of excess capacity through managed flow diversion for effective and efficient system and plant management;

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises provided for herein, the parties hereto, for themselves, their assigns, and successors-in-interest, agree as

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises provided for herein, the parties hereto, for themselves, their assigns, and successors-in-interest, agree as follows:

Section 1 - Definitions. For purposes of this Agreement, the following words shall have the following meanings, unless another meaning is clearly intended:

1.1 Contracted Capacity. The amount of the TCSD Treatment Facilities designed annual average capacity, based on current flows and loads, which is contracted for by the parties executing this Agreement. CCSD's contracted share is not more than two million gallons per day of the existing TCSD Facilities, as defined in Section 2.2, and no more than four million gallons per day after construction of the Expanded Treatment Facilities. Contracted Capacity of sewage is based upon the maximum flow and loading of sewage that CCSD is authorized by this Agreement to transmit to the Treatment Facilities, measured in BOD, TSS and other regulated pollutants. Flow shall be measured by metered sewage flow expressed in million gallons per day ("mgd"). BOD and TSS load shall be measured through a mutually agreed to and regular sampling program expressed in pounds per day as shown in Exhibit C.

1.2 TCSD means the Tri-City Service District or its successor.

1.3 Customer means a "single family residence" and/or an "equivalent dwelling unit" ("EDU"), as defined in 1.12.

1.4 CCSD No. 1 means Clackamas County Service District No. 1, a county service district or its successor.

1.5 CCSD Citizen Advisory Committee means the North Clackamas Citizen Advisory Committee.

1.6 Decision Milestones means:

1.6.1 **Level I** means diversion from CCSD and acceptance by TCSD of dry weather flows and loads at the existing Tri-City Facilities, not to exceed two million gallons per day commencing on or about October, 1999.

1.6.2 **Level II** means construction of Expanded Treatment Facilities at TCSD to accommodate TCSD loads and flows and 2005 growth. This period allows diversion by CCSD to TCSD of wet and dry weather flows and loads until December 31, 2004, when Level III Facilities are expected to be completed.

1.6.3 **Level III** means the design and construction of expanded Facilities at Tri-City to accommodate 2040 growth for the North Clackamas and Tri-City Service Areas as set forth in the Tri-City Service District Sewerage Master

Plan dated October, 1998 ("Sewerage Master Plan"), endorsed by the TCSD Citizen Task Force, the TCSD Advisory Committee and the City Councils/Commission of West Linn, Gladstone and Oregon City.

1.7 Diversion Facilities means pipe, pump and appurtenances constructed by CCSD to convey and divert flow to TCSD.

1.8 DEQ means the Oregon State Department of Environmental Quality or its successor.

1.9 Director shall mean the Director of the Water Environment Services.

1.10 Wastewater means sanitary wastes normally collected from residential establishments, and shall include commercial and industrial wastes. Commercial and/or industrial wastes shall be pre-treated in accordance with CCSD and/or TCSD requirements meeting DEQ and EPA regulations. Wastewater shall exclude excess ground water, storm water, drain water and industrial wastes not pre-treated in accordance with CCSD and/or TCSD requirements meeting DEQ and EPA regulations.

1.11 EPA means the United States Environmental Protection Agency or its successor.

1.12 Equivalent Dwelling Unit or EDU is a unit of measure applied to a user of the sewage system. The number of Equivalent Dwelling Units assigned to any such user (for example, an apartment house, motel, school, hospital, nursing home, and any other public or commercial establishment) shall be the numerical ratio of the monthly volume of Wastewater contributed by such user to the monthly volume of Wastewater contributed by a typical single family residence. EDU's serve as a practicable basis for computing the volume of domestic sewage discharged into the unmetered portions of the system, when and if such a computation is necessary or desirable to augment a direct flow measurement.

1.13 Flow means the total volume of sewage flow per time in millions of gallons per day ("mgd") as measured through flow meters installed at the Influent Points of TCSD's Wastewater plant.

1.14 Internal System means all sewer lines and other sewer facilities upstream from the Influent Points owned and operated by either District.

1.15 Load means pounds per day ("ppd") of biochemical oxygen demand ("BOD") and total suspended solids ("TSS") contained in the flow as determined through the sampling plan approved by CCSD and TCSD. Load may be further defined to include other pollutants which may be established under future water quality regulations.

1.16 MGD means millions of gallons per day, referring to a measure of rate of sewage flow.

1.17 Maintenance and Operation Costs means all direct costs and expenses incurred by TCSD in treating sewage through the Treatment Facilities and maintaining those Treatment Facilities. Maintenance and operation costs are defined in the Interim Diversion Cost of Service Analysis contained in Exhibit B, attached hereto and incorporated herein by this reference.

1.18 NPDES Permit means a National Pollutant Discharge Elimination System Permit granted to CCSD and TCSD pursuant to the Federal Water Pollution Control Act, as amended.

1.19 Other Facilities means facilities other than the Treatment Plant and Diversion Facilities, which are individually operated and maintained by either party to transmit, measure, monitor and pump sewage.

1.20 Overhead Costs means general administrative, supervisory, and other indirect costs related to the operation and maintenance of the Treatment Facilities. Overhead Costs shall be computed by the methodologies established in the Interim Diversion Cost of Service Analysis.

1.21 Parties means CCSD and TCSD.

1.22 Single Family Residence means one structure, all connected and under the same roof, located on a lot or tract of real property having a separate and individual property description, with no other structure used for human occupancy located on that tract or lot, and which structure is used as a single family dwelling.

1.23 TCSD Advisory Committee The TCSD Advisory Committee as appointed by the Board of County Commissioners.

1.24 TCSD Citizen Task Force means the citizen task force created by the Board of County Commissioners, Order No. 97-108.

Section 2 - Treatment Facilities. The facilities contemplated by this Agreement are the Diversion Facilities, Existing TCSD Facilities, Expanded TCSD Treatment Facilities (Level II) and Level III Facilities.

2.1 Diversion Facilities are those facilities necessary to be constructed to divert flows to the TCSD Plant as set forth on Exhibit A, attached hereto and incorporated by reference. These facilities will be completed on or about October, 1999. CCSD shall be solely responsible to plan, permit, design, construct, finance, operate and maintain these Facilities.

2.2 Existing Facilities are the TCSD Treatment Facilities existing as of the date of this Agreement.

2.3 Expanded TCSD Treatment Facilities (Level II) are those improvements or modifications to the TCSD Plant to treat loadings and 2005 growth as set forth on Exhibit D, attached hereto and incorporated by reference. CCSD and TCSD shall be responsible according

to the pro-rata annual share of use of the TCSD Facilities.

2.4 Level III Facilities defined in Section 1.6.3 above is further expansion of the TCSD Facilities and usage by CCSD on a permanent basis pursuant to a subsequent written agreement.

2.5 Decision Making Process means:

2.5.1 The parties agree to the following process for Levels I, II, and III decision making. Upon execution of this Agreement, which is based upon the favorable recommendation of the Tri-City Citizens Task Force, the TCSD Advisory Committee and the City Councils/Commission of West Linn, Gladstone, and Oregon City as set forth in the Sewerage Master Plan and approved by the Board of County Commissioners, CCSD may design and construct the Diversion Facilities and immediately divert up to two million gallons per day to TCSD for the term specified in Section 5.3.

2.5.2 Based upon the recommendation of the endorsed Sewerage Master Plan, the parties shall proceed with Level II and construct the Expanded Treatment Facilities, which will allow diversion by CCSD of up to four million gallons per day. The Expanded Treatment Facilities shall be operational no later than December 1, 2002, and CCSD shall use these facilities for the term specified in Section 5.3, unless extended by mutual agreement of the parties to this Agreement.

2.5.3 Based upon the recommendation of the Sewerage Master Plan and endorsement by the TCSD Advisory Committee and the Cities set forth in Section 2.5.2, the Districts shall proceed to develop the Level III Project Documents, which may include, but are not limited to, preliminary design documents, financing agreements, a wholesale sewer service and operating contract through 2040 between TCSD and CCSD and the like. All such Project Documents shall be reviewed by the TCSD Advisory Committee. The favorable recommendation by the TCSD Advisory Committee approving the Level III Project Documents shall be given to the Board of County Commissioners no later than December 31, 1999. A "favorable recommendation" by the TCSD Advisory Committee for the Level III project means unanimous consensus by the members; however, abstention or absence by a member from any vote on such recommendation will not be considered a negative vote. In the absence of a favorable recommendation from the TCSD Advisory Committee to expand the TCSD Facility Project Documents or if CCSD elects not to purchase the "Old Rossman's Landfill" property, then CCSD shall make other arrangements for Wastewater treatment. The Level III Facilities shall be designed, constructed in phases with the first phase, operational no later than December 31, 2004, unless extended by mutual agreement of the parties to this Agreement.

Section 3 - Allocation .

3.1 Allocation of TCSD Treatment Operational Costs. CCSD shall pay its proportionate share of operational, maintenance and overhead costs based upon actual flow and

load in a manner consistent with the mutually approved Interim Diversion Cost of Service Analysis as agreed by the Parties.

3.2 Allocation of Treatment Capital Costs. CCSD shall pay its proportionate share of Capital Costs based upon actual flow and load in a manner consistent with the mutually approved Interim Diversion Cost of Service Analysis as agreed by the Parties.

3.3 Bond Issuance. CCSD and TCSD each retain its rights to issue bonds and other obligations in accordance with applicable law, but shall not act in such a manner as to impair the rights of the holders or owners of bonds issued by the other party.

Section 4 - Additional Upgrading or Expansion of the TCSD Treatment Facilities. If TCSD is further required by applicable laws or regulations to upgrade or expand the Treatment Facilities at Levels I or II to provide a higher level of Wastewater treatment or to modify the methods and/or locations of Wastewater discharge, CCSD shall, if it desires to continue discharging sewage into the Treatment Facilities, pay CCSD's proportionate share of required improvement costs. CCSD and TCSD shall seek opportunities to minimize or avoid the cost of additional improvements through mutually agreeable modifications in the quantity and quality of sewage discharged by the parties. In lieu of paying for its share of the cost of constructing such additional improvements, CCSD may, at its discretion, discontinue discharge of sewage into the Treatment Facilities. The Parties agree to negotiate a new agreement or prepare necessary revisions to this Agreement, which will address responsibility for these additional expansion or upgrade costs based on best available forecast figures. CCSD shall give notice of its intent to discontinue discharge not less than one year prior to the date of discontinuance. Notwithstanding the foregoing, CCSD shall provide any notice of intent to discontinue discharge to the Treatment Facilities at least 12 months before TCSD commences design of Level III Facilities to meet regulatory requirements.

Section 5 - Diversion Management and Treatment

5.1 Diversion Objectives. The objectives for flow diversion from CCSD are to measure and control them in a manner that will regulate the resulting flow and loads that are diverted to TCSD's Facilities and continue flow to the Kellogg Creek Treatment Facility so that acceptable treatment plant performance is maintained, consistent NPDES Permit Compliance is achieved, and operational upsets are minimized at both treatment facilities. The Parties hereto agree that at all times they will act reasonably in good faith and use Best Management Practices with regard to their respective flows and loads to the plants to accomplish these objectives. Contracted Capacity is based on diversion of CCSD flows generated generally east of I-205 to TCSD, which may vary based on actual treatment plant performance. Diverted flows and loads of CCSD shall not exceed the Contracted Capacity, as defined herein, unless accepted by TCSD in accordance with this Agreement. Plant performance or other conditions may occur that require CCSD diversions to be controlled at levels below the Contracted Capacity. Both Parties agree to work cooperatively toward achieving these objectives and assuring that the TCSD Treatment Facilities and collection systems within CCSD and TCSD service area operate efficiently and as

designed. Toward this end, the Parties agree to provide available resources which may from time to time be necessary to render mutual assistance. In addition, the Parties agree to come to the aid of the other in cases where an emergency exists affecting the operation of the sewage collection and/or treatment system and where resources are available. Where deemed appropriate, reimbursement for expenses incurred by either Party in providing this assistance shall be based on actual labor and equipment costs.

It is also recommended that, at the request of either Party, routine and remedial maintenance within TCSO or CCSD's service area may be provided as a contract service of either Party.

5.2 Diversion Management. It is acknowledged that the sewage flows from the CCSD diversion area are more commercial and industrial in nature and exhibit a strength 2-3 times greater than the current sewage flows to the TCSO Plant. The quality, strength and character of the CCSD diverted flows will be more variable because of their commercial and industrial nature. These conditions require the CCSD diversions to be carefully managed and controlled so that consistent diversion flows and loadings are achieved and treatment plant performance is maintained in accordance with the diversion objectives stated in Section 5.1. CCSD agrees to not cause violation by the TCSO facility of its NPDES permit. If violations occur, the diversion by CCSD to TCSO will be reduced or stopped until TCSO is in compliance with its permit. In the event of an actual or threatened violation of the TCSO NPDES permit the TCSO Plant Manager shall have full authority to control the diversion at any level below the Contracted Capacity.

Based on current flow monitoring and sampling, CCSD's Contracted Capacity is based on diversion of CCSD flows generated east of I-205 to TCSO. Treatment plant performance conditions, actual diverted flow quantity, quality or character, or other conditions may occur that require CCSD diversions to be controlled at levels below the Contracted Capacity. The plant managers from the TCSO and Kellogg Treatment Plants will work cooperatively to manage the diversion of CCSD flows and loads to accomplish the diversion objectives. The TCSO plant manager will have primary responsibility for day-to-day control of the diversion of CCSD flows and loads. In the event of a conflict regarding the management of the CCSD flow diversions, the Director shall give final direction in accordance with the intent of the diversion objectives stated in Section 5.1.

5.3 Availability of Capacity. TCSO shall receive and treat by means of the existing Facilities no more than two million gallons per day and not more than four million gallons per day when the Expanded Treatment Facilities are constructed and operational by December, 2002. TCSO will provide this quantity of Contracted Capacity of sewage as long as CCSD shall require it. If Level III facilities are not constructed because the Project Documents do not receive a favorable recommendation or CCSD elects not to purchase the Old Rossman's Landfill property, this Agreement will terminate on December 31, 2004, unless in its discretion TCSO grants an extension. This Agreement creates no obligation by TCSO beyond the term of this Agreement as defined herein and in Section 19 if Level III Facilities are not constructed at Tri-City.

5.4 Capacity Limit. CCSD may not discharge flows or loads into the Treatment Facilities in amounts greater than its Contracted Capacity. If it is determined that the actual flow and load of sewage is in excess of the Contracted Capacity of sewage, that Party shall pay in addition to its ordinary charges described in Sections 3.1 and 3.2, any extraordinary costs incurred to treat the excess sewage. TCSD's acceptance of excess amounts on any occasion or occasions shall not bind TCSD to accept excess sewage amounts on any other occasions.

5.5 Diversion. Upon execution of this Agreement, TCSD shall accept diversion of CCSD flows, consistent with the terms and conditions of this agreement, up to two million gallons per day of existing TCSD plant facilities. No minimum level of diversion is defined and will be solely defined by the TCSD treatment plant performance and available capacity.

5.6 Treatment of Wastewater Only. No Party shall allow discharge into the Treatment Facilities any hazardous, toxic or other Wastewater prohibited by the Federal Clean Water Act, comparable state statutes, administrative rules, and their respective Ordinances or Rules and Regulations.

5.7 Wastewater Quality. Each Party shall continue to use ordinances and programs to mitigate mass BOD and TSS or other pollutant levels which are higher than acceptable norms, for the various customer classes as determined by either regulatory requirements or by generally accepted environmental practices. CCSD shall incorporate into the design of the Diversion Facilities provisions appropriate to control septic conditions, odors and other conditions normally expected to occur in a long force main, that could impact TCSD plant performance, cause objectionable conditions at the TCSD plant site, or increase plant operations and maintenance costs and complexities.

5.8 Pre-Treatment and Bio-Solids Disposal Ordinances. The Parties shall maintain Pre-Treatment and Bio-Solids Disposal Ordinances meeting all Federal and/or State requirements. Each Party shall be responsible for the administration and operation of its pre-treatment program, but in no event will any discharges violate TCSD's standards based upon its maximum allowable headworks loadings, as defined in the TCSD pretreatment program. Administration and operation shall include, but not be limited to, developing procedures, forms, and instruction; categorizing dischargers; record keeping; compliance tracking; establishment of annual limits; sampling, testing, and monitoring; preparation of control documents; collection of fees and preparation of permits. TCSD shall be responsible for Bio-Solids management at the TCSD Facilities.

Section 6 - Operation and Maintenance of the Treatment Facilities and Internal System.

6.1 Operation and Maintenance of the TCSD Treatment Facilities. TCSD shall be responsible for the operation and maintenance of its Treatment Facilities subject to the terms of this Agreement. The Treatment Facilities shall be operated and maintained in accordance with generally accepted standards, and the standards established by the EPA, DEQ, the Oregon Health Department and other federal, state and local agencies. The quantity of sewage discharged by CCSD into the Treatment Facilities shall be metered at the Influent Points, with the exception of

commingled flows, which will be accounted for using either Equivalent Dwelling Units, or other methods as agreed upon by the parties. The meters that measure CCSD's discharge of sewage into the Treatment Facilities shall be calibrated on a regular basis by CCSD with oversight by TCSD if it so desires, and may be inspected by either Party at the expense of such Party at any time upon reasonable notice to the other. Interruptions of metering due to equipment malfunction or power loss shall be recorded by CCSD. At the time of the next monthly billing, CCSD shall provide data regarding the duration of the interruption and the methodology for estimating the flows discharged to the Treatment Facilities by CCSD.

CCSD will also monitor the mass BOD and TSS levels of the sewage diverted from its system to the Treatment Facilities in accordance with the sampling program contained as Exhibit C to this Agreement. TCSD may, at its own cost, conduct sampling at a greater frequency than the intervals established in the adopted sampling plan.

6.2 Reporting and Inspection Requirements. CCSD shall provide TCSD with bimonthly reports of the number and type of new sewer connections. TCSD and CCSD shall periodically inspect its Internal System to ensure adherence to applicable standards and to minimize infiltration, exfiltration, and deposits of rock or other debris. TCSD and CCSD at any reasonable time may inspect the Internal System and facilities of the other.

6.3 CCSD's Internal System. CCSD shall operate and maintain its Internal System at its sole expense, including all of its facilities as required to maintain the volume and quality of sewage within the limits set forth in this Agreement. CCSD shall observe generally accepted standards and practices in the construction, operation, and maintenance of its Internal System with particular attention to the following: (a) minimizing entry into the sewerage system of groundwater and/or surface water (I/I - infiltration and inflows); (b) maintaining a favorable character and quality of sewage, (c) eliminating septicity and objectionable odors, entry of petroleum wastes or other chemicals and/or wastes detrimental to sewer lines, pumping stations the facilities, and the waters of the state of Oregon; (d) eliminating hazardous and toxic wastes; and (e) maintaining an efficient and economical utility operation, while achieving optimum pollution and environmental control.

6.4 Mutual Notification and Indemnity. The Parties agree to provide each other with written notice of any condition that may violate this Agreement or applicable laws, regulations, or permits. The discharging Party agrees to give verbal notice to the other Party immediately upon becoming aware of the violating discharge. A written report on the nature and amount of the violating discharge will be prepared and provided to the other Party within 24 hours of the time the violating discharge is identified. If the Party does not correct such a condition within a reasonable time of written notice thereof, the offending Party shall pay any reasonable and necessary costs and expenses incurred by the other Party in connection with such condition. If either Party discharges into the Treatment Facilities any solids, liquids, gases, toxic substances, or other substances which is reasonably believed to cause or will cause damage to the Treatment Facilities, or is creating a public nuisance or a hazard to life or property, that Party shall discontinue the discharge of such substances. Because substandard conditions of sewage may

cause serious damage to the Treatment Facilities, both parties shall comply with generally accepted standards regarding the composition of sewage, and after compliance, may thereafter cause to be arbitrated the allocation of costs associated with necessary corrective actions in accordance with Section 9 of this Agreement.

Each party shall indemnify and hold harmless the other from any and all claims, demands, damages or actions, including attorney fees arising from that party's sole errors, omissions or acts. The Parties shall cooperate with each other to determine the source of possible violations of applicable law, regulations and permits (including applicable NPDES Permits). In the event TCSD is fined or otherwise penalized by local, state or federal agencies for failure to operate or maintain the Treatment Facilities in accordance with the requirements of the agencies, and it is demonstrated that such failure is due, in whole or in part, to either Party's discharge of sewage in violation of this Agreement, then that Party shall pay its allocated share (as determined by the Tri-City Advisory Committee or by an arbitrator in accordance with Section 9) of the costs of such fines or penalties, including its share of the associated administrative, legal, and engineering costs incurred by TCSD in connection with the fines or penalties.

Section 7 - Payment for Maintenance, Operation, Capital, Overhead Costs, and Debt Service for the Treatment of Wastewater.

7.1 Monthly Payments. Upon diversion of flow, CCSD shall make monthly payments to TCSD for the treatment of CCSD's Wastewater. The monthly payments shall consist of one-twelfth of CCSD's proportionate share of the maintenance, operation, capital, overhead and debt service costs adopted in the annual budget of TCSD. TCSD's monthly statement to CCSD shall contain line items which delineate costs pertaining to operations, maintenance, and capital improvements. The statement shall also include the monthly and year-to-date payment amounts. CCSD's percentage share of the total annual operations and maintenance, capital, overhead and debt service costs shall be established in accordance with the Interim Diversion Cost of Service Analysis. CCSD's portion of maintenance and operation costs will be based on CCSD's measured sewage flow and load as a percentage of the total flow to the Treatment Facilities and the sewage treatment conditions specified in Sections 5.2 through 5.7. Capital improvement costs for upgrade or expansion of the Treatment Facilities as defined in Section 3 shall be based on the capacity allocations defined in Section 3.1 and 3.2, and the sewage treatment conditions specified in Section 5.2 through 5.7. If the amount remitted by CCSD is less than the amount due and owing for the fiscal year based on audited actual maintenance, operation, capital, overhead and debt service costs, final adjustment and payment shall be made by CCSD within 30 days of the Clackamas County Department of Utilities completed annual audit. If CCSD has overpaid, a credit shall be given by TCSD toward succeeding payments due from CCSD. Costs of billing shall be borne by CCSD.

The adjusting bill shall be accompanied by a full accounting of all flows and mass BOD and TSS load levels as well as a separate summary of the actual maintenance, operation, capital, overhead and debt service costs incurred during the previous fiscal year.

7.2 Overhead Costs. CCSD will pay overhead costs as established in the Interim Diversion Cost of Service Analysis. The overhead cost percentage may be evaluated by the TCSD Advisory Committee at the request of CCSD.

7.3 CCSD's Rates and Sources of Payment. CCSD shall pay the charges described in Sections 7.1 through 7.2 out of the available and unpledged revenues of CCSD's Internal System. CCSD's payment obligation to TCSD shall not be prior and superior to any charge or lien of any existing revenue bonds issued by CCSD that are payable from the revenues of its Internal System. CCSD shall establish rates and collect fees and charges for sewer service in accordance with 40 CFR Part 35 and in an amount at least sufficient to pay for (a) the maintenance and operation of CCSD's Internal System, including CCSD's payments to TCSD, and (b) the principal and interest on any CCSD revenue obligations that constitute a charge on the revenue of CCSD's Internal System.

7.4 TCSD Rates. TCSD shall establish rates and collect fees for sewer service in accordance with 40 CFR Part 35 in amounts at least sufficient to pay for its proportionate share of (a) the maintenance and operation of TCSD's sewer system, including its share of the Expanded Treatment Facilities, and (b) the principal of and interest on any and all TCSD revenue obligations that constitute a charge upon the revenues of TCSD's sewer system.

7.5 Books and Accounts. TCSD shall keep full and complete books of accounts showing the maintenance and operation costs incurred in connection with the Treatment Facilities, and the portion thereof applicable to CCSD. The costs of keeping those books shall be considered an operational cost to TCSD. Audits of the books shall be performed annually. More frequent audits, if requested by CCSD, shall be charged to CCSD.

7.6 Independent Audit. Upon majority vote of the TCSD Advisory committee, the parties will conduct an independent performance or financial audit of the Project. The scope of such audit will be approved by the Advisory Committee.

Section 8 - Replacement Standards; Insurance.

8.1 Rehabilitation Standards. Reconstruction, rehabilitation, expansion, or upgrading of the Treatment Facilities shall be in accordance with applicable federal, state, and local laws and regulations. Additions, betterments and improvements to the Treatment Facilities of TCSD shall be installed and constructed in accordance with generally recognized engineering standards at least equal to the standards of TCSD and in accordance with all applicable federal, state and local laws and regulations.

8.2 Insurance. TCSD shall procure and maintain insurance sufficient to pay for all loss or damage to the Level II Facilities resulting from operation in a normal and prudent manner. CCSD shall purchase and maintain insurance sufficient to pay for all loss or damage to the Diversion Facilities. The required coverage and policy limits of the TCSD insurance shall be evaluated by the Tri-City Advisory Committee.

Section 9 - Default. Upon default of either party hereto for failure to perform any terms of this agreement, the nondefaulting party may declare breach by written notice to the defaulting party providing a seven-day opportunity to reasonably and diligently commence remedy of the default. If such action is not taken, then the nondefaulting party may declare this agreement at an end. The nondefaulting party shall have all rights and remedies available at law, including injunctive relief, subject to the arbitration clause below. If CCSD terminates this Agreement, CCSD shall be obligated for its proportionate share of capital costs for the remainder of the term of this Agreement.

Section 10 - Arbitration. In the event of a dispute between TCSD and CCSD concerning any matters arising under the terms and conditions of this Agreement, unless specifically excluded from arbitration, the dispute shall first be considered by the Tri-City Advisory Committee in a nonbinding manner. If the dispute is not settled through the Tri-City Advisory Committee, the Parties may enter into nonbinding mediation. If the dispute remains unsettled, CCSD and TCSD will place the issue before an arbitrator approved by the Parties, and the decision of that arbitrator shall be final and binding on both Parties. The arbitrator's fees and costs shall be shared equally by the Parties.

Section 11 - System Development Charges. TCSD and CCSD will work cooperatively in sharing information for each to develop system development charges as established in ORS 223.297 through ORS 223.314 to finance in whole or in part the Level III Facilities design capacity and to assure consistent application of existing capacity and system expansion costs if the Level III Facilities are part of the Tri-City Treatment Plant.

Section 12 - Amendment or Modification. No amendment or modification of this Agreement, including any addition or deletion thereto, shall be effective unless approved and executed by the Parties in the same form and manner as, and subject to the remaining provisions of, this Agreement. Amendment of this Agreement shall require the favorable recommendation of the TCSD Advisory Committee as described in Section 2.5.3.

Section 13 - Affected Jurisdiction. As either party hereto designs their respective projects, the parties agree to meet with any affected city or district within TCSD's boundaries that could be impacted by location of those facilities to coordinate to the greatest extent possible how those facilities will be located in a manner that results in the greatest public benefit.

Section 14 - Governing Laws. This Agreement shall be governed and construed in accordance with the laws of the State of Oregon. Venue in connection with any legal proceeding affecting this Agreement shall be in the Circuit Court of the State of Oregon for Clackamas County.

Section 15 - Severability and Waiver. In the event any provisions of this Agreement shall be held to be impossible, invalid or unenforceable, the remaining provisions shall be held to be valid and binding upon the Parties hereto. One or more waivers by either Party of any provision, term, condition or covenant shall not be construed by the other Party as a waiver of subsequent breach of the same by the other Party.

Section 16 - Number and Gender. Whenever applicable, the use of the singular number shall include the plural, the use of the plural number shall include the singular, and the use of any gender shall be applicable to all genders.

Section 17 - Successors and Assigns. This Agreement is to be binding on the successors and assigns of the Parties hereto and is not to be assigned by either Party without first obtaining the written consent of the other. No assignment of this Agreement shall be effective until the assignee assumes in writing the obligations of the assigning Party, and delivers such written assumption to the original Party to this Agreement.

Section 18 - Notice. No amendment or modification will be made without 30 days prior written notice to the Cities and the TCSD Advisory Committee as set forth below:

City of West Linn
Attention: City Manager
22925 Willamette Drive
P.O. Box 48
West Linn, Oregon 97068

City of Gladstone
Attention: City Administrator
525 Portland Avenue
Gladstone, Oregon 977027

City of Oregon City
Attention: City Manager
320 Warner Milne Road
Oregon City, Oregon 97045

Upon receipt of notice, the Cities shall have an opportunity to comment on any proposed amendments by providing those comments to: Director, Water Environment Services, 16770 SE 82nd Drive, Suite 200, Clackamas, Oregon 97015.

All notices as to plant operations and system management shall be sent to:

Tri-City Service District Plant Manager
15981 South Agnes Road
Oregon City, Oregon 97045

Clackamas County Service District Plant
Manager
11525 SE McLoughlin Blvd.
Milwaukie, Oregon 97232

Section 19 - Term. By December 31, 1999, TCSD and CCSD will determine whether to construct the Level III Facilities at the Old Rossman's Landfill site. If the facilities are constructed, then the terms and conditions of service shall be set forth in the Project Documents which shall supersede this Agreement. If the Level III Facilities are not constructed at Tri-City, this Agreement will have the term specified herein. The term of this Agreement shall be until December 31, 2004. Any extension shall be mutually agreed upon in writing.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above-mentioned.

TRI-CITY SERVICE DISTRICT

CLACKAMAS COUNTY SERVICE DISTRICT
NO. 1

By: Bill Keenan
Title: Chair

By: Bill Keenan
Title: Chair

ATTEST: Mellicent Morrison

ATTEST: Mellicent Morrison

Exhibit A
to
**AGREEMENT FOR WASTEWATER TREATMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
TRI-CITY SERVICE DISTRICT**

Diversion Facilities

The diversion facilities consist of the pipeline and all upstream facilities to transport CCSD flow to the Tri-City Water Pollution Control Plant headworks building, flow measuring devices and sample collection systems. The facilities will generally include the following:

Approximately 13,600 feet of 12 inch diameter pipe, valves, air release stations, odor control facilities, bridge supports for the pipeline, flow metering stations, and sampling stations.

Exhibit B
to
AGREEMENT FOR WASTEWATER TREATMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
TRI-CITY SERVICE DISTRICT

Interim Diversion Cost of Service Analysis

The following 4 pages dated November 18, 1998, serve as an example of the cost of service analysis, assuming that 1.00 mgd with a daily mass load of 2,500 pounds were diverted. The annual cost of service analysis will be based on the actual flow and load received.

Interim Diversion Cost of Service Analysis

Cost Allocation Methodology

Flow and Load Allocation Percentages

CCSD Average Dry Weather Flow	1.00 mgd
TCSD Average Dry Weather Flow	<u>6.08</u> mgd
Total Average Dry Weather Flow	7.08 mgd
CCSD Percentage of Flow	14.12%
CCSD Average Dry Weather BOD Mass	2,500 lbs
TCSD Average Dry Weather BOD Mass	<u>13,600</u> lbs
TCSD Average Dry Weather Concentration	16,100 lbs
CCSD BOD Load Based Usage	15.53%

Operations and Maintenance Allocation

<u>Treatment-Related Costs</u>	<u>Amount</u>	<u>% Flow</u>	<u>% Load</u>	<u>Flow</u>	<u>Load</u>
Pretreatment	\$ 123,710	100%	0%	\$ 123,710	\$ -
Primary Treatment	\$ 78,016	50%	50%	\$ 39,008	\$ 39,008
Secondary Treatment	\$ 125,407	0%	100%	\$ -	\$ 125,407
Post Treatment	\$ 71,083	100%	0%	\$ 71,083	\$ -
Sludge Management Prgm	\$ 113	0%	100%	\$ -	\$ 113
Sludge Processing	\$ 185,787	0%	100%	\$ -	\$ 185,787
Sludge Disposal	\$ 213,762	0%	100%	\$ -	\$ 213,762
Laboratory	\$ 563	29%	71%	\$ 165	\$ 398
Buildings, Grounds	\$ 65,604	29%	71%	\$ 19,224	\$ 46,380
Odor Control	\$ 6,214	29%	71%	\$ 1,821	\$ 4,393
Miscellaneous	\$ 338,757	29%	71%	\$ 99,265	\$ 239,492
Admin. -- Direct, Alloc.	\$ 366,932	29%	71%	\$ 107,522	\$ 259,410
TOTAL	\$ 1,575,948			\$ 461,798	\$ 1,114,150

Usage Percentages	14.12%	15.53%	<u>Total</u>
CCSD #1 Portion	\$ 65,226	\$ 173,005	\$ 238,230
O & M Costs directly related to CCSD#1 (to be tracked separately)			\$ 200,000
Total O & M Costs allocated to CCSD#1			\$ 438,230

Treatment Capacity Allocation

Assets	Depreciated Costs		% Flow	% Load	Flow		Load	
	Net of Grants	and Contributions						
Treatment Unit Process	\$ 682,679		100%	0%	\$ 682,679	\$ -		
Preliminary Treatment	\$ 97,575		100%	0%	\$ 97,575	\$ -		
Pretreat./Raw Sewage Pump.	\$ 361,064		100%	0%	\$ 361,064	\$ -		
Pretreat./Screenings Process	\$ 289,786		100%	0%	\$ 289,786	\$ -		
Pretreat./Grit removal process	\$ 86,913		100%	0%	\$ 86,913	\$ -		
Primary Treatment	\$ 285,427		50%	50%	\$ 142,714	\$ 142,714		
Primary Sedimentation	\$ 113,248		50%	50%	\$ 56,624	\$ 56,624		
Secondary/Process Blowers	\$ 164,541		0%	100%	\$ -	\$ 164,541		
Secondary/Aeration Basin	\$ 906,854		50%	50%	\$ 453,427	\$ 453,427		
Secondary/Clarifiers	\$ 263,613		50%	50%	\$ 131,807	\$ 131,807		
Secondary/Return Sludge Pump	\$ 85,884		0%	100%	\$ -	\$ 85,884		
Post Treat/Cl. Contact Basin	\$ 167,884		100%	0%	\$ 167,884	\$ -		
Post Treat/Cl. Equipment	\$ 583,698		100%	0%	\$ 583,698	\$ -		
Post Treat/Non-pot. Pump St.	\$ 98,250		100%	0%	\$ 98,250	\$ -		
Post Treat/Outfall	\$ 665,501		100%	0%	\$ 665,501	\$ -		
Solids Treat/Secondary Sludge	\$ 349,005		0%	100%	\$ -	\$ 349,005		
Sludge Disposal System	\$ 347,219		0%	100%	\$ -	\$ 347,219		
Solids Treat./Sludge Digestion	\$ 379,203		0%	100%	\$ -	\$ 379,203		
Solids Treat./Generator	\$ 15,366		0%	100%	\$ -	\$ 15,366		
Solids Treat./Digester Gas Util	\$ 21,536		0%	100%	\$ -	\$ 21,536		
Generator	\$ 16,484		0%	100%	\$ -	\$ 16,484		
Odor Control	\$ 10,848		64%	36%	\$ 6,924	\$ 3,924		
General Plant	\$ 263,190		64%	36%	\$ 167,985	\$ 95,205		
Land	\$ 1,186,895		64%	36%	\$ 757,552	\$ 429,343		
General Plant/Admin. Bldg.	\$ 616,122		64%	36%	\$ 393,248	\$ 222,874		
General Plant/Ops Center	\$ -		64%	36%	\$ -	\$ -		
General Plant/Shop Complex	\$ 337,118		64%	36%	\$ 215,170	\$ 121,948		
General Plant/Office Complex	\$ 243		64%	36%	\$ 155	\$ 88		
Construction WIP	\$ 404,846		64%	36%	\$ 258,398	\$ 146,448		
TOTAL	\$ 8,800,992				\$ 5,617,354	\$ 3,183,638		

Usage Percentages	14.12%	15.53%	<u>Total</u>
CCSD #1 Portion	\$ 793,412	\$ 494,354	\$ 1,287,765
Remaining Useful Life (Composite Average)			<u>17.5</u>
Total capacity costs allocated to CCSD#1			\$ 73,587

Availability of Capacity Surcharge

Original Cost of Treatment-related Assets less Contributions	\$ 24,725,627
Usage Percentage -- Flow	14.12%
Composite Useful Life (when new)	<u>27</u>
Available Capacity Surcharge allocated to CCSD#1	\$ 129,345

Total Reimbursement

Operations and Maintenance Component	\$ 438,230
Treatment Capacity Allocation	\$ 73,587
Availability of Capacity Surcharge	<u>\$ 129,345</u>
TOTAL	\$ 641,162

Exhibit C
to
AGREEMENT FOR WASTEWATER TREATMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
TRI-CITY SERVICE DISTRICT

Sampling Schedule

The flow received from CCSD shall be sampled using flow proportional composite methods and analyzed to measure the Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) concentrations at least as frequently as is required for the influent to the Tri-City Wastewater Treatment Plant in Schedule B, Paragraph 1, NPDES Permit No. 101168.

Exhibit D
to
AGREEMENT FOR WASTEWATER TREATMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
TRI-CITY SERVICE DISTRICT

Expanded TCSD Treatment Facility

The Expanded TCSD Treatment Facility will include improvements functionally equivalent to Phases 1 and 2 listed in Table 1-4, "Recommended Sewerage Improvements Phases Through the Year 2020" of the Tri-City Service District Sewerage Master Plan, prepared by Water Environment Services, a department of Clackamas County, and CH2M Hill, dated October 1998.