

RESOLUTION NO. 1688

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH US FILTER OPERATING SERVICES, INC. FOR THE OPERATION AND MAINTENANCE OF THE WILLAMETTE WATER TREATMENT PLANT.

WHEREAS, based on planning and engineering forecasts as well as directives from the Oregon Water Resources Department, the City has determined its groundwater resources are inadequate to meet the needs of existing development and future growth; and

WHEREAS, following years of study, extensive public involvement, and a detailed evaluation of alternative water supply options, the Wilsonville City Council in June, 1999, adopted Resolution No. 1557 selecting the Willamette River as the long-term source of water for the City and referring a ballot measure to the voters regarding authorization for issuance of revenue bonds to construct the necessary facilities to implement this program; and

WHEREAS, in September, 1999, the voters of Wilsonville approved Ballot Measure 3-59 which called for the issuance of revenue bonds to treat and use the Willamette River as the City's long-term water supply; and

WHEREAS, subsequent to said voter approval the City contracted with a team headed by Montgomery Watson, Inc., to design and construct the Willamette Water Treatment Plant; and

WHEREAS, all pertinent permits and authorizations have been issued for the construction of the Willamette Water Treatment Plant, and construction is well under way and on schedule to produce potable water by April, 2002; and

WHEREAS, prior to completion of construction, it is in the interest of the City and its water customers to have the personnel who will operate the Willamette Water Treatment Plant involved in testing of the entire system, development of operations and maintenance manuals, establishment of emergency procedures, setting up laboratory testing procedures, securing appropriate certifications, designing and implementing automated systems to track and report information needed for plant operations, and other activities to assure there is a smooth and successful transition from construction to full-scale operation of said facility; and

WHEREAS, it is in the interest of the City and its water customers to have the Willamette Water Treatment Plant staffed by personnel who have the appropriate experience to operate such a facility; and

WHEREAS, it is in the interest of the City and its water customers to have national experts available if and/or when needed to provide advice, oversight, and assistance in the operation of the Willamette Water Treatment Plant; and

WHEREAS, the City of Wilsonville and the Tualatin Valley Water District as co-owners of the Willamette Water Treatment Plant conducted a nation-wide search for teams qualified to operate such a water treatment facility; and

WHEREAS, candidate teams were rated by a seven-member panel with the rating based on evaluations of written proposals, oral presentations, and site visits; and

WHEREAS, a team headed by U.S. Filter Operating Services, Inc., a firm with extensive national and international experience in water and wastewater treatment, was selected as the best qualified to perform the desired services for operation of the Willamette Water Treatment Plant; and

WHEREAS, a detailed description of the desired services and associated costs is contained in a comprehensive contract document, a copy of which is marked Exhibit 1, attached hereto and incorporated by reference as if fully set forth herein; and

WHEREAS, a portion of said contract is devoted to services associated with the orderly and successful transition from the construction phase of this project to full-scale operation, with such services to be provided at a cost not to exceed \$389,406 plus a 10 percent contingency; and

WHEREAS, upon completion of construction, said contract calls for the continuing services of U.S. Filter Operating Services, Inc., to operate the Willamette Water Treatment Plant at an estimated annual cost of approximately \$1,123,000 as adjusted annually based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Portland-Salem OR-WA ; and

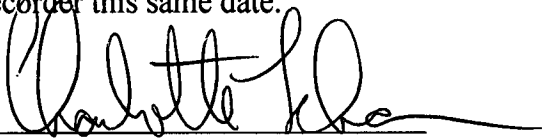
WHEREAS, said contract contains provisions to protect public health and safety by assuring the Willamette Water Treatment Plant is operated in a manner that achieves potable water of a quality that meets standards even stricter than required by federal and state drinking water regulations; and

WHEREAS, the Tualatin Valley Water District Board at its meeting on January 17, 2001, authorized its General Manager to execute said contract on behalf of the Tualatin Valley Water District as co-owner of the Willamette Water Treatment Plant;

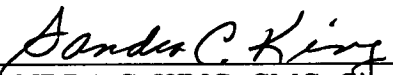
NOW, THEREFORE THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The Wilsonville City Council hereby approves and authorizes the City Manager to execute on behalf of the City of Wilsonville the Operation and Maintenance Contract, a copy of which is attached as Exhibit 1 and by this reference included herein as if fully set forth, for services to be provided by U.S. Filter Operating Services, Inc., during the remainder of the construction phase of the Willamette Water Treatment Plant and for operation of the plant upon completion of construction.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 5th day of February, 2001, and filed with the Wilsonville City Recorder this same date.


CHARLOTTE LEHAN, MAYOR

ATTEST:


SANDRA C. KING, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Helser	Yes
Councilor Barton	Yes
Councilor Kirk	Yes
Councilor Holt	Yes

**Operation and Maintenance Contract
Between
The City of Wilsonville
And
Tualatin Valley Water District
And
U.S. Filter Operating Services, Inc.**

Date Effective: February 6, 2001

**OPERATION AND MAINTENANCE CONTRACT
BETWEEN
THE CITY OF WILSONVILLE, AN
OREGON MUNICIPAL CORPORATION AND
TUALATIN VALLEY WATER DISTRICT, AN OREGON DOMESTIC WATER
SUPPLY DISTRICT UNDER ORS CHAPTER 264 ("OWNERS"), AND
U. S. FILTER OPERATING SERVICES, INC. A DELAWARE CORPORATION
(USFOS, OPERATOR)**

DATED EFFECTIVE: February 6, 2001

TABLE OF CONTENTS

	Page
Parties	7
Effective Date	8
Operation and Maintenance Contract	
Contract Documents	
Services to be Performed	
Compensation	
 <u>General Terms and Conditions</u>	
Definitions	9
Appointment of OPERATOR	13
Authorized Representatives	13
Term of Contract; Renewals	14
Termination by OWNER	14
For Cause	
For Convenience	
Immediate Termination	
Transition Period After Termination	
Termination by OPERATOR	15
Services to be Performed by OPERATOR; OPERATOR's	
Obligations	15
Beneficial Occupancy of Facility	15
Meetings	15
Existing Facility Personnel; OWNER Right of First Refusal to	
OPERATOR Personnel	16
Evidence of OPERATOR's Financial Capabilities	16
Approval of Maintenance Procedures	16
Facility Shutdown	16
Activities Must be Performed Locally	16
Notice of Claims and Lawsuits	17
Standard Operating Procedures	17
Changes Under Contract: Proposals; Compensation	17
Discretionary Changes	
Event Caused Changes	
Discretionary Changes Proposals; OWNER	
Discretionary Changes and Event Caused Changes Proposals	
Termination; Event Caused Changes Proposals	

OPERATOR Compensation; Contract Price; Adjustments	18
Releases and Indemnification	18
Limitation of Liability	18
Insurance and Bonding Requirements	19
General Preamble	
Evidence of Insurance and Bonding Required Before Services Under Contract Commence	
Insurance Policies	
Bonding Requirements	
Investigation and Insurance Reporting	
Failure to Furnish or Maintain Insurance/Bonding	
Mandatory Notices of Cancellation or Material Change	
OWNER as Additional Insured	
Qualifications of Insurance and Bonding Companies	
Permits	22
Standard of Care Applicable to Services	22
Taxes	22
Labor, Personnel and Services Rules	23
Signs; Insignias	23
Safety and Health; Safe Operations	23
Security	24
Compliance with OWNER's Security Requirements	24
Fines	24
Records and Audit	24
Inspection by OWNER	25
Backcharges	25
Force Majeure	25
Takeovers	26
Facility Equipment; OWNER-Owned Facility	27
Dispute Resolution	28
Miscellaneous	29
Precedence of Contract Documents	
Interpretation Not Affected	
Standards and Codes	
Compliance with Applicable Governmental Requirements	
Notice of Inconsistencies	
Contract Interpretation	
Assignment	

Subcontracts; Suppliers	
No Partnership or Joint Venture; Debts	
Parties Bound	
Notices	
Governing Law	
Legal Construction	
Prior Contracts Superseded	
Waiver	
Further Acts	
Modifications	
U.S. Currency	
Ownership of Information; Confidentiality	
Contingent Fees	
Rights and Remedies	
Signatures	34

Exhibit A: Compensation

Fee During Construction of Water Treatment Plant	1A
Operating Fee	1A
Fixed Labor Component	
Not-to-Exceed Costs	
Pass-Through Costs	2A
Granular Activated Carbon (GAC)	
Chemicals (other than GAC)	
Electricity	
Sludge Hauling and Disposal	
Additional OWNER-Directed Lab & Monitoring Costs	
Letter of Credit	
Telemetry	
Maintenance	
Year-End Reconciliation of Pass-Through Costs	
Major Renewal and Replacement	3A
Annual Operating Fee Adjustments	3A
Payments	4A
OWNER Financed Capital Facility	4A
Change of Scope	4A
Attachment A-1: Schedule for Fee During Construction	5A
Attachment A-2: Annual Budget Plan	7A

Exhibit B: Scope of Services

Preamble	1B
Willamette River Water Treatment Plant Construction	1B
Willamette River Water Treatment Plant Commissioning	1B
Extended Plant Operations	2B
Services Including but not Limited to:	
1. Provide Personnel	3B
2. Provide and/or Pay Certain Costs	3B
3. Perform Necessary Sampling	3B
4. Provide Staff Items	3B
5. Provide Sufficient, Qualified Employees	3B
6. Trainees and Vacant Positions	3B
7. Enforcement of Warranties	3B
8. Provide Five-Year Capital Improvement Plan	4B
9. Programs and Procedures	4B
Security	
Operating, Personnel and Administration	
Maintenance	
Risk Management	
Public Relations	
Training	
Safety	
10. Disposal of Sludge	4B
11. Assure Water is Available at the Clear Well	4B
12. Immediate Notification of Problems	4B
13. Provide Uninterrupted Operation and Maintenance	5B
14. Use All Plant Processes and Barriers	5B
15. Operate Facility in Cost Effective Manner	5B
16. Respond to Requests for Information	5B
17. Assist OWNER Regarding Certifications, Licenses and Permits	6B
18. Assist OWNER in Responding to User Requests	6B
19. Quality Assurance and Quality Control	6B
20. Minimize Noise and Other Adverse Impacts	6B
21. Minimize Service Disruptions and Inconveniences	6B
22. Conduct Field Activities	6B
23. Preconstruction and Coordination Meetings	6B
24. Calibrate Meters	6B
25. Safety of Persons and Property	6B
26. Emergency Plan	7B
27. Improvement in Standards	7B
28. Maintenance and Repair	7B
29. Repair of Damage due to OPERATOR Fault	12B
30. Information, Data and Reports	12B
31. Environmental Responsibilities	15B

32. Records of Maintenance Services	16B
33. Delivery to OWNER upon Termination or Expiration	16B
34. Assumption of Facility	16B
35. Extended Plant Operations	16B

Exhibit C: Transition Plan

Quality Assurance and Quality Control	1C
Startup Coordination and Planning Requirements	1C
Definitions	1C
Responsibilities of Startup Team Members	2C
Communications	3C
System for Operations Reviews	3C
Facility Startup and Preliminary Testing	4C
Pumping Systems	4C
Instrumentation Tests	4C
Control System Tests	4C
Electrical Equipment Tests	4C
Startup Completion Checkoff Matrix	5C
Standardized Format for Operating Procedures	6C
Startup QA/QC Procedures Manual	6C
Train Startup Team	6C
Facility Transition to Normal Operation	7C
Acceptance Plan	7C

Exhibit D: (Not Used)

Exhibit E: Finished Water Standards

Introduction	1E
Table E-1: Finished Water Standards	2E
Table E-2: Water Treatment Monitoring Frequencies	4E

Exhibit F: Facility Description

Project and Treatment Components	1F
Attachment F-1: Deeds	4F

**OPERATION AND MAINTENANCE CONTRACT
BETWEEN
THE CITY OF WILSONVILLE, AN
OREGON MUNICIPAL CORPORATION AND
TUALATIN VALLEY WATER DISTRICT, AN OREGON DOMESTIC WATER
SUPPLY DISTRICT UNDER ORS CHAPTER 264 ("OWNERS"), AND
U. S. FILTER OPERATING SERVICES, INC. A DELAWARE CORPORATION
(USFOS, OPERATOR)**

CONTRACT

1. PARTIES

OPERATOR: USFOS, Inc. United States Filter Operating Services, Inc. is a corporation authorized to conduct business in the State of Oregon as a water treatment plant operator.

Address: 2300 Contra Costa Blvd.
Suite 470
Pleasant Hill, CA 94523

Contact: Vice President, Telephone: (925) 681-2305
Western Service Center Facsimile: (925) 681-0236

JOINT OWNER: City of Wilsonville City of Wilsonville, a municipal corporation of the State of Oregon, is duly authorized to own, operate and maintain a municipal domestic water supply system and jointly own with the Tualatin Valley Water District ("TVWD") the Willamette River Water Treatment Plant and to contract with USFOS for the operation of the Treatment Plant jointly and severally with TVWD.

Address: 30000 S.W. Town Center Loop E.
Wilsonville, OR 97070

Contact: Public Works Director Telephone: (503) 570-1542
Facsimile: (503) 682-8816

JOINT OWNER: Tualatin Valley Water
District (TVWD)

TVWD, an Oregon Domestic Water Supply District pursuant to ORS Chapter 264 is authorized to own, operate and maintain a municipal/ domestic water supply system and to jointly own with the City of Wilsonville the Willamette River Water Treatment Plant and jointly and severally with the City of Wilsonville to contract with USFOS for the operation of the Treatment Plant

Address: P.O. Box 745
Beaverton, OR 97075

Contact: General Manager

Telephone: (503) 642-1511
Facsimile: (503) 694-2733

2. EFFECTIVE DATE

This **OPERATION AND MAINTENANCE CONTRACT** ("Contract") is executed effective as of February 6, 2001, between The City of Wilsonville, an Oregon municipal corporation and Tualatin Valley Water District, an Oregon Domestic Water Supply District under ORS Chapter 264 ("OWNERS"), and USFOS ("OPERATOR"), a Delaware Corporation. OWNER and OPERATOR agree as follows:

CONTRACT DOCUMENTS: OWNER and OPERATOR agree that all Services specified in the Contract Documents will be performed by OPERATOR in accordance with all Governmental Requirements and the provisions of the Contract Documents.

SERVICES TO BE PERFORMED: Except as specified elsewhere in the Contract Documents, OPERATOR must furnish all labor; materials; supplies; equipment; transportation; supervision; technical, professional and other Services for the purpose of treating water from the Willamette River; and must perform all operations and maintenance necessary and required to properly provide Services for the Facility consisting of an intake/pumping station, raw water transmission main(s), raw water reservoirs, treatment works, sludge handling facilities, clearwells, finished water pumping facilities, maintenance facilities, administrative building, parking and other paved areas, landscaping associated with the treatment facilities, and all improvements, upgrades, modifications or additions to the Facility made during any term of this Contract.

COMPENSATION: OWNER will pay OPERATOR compensation for the Services as set forth on Exhibit A, attached hereto and incorporated by reference.

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS.

In addition to any other terms defined in the Contract Documents, the following terms will have the following meanings. When required, the plural will include the singular and the singular will include the plural:

- 1.1 **Acceptance Date** is the date on which the Facility has passed all Acceptance Tests, punch list items are complete and the Facility is ready for full commercial use.
- 1.2 **Acceptance Testing or Acceptance Tests** means the conduct of the test, plans and procedures developed in order to demonstrate the Facility can function in its full commercial use.
- 1.3 **ADA** is the Americans With Disabilities Act of 1990, 42 U.S.C. 12101-12213.
- 1.4 **Applicable Law** means any law, rule, code, standard, regulation, requirement, consent decree, consent order, consent agreement, permit, guideline, action, determination or order of, or legal entitlement issued by, any governmental body having jurisdiction, applicable from time to time to the siting, design, construction, equipping, financing, ownership, start-up, testing, acceptance, operation, maintenance, repair and replacement of any part of the Facility, the transfer, handling transportation, disposal or processing of residuals and any other obligations of the parties under the Contract as exists as of the date of execution of the Agreement.
- 1.5 **Base Year** is the Contract Year beginning July 1, 2002.
- 1.6 **Billing Period** is each calendar month, as set forth on Exhibit A. Any computation made on the basis of a billing period shall be adjusted on a pro-rata basis to take into account any billing period of less than the actual number of days in the month to which such billing period relates.
- 1.7 **Business Day** means any weekday, Monday through Friday, other than holidays when City of Wilsonville offices are closed.
- 1.8 **Change Order** means a written memorandum signed by the OWNER and the OPERATOR after execution of this Contract authorizing a change in the scope of work and/or any authorized modifications made to the facility during the term of this Agreement.
- 1.9 **Change of Law** means any of the following events occurring after the effective date of the Agreement: (i) the adoption, modification or repeal, or official change in interpretation, of any Applicable Law; or (ii) the modification or of any material conditions, restrictions or limitations in any permit, license, approval, authorization, consent or other authorization which is required under Applicable

Law for the operation and maintenance of the Facility of any components thereof, or for the performance of any of the obligations under this agreement, which imposes material or substantial limitations, additional costs or burdens with respect to the, operation, repair, maintenance and replacement of the Facility, or components thereof or the parties' other obligations under this Agreement.

- 1.10 **Contract Amount.** The Price in each year of this Contract combined as set forth in Exhibit A, attached hereto and incorporated by reference.
- 1.11 **Contract Documents:**
- 1.11.1. The Operational and Maintenance Contract, and any addenda, modifications, changes or amendments to said Contract together with:
 - 1.11.2. Exhibit A: Compensation
 - 1.11.3. Exhibit B: Scope of Services
 - 1.11.4. Exhibit C: Transition Plan
 - 1.11.5. Exhibit D: (Not Used)
 - 1.11.6. Exhibit E: Finished Water Standard
 - 1.11.7. Exhibit F: Facility Description
- Collectively, the Contract documents may be referred to within the documents interchangeably as the or this Agreement, the or this Contract, or the or these Contract documents.
- 1.12 **Contract Year** – the fiscal year beginning July 1 and ending June 30. Computations made on the basis of a partial contract year shall be adjusted on a pro-rata basis to take into account any contract year of less than 365/366 days.
- 1.13 **Corrective Maintenance and Repairs:** Those non-routine/non-repetitive activities required for operational continuity, safety and performance generally due to failure or to avert a failure of the Facility Equipment, Facility or some component of either.
- 1.14 **CPI Adjustment(s).** As of July 1, (the "Adjustment Date") of each year of the Contract, and in accordance with Exhibit A, the Price for the following year will be increased on the basis of increase in the Consumer Price Index (the "Index") for Urban, All Item, Portland-Salem OR-WA, published by the United States Department of Labor, Bureau of Labor Statistics for the prior calendar year. If the Index is discontinued, such other governmental index or method of computation that replaces it or which is substantially comparable to the Index will be used as the parties mutually agree. If the Index is revised such that Indexes are computed on different base years, the conversion factor published by the government will be used in making the adjustment computation.
- 1.15 **Day:** Each day shown on the calendar.

- 1.16 **EPA** means the United States Environmental Protection Agency.
- 1.17 **Facility:** The initial 3 and 15 MGD Phases and all subsequent phases of the 70 MGD Willamette River Water Treatment Plant located on the Willamette River at Wilsonville, Oregon, including everything internal to the perimeter fence and walls of the treatment works, the perimeter fence and walls themselves, inlet piping and associated structures, and outlet piping and associated meters to the termination points on Kinsman Road and Brockway Drive, to be operated, maintained and repaired by the OPERATOR pursuant to this Agreement. Exhibit F depicts the facility for locational purposes.
- 1.18 **Facility Capital Modification:** A physical expansion or improvement to the Facility, including, without limitation, the procurement and installation of additional improved facilities or equipment, which impose, or will impose, valid, justifiable and properly documented increased costs upon OPERATOR in excess of those already provided for in the Contract Price.
- 1.19 **Facility Equipment:** All items of tangible personal property purchased by OWNER and used to manage or operate the Facility, or acquired by OPERATOR, on OWNER's behalf pursuant to this Contract.
- 1.20 **GAAP:** Generally Accepted Accounting Principles. The set of standards established by the Financial Accounting Standards Board (FASB) for the consistent reporting of financial data and preparation of financial statements.
- 1.21 **GAAS:** Generally Accepted Auditing Standards. The auditing standards adopted by the membership of the AICPA.
- 1.22 **Governmental Requirements:** All applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, standards, executive orders, consent orders, other orders and guidance from regulatory agencies, judicial decrees, permits, licenses or other governmental requirements of any kind, now in effect or which come into effect during any term of this Contract, or during the time the Services are being performed, and any present or future amendments to those Governmental Requirements, which specifically relate to: [i] the business of OWNER; [ii] the business of OPERATOR or OPERATOR's Subcontractors/Subconsultants, suppliers or materialmen; [iii] this Contract and the Contract Documents; [iv] the performance of Services by OPERATOR; [v] the City of Wilsonville, Oregon; [vi] the Tualatin Valley Water District; [vii] the Facility; or [viii] any other matters relating to this Contract.
- 1.23 **Hazardous Substance or Hazardous Waste** – means any substance which is listed, defined, designated or classified under any state or federal environmental law as a (i) hazardous material, substance, constituent or waste, (ii) toxic material, substance, constituent or waste, or (iii) radioactive material, substance, constituent or waste.

- 1.24 **OPERATOR:** U. S. Filter Operating Services, Inc. a Delaware corporation
- 1.25 **OPERATOR Fault.** Any breach (including the untruth or breach as of the time made of any OPERATOR representation or warranty herein set forth), failure, nonperformance or noncompliance by the OPERATOR with any provision of this Contract (whether or not attributable to any officer, member, agent, employee, contractor, subcontractor of the operator) which materially and adversely affects the OWNERS' rights and obligations or ability to perform under this Contract or materially and adversely affects its cost of performance.
- 1.26 **OWNER.** The City of Wilsonville and the Tualatin Valley Water District ("TVWD"), that are responsible, jointly and severally, for the OWNER obligations under the Contract hereunder.
- 1.27 **OWNER Fault.** Any breach (including the untruth or breach as of the time made of any OWNER representation or warranty herein set forth), failure, nonperformance or noncompliance by the OWNER with any provision of this Contract which materially and adversely affects the OPERATOR's rights and obligations or ability to perform under this Agreement; provided that the OPERATOR has provided the OWNER with notice as soon as practical, but no more than thirty (30) days, of its knowledge of such breach, failure, non-performance or non-compliance.
- 1.28 **Person.** Any individual, partnership, firm, corporation or other legal entity.
- 1.29 **Preventive Maintenance.** Those routine and/or repetitive activities required by the Facility Equipment or Facility manufacturer or OPERATOR to maximize the service life of the Facility Equipment or Facility.
- 1.30 **Prudent Industry Practices.** As to the services, the practices, methods and acts, as changed from time to time, that are commonly used in the water industry to perform or fulfill the services, or any practices, methods or acts which, in the exercise of reasonable judgment in light of the facts known at the time, or the facts which should have been reasonably known at the time through the exercise of reasonable due diligence, could be expected to accomplish the desired result at a reasonable cost, consistent with good business practices, reliability, safety and expedition; provided, however, that Prudent Industry Practices is not intended to be limited to optimum practices, methods or acts to the exclusion of all others, but rather is to be construed as a range of reasonable practices, methods or acts taken or engaged in by entities that manage and operate similar facilities in the industry under the same or similar circumstances.
- 1.31 **Raw Water** – that water received at the Facility for treatment.
- 1.32 **Raw Water Specifications** – those specifications set forth in the Raw Water Quality Technical Supplement.

- 1.33 **Release.** Any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, disbursal, leaching or mitigation of any Hazardous Substance into the environment, including, without limitation, the movement of any Hazardous substance in or through the air, soil, surface or ground water, or land.
- 1.34 **SCADA.** Supervisory Control and Data Acquisition system.
- 1.35 **Site.** The real property located in the City of Wilsonville set forth on Exhibit F, on which the Facility located is to be operated by the OPERATOR as required by the Contract documents.
- 1.36 **Subcontractor/Subconsultant.** Any Person under OPERATOR's direct or indirect control, or having a contract with OPERATOR, for any portion of the Services.
- 1.37 **Subcontract.** The contract under which any Subcontractor/Subconsultant performs.
- 1.38 **Substantial Completion.** For purposes of this contract, Substantial Completion means the date upon which the OWNER formally acknowledges successful completion of Acceptance Testing of the initial 3MGD production capacity of the Facility.
- 1.39 **Treated Water.** Raw Water that has been treated at the Facility in accordance with the Contract document and delivered by the OPERATOR to the OWNER.
- 1.40 **Tualatin Valley Water District ("TVWD").** The Tualatin Valley Water District of Oregon.

2. **APPOINTMENT OF OPERATOR.**

OWNER appoints OPERATOR to perform Services concerning the operation and maintenance of the Facility, as specified in the Contract Documents, and OPERATOR accepts that appointment.

3. **AUTHORIZED REPRESENTATIVES.**

- 3.1 **OWNER's Representative.** OWNER will designate one individual to serve as its representative ("OWNER's Representative") in all dealings with OPERATOR. The OWNER's initial Representative will be Wilsonville's Director of Public Works.
- 3.2 **OPERATOR's Representative.** OWNER will be entitled to rely on the actions, representations and communications of all OPERATOR employees concerning the subject matter of this Contract. OPERATOR will designate its Operations and Maintenance Manager as its OPERATOR's Representative for Day-to-Day questions and maintenance of the Facility. For contractual matters,

OPERATOR's Representative initially will be the US Filter Area Manager responsible for the Portland/Vancouver metropolitan area.

3.3 **Change of Representatives.** Representatives may be changed at any time, and from time to time, upon prior written notice to the other party.

4. **TERM OF CONTRACT; RENEWALS.**

The initial term of the Contract will be 5 calendar years from the beginning of the Base Year, unless earlier terminated as provided for in this Contract. OWNER may renew the Contract at its sole discretion under the same terms and conditions (with a CPI adjustment for any renewal term). OWNER may exercise any option to renew the Contract by delivering duly authorized written notice of its intent to renew 60 days prior to the expiration date of the initial 5 year term of the Contract or the first renewal term, if renewed.

5. **TERMINATION BY OWNER.**

5.1 **For Cause.** OWNER may terminate the Contract by giving 30 days prior written notice to OPERATOR if any one of the following events of default occurs:

5.1.1. **Transfer of OPERATOR's Interest** Any interest in OPERATOR, or in the Contract, that transfers, passes or devolves by operation of law, agreement, or otherwise, to any other Person or entity, without the prior written consent of OWNER; or

5.1.2. **OPERATOR's Default Under Contract.** OPERATOR is in default in the performance of its obligations under this Contract. OPERATOR is in default in the performance of its obligations under the Contract if OPERATOR fails to cure the default within 10 Business Days after receipt of written notice, or if such cure requires longer than 10 Business Days to complete, OPERATOR fails to diligently commence to cure within the 10-day period and complete the cure within a reasonable period of time.

5.2 **Termination by OWNER for Convenience.** OWNER may terminate the Contract for any reason by giving 60 days prior written notice to OPERATOR.

5.3 **Immediate Termination.** The Contract will immediately terminate, without the requirement of any action on OWNER's part, if OPERATOR:

5.3.1. voluntarily consents to an order for relief by filing a petition for relief under the laws of the United States codified as Title 11 of the United States Code;

5.3.2. seeks, consents to or does not contest the appointment of a receiver, custodian or trustee for itself or for all or any part of its property;

- 5.3.3. files a petition seeking relief under the bankruptcy, arrangement, reorganization or other debtor relief laws of any state or other competent jurisdiction;
- 5.3.4. gives notice to any governmental body of insolvency or pending insolvency, or suspends operations;
- 5.3.5. becomes insolvent as that term is defined under applicable bankruptcy, fraudulent transfer or conveyance laws; or
- 5.3.6. makes an assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors.

5.4 Transition Period After Termination by OWNER or Expiration of Contract.

If the Contract is terminated by OWNER or not renewed, all Services must continue to be provided by OPERATOR during a transitional period of up to 6 months, as directed by OWNER. During the transitional period, the terms and conditions of the Contract Documents will apply.

6. TERMINATION BY OPERATOR.

OPERATOR may terminate the Contract by giving 60 days prior written notice to OWNER if OWNER is in default in the performance of its obligations under this Contract. OWNER is in default in the performance of its obligations under the Contract if OWNER fails to cure the default within 10 Business Days after receipt of written notice, or if such cure requires longer than 10 Business Days to complete, OWNER fails to diligently commence to cure within the 10-day period and complete the cure within a reasonable period of time. OPERATOR's termination of this Contract for cause will not negate OWNER's right to hire OPERATOR's non-management personnel pursuant to the Clause titled "EXISTING FACILITY PERSONNEL; OWNER RIGHT OF FIRST REFUSAL TO OPERATOR PERSONNEL".

7. SERVICES TO BE PERFORMED BY OPERATOR; OPERATOR'S OBLIGATIONS.

OPERATOR must manage the Day-to-Day operations of the Facility, maintain the Facility and perform all tasks necessary within the scope of OPERATOR's obligations under the Contract Documents for the operation and maintenance of the Facility, including, but not limited to, those tasks set forth on Exhibit B; Scope of Services. OPERATOR must operate and maintain the Facility according to Prudent Industry Practices.

8. BENEFICIAL OCCUPANCY OF FACILITY.

Upon Substantial Completion as defined in Section 1.37, the OPERATOR will assume beneficial occupancy and will be in responsible charge of the Facility.

9. MEETINGS.

OPERATOR's Representative, and any other OPERATOR personnel, Subcontractor/ Subconsultant or other Persons acting on behalf of OPERATOR, may be required when

reasonably necessary to attend regular meetings with OWNER, and any other Persons that OWNER deems reasonably necessary should be present, concerning the Facility or this Contract. If OWNER desires to conduct a meeting, when practicable, written notice will be sent or oral notice given to OPERATOR at least 3 Business Days (Monday through Friday, except for legal holidays) prior to the meeting, specifying the date, time and location of the meeting, any Persons OWNER desires to attend the meeting and any other information deemed pertinent by OWNER concerning the meeting. OPERATOR will not be responsible for obtaining the attendance at any meeting of Persons not under the control of OPERATOR, but will use reasonable efforts to assist OWNER in obtaining that attendance. Nothing herein will restrict the right of OWNER or OPERATOR to call a meeting upon 24-hours notice, or sooner in the event of an emergency as reasonable under these circumstances, where significant issues involved the contract have occurred or may occur.

10. **EXISTING FACILITY PERSONNEL; OWNER RIGHT OF FIRST REFUSAL TO OPERATOR PERSONNEL.**
OPERATOR must give OWNER the first right to solicit all non-management OPERATOR personnel in the event of Agreement termination or non-renewal.
11. **EVIDENCE OF OPERATOR'S FINANCIAL CAPABILITIES.**
OPERATOR must provide evidence of OPERATOR's financial capability to undertake this Project preferably in the form of a copy of the OPERATOR's audited annual report or in lieu thereof, the U.S. Filter Operating Services Group Balance Sheet. Any such information is understood by the parties to be confidential and proprietary. This submittal must be provided to OWNER on or before the date this Contract is executed by OPERATOR, with current audited reports and/or yearend balance sheets submitted by OPERATOR to OWNER annually thereafter.
12. **APPROVAL OF MAINTENANCE PROCEDURES.**
OWNER must approve any modifications of major maintenance activities affecting the operation or appearance of the Facility. Maintenance expenditures exceeding \$20,000 in any one instance will be deemed major.
13. **FACILITY SHUTDOWN.**
OPERATOR must take all reasonable steps to ensure that the total Facility system is not to be shut down for any period of time due to strikes, lock-outs or labor problems of OPERATOR's work force; and in any event the OPERATOR must have the Facility back on line within 24 hours should a shutdown occur for such reasons. A plant shutdown is required, however, if, in the exercise of Prudent Industry Practices, the OWNER or the OPERATOR determines that no amount of water can meet the Finished Water standards of this Contract.
14. **ACTIVITIES MUST BE PERFORMED LOCALLY.**
OPERATOR must have a local metropolitan Portland office and must operate and manage the Facility locally. All primary activities concerning the operation and maintenance of the Facility must take place on site.

15. NOTICE OF CLAIMS AND LAWSUITS.

If OPERATOR or OWNER become aware of any claim or lawsuit involving the Facility, it must promptly notify the other in writing, providing in detail the information of which it is aware concerning the claim or lawsuit.

16. STANDARD OPERATING PROCEDURES.

As to the Facility, OPERATOR will provide input into the operating and maintenance procedures of the treatment plant at least 90 days prior to the acceptance testing for the Facility.

17. CHANGES UNDER CONTRACT; PROPOSALS; COMPENSATION.

17.1 Discretionary Changes. OWNER or OPERATOR may, at any time during the initial term of this Contract, or any renewal term, propose changes within the general scope of the Services under this Contract.

17.2 Event Caused Changes. OPERATOR may, at any time during the initial term of this Contract, or any renewal term, propose changes to the Contract Price as a result of its increased cost of performance of Services due to changes in applicable Governmental Requirements, a Facility Capital Modification, a Force Majeure event, as defined in the Clause titled "FORCE MAJEURE", or an OWNER directed increase in the scope of Services under this Contract.

17.3 Discretionary Changes Proposals; OWNER. If OWNER proposes a change to the general scope of the Services under this Contract, OWNER will give OPERATOR 15 Business Days (or longer, if agreed to between the parties) prior written notice setting forth OWNER's proposed changes. OPERATOR must respond to OWNER in writing within 15 Business Days after receipt of OWNER's proposal, setting forth an estimate of the costs associated with the revised Services, any proposed adjustment to the Contract Price that would be applicable (in addition to any CPI Adjustment), provisions for payment of those costs and other details necessary for the proper performance of the proposed revised Services. OWNER will either accept or reject OPERATOR's proposal in writing within 10 Business Days. Provided, however, if the OPERATOR's proposal is such that it needs OWNER's Board approval, then the proposal shall be presented to the OWNER's Council Board at the next available regular meeting. If OWNER accepts, then a written memorandum of the terms of the adjustment will be prepared and executed by OPERATOR and OWNER.

17.4 **Discretionary Changes and Event Caused Changes Proposals.** If OPERATOR proposes an increase in the Contract Price pursuant to this Clause, OPERATOR will give OWNER 15 Business Days (or longer, if agreed to between the parties) prior written notice setting forth OPERATOR's proposed increase to the Contract Price, describing in detail the reasons necessitating the increase and specifying, and providing substantiation and back-up documentation satisfactory to OWNER for, the cost components concerning the Services which increase. OWNER will either accept or reject OPERATOR's proposal subject to further negotiations between OWNER and OPERATOR in writing within 45 Days. If OWNER accepts, then a written memorandum of the terms of the adjustment to the Contract Price will be prepared and executed by OPERATOR and OWNER.

17.5 **Termination; Event Caused Changes Proposals.** If OWNER and OPERATOR are unable to reach agreement concerning an adjustment to OPERATOR's compensation pursuant to the Clause titled "Event Caused Changes", either may terminate this Contract upon 90 Days prior written notice to the other.

18. **OPERATOR COMPENSATION; CONTRACT PRICE; ADJUSTMENTS.**

The Contract Price will be subject to change only due to the CPI Adjustment and changes pursuant to the Clause titled "CHANGES UNDER CONTRACT; PROPOSALS; COMPENSATION." The pricing formula for subsequent yearly CPI Adjustments will be as set forth on Exhibit A. OPERATOR will be entitled to receive the Contract Price in monthly installments during each year of this Contract. OPERATOR must submit an invoice in arrears for each installment on or before the 1st Business Day of each month.

19. **RELEASES AND INDEMNIFICATION.**

OPERATOR agrees to indemnify and hold harmless OWNER from any losses, expenses, demands and claims against OWNER sustained or alleged to have been sustained to the extent of the negligence, willful misconduct or breach of this Contract by OPERATOR in the performance of Services by OPERATOR or any Subcontractor/Subconsultant employed by OPERATOR, except to the extent caused by the negligence, omission or misconduct of OWNER, or other Person. OPERATOR will have no obligation to indemnify OWNER for any loss to the extent that recovery for such loss is actually paid to OWNER under any policy of insurance.

20. **LIMITATION OF LIABILITY.**

Notwithstanding anything to the contrary contained in this Contract, OPERATOR's liability to OWNER respecting this Contract will be limited to \$20,000,000 cumulatively, exclusive of any insurance and bonding (including deductibles) that OWNER may have protecting it from any event which may give rise to OPERATOR's liability to OWNER under this Contract, regardless of the legal theory under which recovery or liability is asserted. OWNER will not be required to seek compensation from any insurance policy or bond (OWNER's or OPERATOR's) or other source of remuneration for the first \$5,000,000 for any claim which is due to OPERATOR's liability prior to seeing recovery from OPERATOR. At OWNER's discretion, and at OWNER's expense, OPERATOR

may be required to secure a letter of credit in an amount up to \$5,000,000 for this purpose.

21. INSURANCE AND BONDING REQUIREMENTS.

21.1 General Preamble. The insurance and bonding requirements set forth in this Contract apply to all Services performed under the Contract. Compliance is required by OPERATOR and all other contractors and Subcontractors/Subconsultants at any tier. Insurance/bonding requirements are based upon information received as of the date of the execution of this Contract. OWNER reserves the right to reasonably adjust or waive any insurance/bonding requirements based upon the receipt of additional information pertinent to this Contract, upon 30 Days prior written notice to OPERATOR.

21.2 Evidence of Insurance and Bonding Required Before Services Under Contract Commence. Neither OPERATOR, nor any other contractor, Subcontractor/Subconsultant at any tier under the Contract, may commence any Services of any kind under this Contract until all insurance and bonding requirements of this Contract have been complied with and until evidence of compliance has been provided by OPERATOR to OWNER. The Accord Certificate of Insurance or a pre-approved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.

21.3 Insurance Policies. OPERATOR must cause to be placed and kept in force all forms of insurance required by law or needed to adequately protect OWNER and OPERATOR with respect to the Services and this Contract, including, but not limited to:

21.3.1. Workers Compensation and Employers Liability Insurance. OPERATOR must procure and maintain Workers Compensation and Employers Liability Insurance in the following limits, such insurance to cover each and every employee of OPERATOR who is or may be engaged in Services under the Contract:

21.3.1.1. Workers Compensation shall be statutory limits.

21.3.1.1.1. Employers Liability for \$2,000,000

21.3.2. General Liability Insurance. OPERATOR must obtain and maintain General Liability Insurance in an amount not less than \$2,000,000 Bodily Injury and Property Damage combined single limit. The following specific extensions of coverage must be provided and must be indicated on the Accord Certificate of Insurance:

- 21.3.2.1. Comprehensive Form;
- 21.3.2.2. Contractual Insurance(Blanket or specific applicable to the Contract);
- 21.3.2.3. Personal Injury;
- 21.3.2.4. Broad Form Property Damage; and
- 21.3.2.5. Premises-Operations;

21.3.3. Automobile Liability Insurance.

21.3.3.1. OPERATOR must obtain and maintain Automobile Liability Insurance with not less than \$1,000,000 Bodily Injury and Property Damage combined single limit. The following extensions of coverage must be provided and must be indicated on the Accord Certificate of Insurance:

- 21.3.3.1.1. Comprehensive Form; and
- 21.3.3.1.2. Owned, Hired, Leased and Non-owned vehicles to be covered.
- 21.3.3.1.3. If OPERATOR does not own any automobiles in the corporate name, non-owned vehicle coverage must apply and must be endorsed on either OPERATOR'S personal automobile policy or the Comprehensive General Liability Insurance coverage required under the Contract.

21.3.4. Umbrella Excess Liability. OPERATOR shall obtain and maintain umbrella excess liability coverage of \$20,000,000 or greater.

21.3.5. Property Insurance. OWNER shall obtain and maintain property insurance. OPERATOR shall be responsible for 50% of deductible (currently \$1,000) for claims arising from negligent acts and/or improper safety and maintenance practices. The OWNER will purchase and ensure that standard fire insurance policies are maintained, including extended coverage to the full insurable value of the Facility, to protect against losses resulting other than from OPERATOR's sole negligence; such policies shall name OPERATOR as an additional insured according to its insurable interest under these policies during the term of the Contract; and OPERATOR shall have no liability to OWNER with respect to loss, damage, and destruction covered by such policies or in excess of such policies. Nor shall OPERATOR be liable to OWNER or its insurance carrier for subrogation for payments made per such policy or any damage.

21.3.6. Contractors Pollution Professional Liability Insurance. OPERATOR shall obtain and maintain Contractors Pollution Professional Liability insurance in an amount not less than \$5,000,000.

21.4 **Bonding Requirements.**

21.4.1. **Performance Bond and Payment Bond.** OPERATOR must furnish a Performance Bond in an amount equal to 100% of the estimated yearly Contract amount (including CPI Adjustments). OPERATOR must also furnish a Payment Bond for each major renewal/replacement project in excess of \$20,000.

21.4.2. **Bond Forms; Power of Attorney.** OPERATOR must furnish the Performance Bond and Payment Bond required in a form acceptable to OWNER. The individual executing the bonds on behalf of the surety must file with the bonds a general power of attorney unlimited as to amount and type of bonds covered by such power of attorney and certified by an official of the surety.

21.5 **Investigation and Insurance Reporting.** OPERATOR must promptly investigate and make a full and timely written report to the appropriate insurance company (with a copy to OWNER) all accidents and claims for damages relating to the subject matter of this Contract. All reports must be timely filed by OPERATOR with the appropriate insurance company under the terms of the applicable insurance policy.

21.6 **Failure to Furnish or Maintain Insurance/Bonding.** Upon failure of OPERATOR to furnish, deliver and maintain the insurance or bonds required, OWNER may terminate this Contract. All insurance and bonds required by this Contract must be maintained during the entire term of this Contract, including any extensions or renewals. OWNER may inquire into the adequacy of the insurance and bonding coverage and direct any adjustments it deems, in its sole discretion, to be necessary to adequately protect its interests under the Contract. Failure of OPERATOR to take out and maintain any required insurance or bonds will not relieve OPERATOR from any liability under this Contract, nor will these requirements be construed to conflict with the obligations of OPERATOR concerning indemnification set forth in this Contract.

21.7 **Mandatory Notices of Cancellation or Material Change.** OWNER must, without exception, be given not less than 30 Days prior written notice of cancellation for other than nonpayment of premium or for material changes of any insurance or bond required by the Contract that could jeopardize the coverage called for in this Contract. Nonpayment of premium requires 10 Days prior written notice of cancellation. Confirmation of these mandatory notices of cancellation must appear on the Accord Certificate of Insurance and all insurance policies required by this Contract.

21.8 **OWNER as Additional Insured.** OWNER must be covered as additional insured under all insurance required by this Contract (except workers compensation). Confirmation of this must appear on the Accord Certificate of Insurance and on all applicable insurance policies.

21.9 **Qualifications of Insurance and Bonding Companies.**

21.9.1. **Minimum Financial Security Requirements.** All bonding and insurance companies providing insurance or bonds required by this Contract must meet certain minimum financial security requirements. These requirements conform to the rating published by A.M. Best & Co. and a current Bests Key Rating Guide-Property-Casualty. All companies providing bonds or insurance under this Contract must:

- 21.9.1.1. Have a current Bests Rating not less than A- and current;
- 21.9.1.2. Have a current Bests Financial Size Category not less than Class IX;
- 21.9.1.3. Be authorized to conduct and transact insurance and surety contracts in State of Oregon; and
- 21.9.1.4. Be a U.S. Treasury Circular 570 listed company, if providing payment or performance bonds.

21.9.2. **Failure to Meet Minimum Financial Security Requirements.** If the issuing company does not meet these minimal requirements, or for any other reason is unsatisfactory to OWNER, written notification will be made by OWNER to OPERATOR, who must promptly obtain a new policy or bond issued by an insurer/surety acceptable to OWNER and will submit evidence of that satisfaction to OWNER.

22. **PERMITS.**

OPERATOR must procure and pay for all permits, Licenses, certifications and other applicable Government Requirements or governing authority requirements and inspections, as well as furnish any documentation, bonds, security or deposits required to permit OPERATOR'S performance of the Services. OWNER is responsible for procuring and paying for all licenses, certifications and other applicable permits required by Governmental Requirements and inspections that are required incident to its ownership of the Facility.

23. **STANDARD OF CARE APPLICABLE TO SERVICES.**

All Services must be performed in a manner consistent with Prudent Industry Practices applicable to the Facility.

24. **TAXES.**

OPERATOR will pay any taxes, levies, duties and assessments of every nature due in connection with the Services under this Contract and will make all payroll deductions and withholdings required by law, and will indemnify and hold harmless OWNER from any liability on account of such any taxes, levies, duties, assessments and deductions.

25. LABOR, PERSONNEL AND SERVICES RULES.

25.1 Qualifications and Procedures. OPERATOR represents that it is fully experienced, properly qualified, registered, licensed, equipped, organized, and financed to perform the Services under this Contract. OPERATOR must conduct background checks, hire, train, pay, supervise and discharge any personnel necessary to properly maintain and operate the Facility, including, without limitation, an onsite manager or managers. All personnel will be deemed employees of OPERATOR or its Subcontractors/Subconsultants. OPERATOR and its Subcontractors/Subconsultants will employ only technically competent personnel to perform the Services and will remove from the Project any OPERATOR or Subcontractor/Subconsultant personnel determined by OWNER or OPERATOR to be unfit or to be acting in violation of any provision of this Contract. OPERATOR must comply with and enforce Project procedures, regulations, Services rules and Services hours established by OWNER, to the extent provided in writing by OWNER and to the extent that they do not conflict with Governmental Requirements.

25.2 OWNER's Discretion to Deny Access. OWNER may, at its sole discretion, deny access to the Facility to any Person by written notice to OPERATOR. If an employee of OPERATOR or its Subcontractors/Subconsultants is excluded from the Facility, OPERATOR or its Subcontractor/Subconsultants will replace that Person with another who is fully competent to perform the Services.

25.3 Labor Relations. OPERATOR must establish workable and satisfactory relations with its employees and any authorized employee representatives representing OPERATOR'S personnel who are engaged in the performance of Services, including responsibility for labor negotiations, arbitration's and grievance hearings which may involve those employees.

26. SIGNS; INSIGNIAS.

OPERATOR may not erect any external signs without the written approval of OWNER. When present at the Facility, OPERATOR'S employees may not without the written consent of OWNER display any insignia or name other than that of OPERATOR.

27. SAFETY AND HEALTH; SAFE OPERATIONS.

OPERATOR is solely responsible for safely conducting all operations under this Contract at all times according to applicable laws and regulations and Prudent Industry Practices relative to the Facility in order to avoid the risk of endangerment to health, bodily harm to persons, and damage to property. During acceptance testing, OPERATOR must inspect all Facility Equipment, materials and Services in accordance with applicable laws and regulations and Prudent Industry Practices to discover any conditions that might involve risks. Upon successful completion of acceptance testing, OPERATOR will be solely responsible for discovering any such risks, and for correcting any of those conditions save and except as may be applicable to the Design-Builder or manufacturer of Facility equipment.

28. SECURITY.

OPERATOR will, at all times, conduct all operations under this Contract according to Prudent Industry Practices relative to Facility in order to minimize the risk of loss, theft, damage by vandalism, disruption of operations, sabotage or any other means to any Facility Equipment, Materials, Services or other property at the Facility.

29. COMPLIANCE WITH OWNER'S SECURITY REQUIREMENTS.

OPERATOR must comply with OWNER'S security requirements for the Facility.

OPERATOR must cooperate with OWNER on all security matters and must promptly comply with any Project security arrangements established by OWNER; provided, however, that a security requirement for security personnel is an event caused change per paragraph 16.2. Compliance with these security requirements will not be construed as limiting, in any manner, OPERATOR'S obligations with respect to all applicable Governmental Requirements, assuming that these obligations are consistent, and its duty to undertake reasonable actions to establish and maintain secure conditions at the Facility. If OPERATOR violates any security requirement imposed by OWNER, of which it has been provided a written copy, or Governmental Requirements and OWNER incurs a cost, expense, fine or other financial burden, OPERATOR must immediately indemnify OWNER upon written notice from OWNER.

30. FINES.

If federal, state or other applicable Governmental Requirements are violated, due to negligence, willful misconduct or breach of this Contract by OPERATOR or any of its agents, Subcontractor/Subconsultants, supplies or materialmen, or anyone acting under its direction or control or on its behalf, and OWNER is subjected to a fine by any regulating or governing authority, OPERATOR will reimburse OWNER in full for all fines, and reasonable costs of defense and attorney fees incurred by OWNER promptly upon receipt of an invoice from OWNER. If OPERATOR fails to reimburse OWNER within 10 days after its receipt of an invoice, OWNER may deduct the full amount of any fines from sums due or to become due to OPERATOR under this Contract. OWNER will permit OPERATOR to be involved in any proceeding to determine the applicability of fines for which OPERATOR may be responsible.

31. RECORDS AND AUDIT.

OPERATOR must maintain records and accounts concerning the operation, maintenance, repair, and equipping of the Facility under this Contract. OWNER or designee may examine and copy, at all reasonable times, with advance notification, those records and accounts. OWNER or designee will have reasonable and legally permissible access to all books, documents, papers and records of OPERATOR for making audits, examinations, excerpts and transcriptions. All records or copies of records required to be maintained by OPERATOR under this Clause must be maintained during and for a period of 3 years from the expiration or other termination of this Contract unless otherwise specified by applicable Governmental Requirements. During the term of this Contract Facility operations records or copies of records and accounts concerning the performance of this Contract must be kept at the Facility.

32. **INSPECTION BY OWNER.**

OWNER shall have the right at all times to enter upon the Property and Facility to inspect and observe the OPERATOR's performance of this Contract. OWNER will comply with the OPERATOR's safety requirements and security requirements when inspecting the site during operation. OWNER will be responsible for its own negligent acts in performing any inspection or observations during times when OPERATOR is not present.

33. **BACKCHARGES.**

33.1 **Corrective Actions by OWNER.** If during its performance of Services under this Contract, OPERATOR is notified by OWNER to correct defective or non-conforming Services, and OPERATOR states or by its actions indicates that it is unable or unwilling to proceed with corrective action in a reasonable time, OWNER may correct the non-conforming Services and backcharge OPERATOR for all reasonable costs incurred. Furthermore, if OWNER is required to perform Services for OPERATOR, OWNER may perform those Services by the most expeditious means available and backcharge OPERATOR for the costs incurred.

33.2 **Backcharges not a Release.** OWNER will separately invoice or deduct from payments otherwise due to OPERATOR any backcharge costs. OWNER's right to backcharge is in addition to all other rights and remedies provided in the Contract or by law. The performance of backcharge Services by OWNER will not relieve OPERATOR of any of its responsibilities under the Contract, except for those specific backcharge services performed by OWNER (but not future similar Services required to be performed by OPERATOR).

34. **FORCE MAJEURE.**

34.1 **Acts Constituting Force Majeure.** OWNER and OPERATOR will not be liable for their respective non-negligent or non-willful failure to perform under this Contract or for any delay in performance or non-performance due to:

34.1.1. any cause beyond its respective reasonable control;

34.1.2. any act of God;

34.1.3. any change in applicable governmental Requirements rendering the performance of any portion of this Contract commercially unreasonable or legally impossible;

34.1.4. earthquake;

34.1.5. fire;

34.1.6. explosion;

34.1.7. flood;

34.1.8. strike or labor dispute outside OPERATOR's reasonable control;

34.1.9. any shortage or disruption of or inability to obtain labor, material, facilities, power fuel or transportation from usual sources;

- 34.1.10. delay or failure to act of any governmental or military authority;
- 34.1.11. any war, hostility or invasion;
- 34.1.12. any embargo, sabotage, civil disturbance, riot or insurrection;
- 34.1.13. the discovery of any unforeseen physical condition at the Facility; or
- 34.1.14. any legal proceeding not involving the performance of each respective party to the other of its obligations under this Contract.

34.2 **Affected Party Entitled to an Extension of Performance Period.** If OPERATOR'S or OWNER's performance under this Contract is delayed by any act constituting a Force Majeure, the affected party will be entitled to an equitable extension in the time for its performance of its affected Contract obligations commensurate with the duration of the applicable Force Majeure.

35. TAKEOVERS.

35.1 **Takeover of Certain Contracts Let by OWNER.** In certain circumstances, OWNER may desire OPERATOR to takeover or assume Services under certain Contracts that may have been originally let by OWNER. For instance, OWNER, from time to time, contemplates that certain construction projects will be let by it to independent Persons. In the event that the contractor is unable or refuses to complete the project and OWNER determines that it is in its best interests for OPERATOR to complete the project OWNER may request OPERATOR to do so. Accordingly, OWNER may request OPERATOR to takeover the completion of certain construction or other contracts, including, but not limited to, completing punch list, warranty or maintenance work for the contract. In the event OWNER requests OPERATOR to commence such a takeover, and OPERATOR agrees to do so upon mutually agreeable terms and conditions, pricing of the work associated with the takeover will be done pursuant to the Clauses titled "Pricing of Takeover Work".

35.2 **Pricing of Takeover Work Certificate of Current Cost or Pricing Data.**

35.2.1. If OWNER requests OPERATOR to takeover certain contracts originally let by OWNER, OWNER will provide written notice of its intent describing in detail the scope of work OWNER desires OPERATOR to takeover and providing such information as OPERATOR reasonably requests in connection with the proper undertaking of the scope of work. OPERATOR must within 20 Days, pursuant to the Clause titled "PRICING OF ADJUSTMENTS," submit to OWNER a written proposal setting forth its cost proposal concerning its takeover of the work, in sufficient detail to permit a thorough analysis by OWNER and negotiation between the parties. For each proposal, OPERATOR must execute a Certificate of Current Cost or Pricing Data, shown below.

35.2.2. OPERATOR's Certificate of Current Cost or Pricing Data must provide as follows:

"This is to certify that, to the best of OPERATOR's knowledge and belief, the cost or pricing data submitted, either actually or by specific identification in writing, to OWNER in support of [Identify the request for price adjustment, giving the appropriate reference and date] are accurate, complete, and current as of [Insert the day, month, and year when price negotiations were concluded and price Contract was reached]."

OPERATOR [type name]

By [type name]

Title [type title]

Date of Execution"

35.2.3. OWNER will either accept or reject OPERATOR's proposal and Certificate of Current Cost or Pricing Data, subject to further negotiations between OWNER and OPERATOR within 30 Days. If OWNER accepts OPERATOR's proposal and Certificate of Current Cost or Pricing Data, then a written memorandum of the terms of the proposal and Certificate of Current Cost or Pricing Data will be prepared and executed by OPERATOR and OWNER's Representative or OWNER if necessary.

35.2.4. If any price, including profit or fee, negotiated in connection with any modification under this Clause, or any cost reimbursable under this Contract, was increased by any significant amount because OPERATOR furnished cost or pricing data that were not as certified in its Certificate of Current Cost or Pricing Data, the price or cost may be reduced accordingly and this Contract may be modified to reflect the reduction.

36. FACILITY EQUIPMENT; OWNER-OWNED FACILITY.

36.1 Acquisition of Facility Equipment.

36.1.1. From time to time, upon written authorization and direction from OWNER, OPERATOR may acquire, lease or otherwise obtain Facility Equipment for use in performing its obligations under this Contract. All Facility Equipment acquired on behalf of OWNER must be acquired, leased or otherwise obtained in the name of OPERATOR as agent of OWNER. OWNER will advance funds to OPERATOR to pay for all Facility Equipment to be acquired, leased or otherwise obtained by OPERATOR under this Contract. At all times, legal title to any Facility Equipment acquired by OPERATOR as agent, on behalf of OWNER will remain vested in OWNER.

36.1.2. OPERATOR must keep all Facility Equipment insured and free and clear of any liens, except liens approved in writing by OWNER. OPERATOR

must protect its interest and the interest of OWNER in Facility Equipment from all claims and liens of all third parties, and must maintain a current inventory of all Facility Equipment.

36.2 **Sale or Disposition of Facility Equipment.** OPERATOR may not sell or dispose of any Facility Equipment without the prior written approval of OWNER.

36.3 **Transfer Upon Termination or Expiration of Contract.** Upon the expiration or earlier termination of this Contract, OPERATOR agrees to execute and deliver any additional documents or instruments as may reasonably be necessary in order to remove OPERATOR'S name from any documents of title, security documents or other documents/instruments concerning the Facility Equipment as to which this Contract expired or is earlier terminated and reflect that sole ownership interest in the Facility Equipment is vested in OWNER. Any transfer taxes or fees payable to governmental authorities will be borne by OWNER.

37. DISPUTE RESOLUTION

37.1 **Dispute Between OWNER and OPERATOR.** If a disputes arises between OWNER and OPERATOR regarding any part of the Contract, or the parties' obligations or performance thereunder, either party may institute the dispute resolution procedures set herein. The parties shall continue performance of their respective obligations notwithstanding the existence of a dispute.

37.2 Dispute Resolution Process

37.2.1. **Authorized Representatives.** If a controversy or claim should arise, OWNER'S and OPERATOR'S Authorized Representatives will meet at least once to attempt to resolve the matter. Either Authorized Representative may require the other to meet within ten (10) days, at a mutually agreed time and place.

37.2.2. **Senior Executives.** If the matter has not been resolved within twenty (20) days of their first meeting, the Authorized Representatives shall refer the matter to "Senior Executives," who shall have authority to settle the dispute. For OWNER, that will be the City Manager of City and General Manager of TVWD. Thereupon, the Authorized Representatives shall promptly prepare and exchange memoranda stating the issues in dispute and their positions, summarizing the negotiations that have taken place and attaching relevant documents. The Senior Executives will meet for negotiations within fourteen (14) days of the end of the 20-day period referred to above, at a mutually agreed time and place.

- 37.2.3. **Mediation.** If the matter has not been resolved within 30 days of the meeting of the Senior Executives, the parties will attempt in good faith to resolve the controversy or claim by mediation.
- 37.2.4. **Litigation.** If the matter has not been resolved pursuant to the aforesaid mediation procedure within 60 days of the commencement of such procedure, or if either party will not participate in mediation, either party may initiate litigation.
- 37.2.5. **Deadlines.** All deadlines specified in this Article 37 may be extended by mutual agreement.
- 37.2.6. **Required Process.** The procedures specified in this Article shall be the sole and exclusive procedures for the resolution of disputes between the parties arising out of or relating to this Agreement; provided, however, that a party may seek a preliminary injunction or other preliminary judicial relief if in its judgment such action is necessary to avoid irreparable damage. Despite such action, the parties will continue to participate in good faith in the procedures specified in this Article 37.

38. MISCELLANEOUS.

- 38.1 **Precedence of Contract Documents.** All Contract Documents and subsequently issued addenda, changes and amendments to this Contract are essential parts of this Contract and a requirement occurring in one is binding as though occurring in all. In resolving conflicts, discrepancies, errors or omissions, including but not limited to, interpretations pursuant to the Clause titled "Contract Interpretation" the following order of precedence will be used:
- 38.1.1. Operational and Maintenance Contract, and any addenda, modifications or amendments to the Contract;
 - 38.1.2. Exhibit A: Compensation.
 - 38.1.3. Exhibit B: Scope of Services,
 - 38.1.4. Exhibit C: Transition Place
 - 38.1.5. Exhibit D: (Not Used)
 - 38.1.6. Exhibit E: Finished Water Standards
 - 38.1.7. Exhibit F: Facility Description
- 38.2 **Interpretation Not Affected.** The organization of this Contract into articles, sections, paragraphs and subparagraphs, a Table of Contents and the use of headings and subheadings are for convenience and reference only and will not modify or affect the meaning, interpretation, construction or effect of this Contract, nor the rights, obligations and liabilities of the parties under this Contract.
- 38.3 **Standards and Codes.** Wherever references are made in this Contract to specific standards or codes in accordance with which the Services under this Contract are

to be performed, the edition or revision of the standards or codes current on the effective date of this Contract will apply unless otherwise expressly stated. In case of conflict between any referenced standards and codes and any Contract Documents, the latter will govern.

- 38.4 **Compliance with Applicable Governmental Requirements.** Except as may be otherwise required by this Contract, OPERATOR must comply with all Governmental Requirements, and all other requirements of federal, state, county or municipal authorities having jurisdiction over the Facility in the performance of its obligations and responsibilities under this Contract. All applicable Governmental Requirements in effect at the time the Services under this Contract are performed, and as amended during any term of this Contract and required by law to retroactively apply, will apply to OPERATOR except as provided in this Contract.
- 38.5 **Notice of Inconsistencies.** If OPERATOR discovers any discrepancy or inconsistency between this Contract and any Standards and Codes or Governmental Requirements, OPERATOR must report it immediately, in writing, to OWNER.
- 38.6 **Contract Interpretation.** At all times, OPERATOR must proceed with the Services in accordance with the determinations, instructions, and clarifications of OWNER, as long as they are consistent with Governmental Requirements. OPERATOR will be solely responsible for requesting instructions or interpretations and will be solely liable for any costs and expenses arising from its failure to do so.
- 38.7 **Assignment.** Without the prior written consent which shall not be unreasonably withheld of OWNER, OPERATOR may not assign, transfer or convey any of its interests under this Contract, nor delegate any of its obligations or duties under this Contract. Any prohibited assignment of this Contract or rights under this Contract, in whole or part, without the aforementioned prior written consent of OWNER will be void.
- 38.8 **Subcontracts; Suppliers.**
- 38.8.1. **Consent of OWNER for Subcontracts.** OPERATOR may not subcontract with any Person for the performance of any portion of the Services without the prior written approval of OWNER. OWNER may consent to OPERATOR's use or Subcontract with other Persons from time to time by issuing a letter to OPERATOR executed by OWNER Representative specifying the identity of the Person(s) to which OWNER'S consent applies. The letter may also specify any limitations on OPERATOR's use of such Person, or any other conditions applicable to the use of that Person by OPERATOR.

38.8.2. **Lower-tier Suppliers.** Purchase orders must include provisions to secure all rights and remedies of OWNER provided under this Contract, and must impose upon the lower-tier supplier all of the duties and obligations required to fulfill this Contract with respect to their activities.

38.8.3. **Copies of Purchase Orders and Subcontracts.** Copies of all purchase orders and Subcontracts are to be provided to OWNER upon request.

38.8.4. **No Relief of Responsibilities.** No assignment or Subcontract will be approved which would relieve OPERATOR of its responsibilities under this Contract. OWNER may require revised or modified insurance/bonds and the execution of assumption agreements as conditions for the approval of any assignment or subcontract by OPERATOR.

38.9 **No Partnership or Joint Venture; Debts.** Nothing contained in this Contract will be deemed to create a partnership or joint venture between OWNER and OPERATOR or cause OWNER to be responsible for the debts or obligations of OPERATOR or any other Person. Nothing contained in this Contract or any lower tier purchase order or Subcontract awarded by OPERATOR will create any Contractual relationship between any lower-tier supplier or Subcontractor/Subconsultant and OWNER.

38.10 **Parties Bound.** This Contract will be binding upon and inure to the benefit of OWNER and OPERATOR and their respective permitted successors and assigns.

38.11 **Notices.**

38.11.1. **Delivery.** All notices given by either party to the other under this Contract must be in writing and may be delivered by:

38.11.1.1. regular mail, first class, postage prepaid;

38.11.1.2. certified or registered mail;

38.11.1.3. facsimile, with a hard copy sent within 24 hours of transmission by one of the other permitted delivery means; or

38.11.1.4. hand-delivery, to the parties at the addresses and facsimile numbers specified in the Clause titled "Addresses."

38.11.2. **Receipt.** Notices sent by mail will be deemed received 3 Days after deposit in the mail, properly addressed. Notices sent by certified or registered mail will be deemed to be received upon the date of the acknowledgment. Notices sent by facsimile will be deemed to be received upon successful transmission to the proper facsimile number; if the sender can produce a facsimile transmission confirmation report. Notices delivered by

hand-delivery will be deemed to be received upon written acceptance by the respective party.

38.11.3. **Change of Address or Facsimile Number.** Either party may, at any time, change its respective address or facsimile number by sending written notice to the other party of the change.

38.11.4. **Addresses.**

38.11.4.1. To OWNER. For all notices to OWNER the address will be:

City of Wilsonville
30000 S.W. Town Center Loop E.
Wilsonville, OR 97070
Facsimile: (503) 682-8816
Attention: Public Works Director

Tualatin Valley Water District
P.O. Box 745
Beaverton, OR 97075
Facsimile: (503) 694-2733
Attention: General Manager

38.11.4.2. To OPERATOR. For all notices to OPERATOR the address will be:

USFOS, Inc.
2300 Contra Costa Blvd., Suite 470
Pleasant Hill, CA 94523

Facsimile: (925) 681-0236
Attention: Vice President, Western Services Center

38.12 **Governing Law.** This Contract will be construed under Oregon law. OPERATOR and OWNER fix jurisdiction and venue for any action brought with respect to this Contract in Clackamas County, Oregon.

38.13 **Legal Construction.** If any provision contained in this Contract is held to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability will not effect any other provision of this Contract and this Contract will be construed as if the invalid, illegal or unenforceable provision had never been contained in this Contract.

38.14 **Prior Contracts Superseded.** The Contract Documents constitute the sole and only Contract between OPERATOR and OWNER with respect to the subject

matter of this Contract and supersede any prior understandings or written or oral Contracts between OWNER respecting the subject matter of this Contract.

- 38.15 **Waiver.** The failure of either party to seek redress for any violation of, or to insist upon the strict performance of, any term of this Contract will not prevent a subsequent violation of this Contract from being actionable by either party. The provision in this Contract of any particular remedy will not preclude either party from any other remedy.
- 38.16 **Further Acts.** OWNER and OPERATOR each agrees to perform any additional acts and execute and deliver any additional documents as may reasonably be necessary in order to carry out the provisions and effectuate the intent of this Contract.
- 38.17 **Modifications.** This Contract may be altered or amended only by written instrument signed by OWNER and OPERATOR.
- 38.18 **U.S. Currency.** Any payments required by this Contract from one party to any other must be made with U.S. Dollars in locally collectible funds.
- 38.19 **Ownership of Information; Confidentiality.** Except for the information identified in Section 30.2.1 of Exhibit B, all reports, information, data or other documents given to, prepared by or assembled by OPERATOR under this Contract are the exclusive property of OWNER and must be kept confidential and may not be made available to any Person by OPERATOR without the prior written approval of OWNER, except disclosure required by applicable Governmental Requirements or in connection with a dispute to which the information reasonably relates (in which instance, OPERATOR will provide OWNER of such disclosure prior to its being made or, if not feasible, within 24 hours of disclosure).
- 38.20 **Contingent Fees.** OPERATOR warrants that it has not employed or retained any company or Person, other than a bona fide employee working for OPERATOR or explicitly identified sub-consultant on the OPERATOR's team, to solicit or secure this Contract; and that OPERATOR has not paid or agreed to pay any company, association, corporation, firm or person, other than a bona fide employee or explicitly identified sub-consultant working for OPERATOR, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this warranty, OWNER may terminate this Contract and, at its discretion, may deduct from any amounts owing to OPERATOR, or otherwise recover the full amount of any fee, commission, percentage, gift or consideration.
- 38.21 **Rights and Remedies.** The rights and remedies of OWNER and OPERATOR provided in this Clause are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

This Contract and the Contract Documents embody the entire agreement between OWNER and OPERATOR and supersede all other writings. In witness hereof, the undersigned parties have duly executed this Contract by and through their duly authorized representative(s).

OWNER:

**THE CITY OF WILSONVILLE, AN
OREGON MUNICIPAL CORPORATION**

BY: *Arne Loble*

NAME: *ARLENE LOBLE*

TITLE: *CITY MANAGER*

ATTEST:

Sandra C. King
SANDRA C. KING, CITY RECORDER

OPERATOR:

**U. S. FILTER OPERATING SERVICES,
INC., A DELAWARE CORPORATION**

BY: *Chibby Alloway*

NAME: *Chibby Alloway*

TITLE: *Vice President*

ATTEST:

M. Sean Long
SECRETARY/ASSISTANT
SECRETARY
[Affix corporate seal]

APPROVED AS TO FORM:

Michael E. Kohlhoff
MICHAEL E. KOHLHOFF
CITY ATTORNEY

OWNER:

**TUALATIN VALLEY WATER DISTRICT,
An Oregon Special District Under ORS
Chapter 264**

BY: *Gregory E. DiLoreto*

NAME: *Gregory E. DiLoreto*

TITLE: *General Manager*

APPROVED AS TO FORM:

Clark Balfour
CLARK BALFOUR
TVWD ATTORNEY

This Contract and the Contract Documents embody the entire agreement between OWNER and OPERATOR and supersede all other writings. In witness hereof, the undersigned parties have duly executed this Contract by and through their duly authorized representative(s).

OWNER:

**THE CITY OF WILSONVILLE, AN
OREGON MUNICIPAL CORPORATION**

BY: _____

NAME: _____

TITLE: _____

ATTEST:

SANDRA C. KING, CITY RECORDER

APPROVED AS TO FORM:

**MICHAEL E. KOHLHOFF
CITY ATTORNEY**

OWNER:

**TUALATIN VALLEY WATER DISTRICT,
An Oregon Special District Under ORS
Chapter 264**

BY: _____

NAME: _____

TITLE: _____

APPROVED AS TO FORM:

**CLARK BALFOUR
TVWD ATTORNEY**

OPERATOR:

**U. S. FILTER OPERATING SERVICES,
INC., A DELAWARE CORPORATION**

BY: _____

NAME: _____

TITLE: _____

ATTEST:

**SECRETARY/ASSISTANT
SECRETARY
[Affix corporate seal]**

EXHIBIT A

EXHIBIT A

COMPENSATION

The Parties to the Operations and Maintenance Contract effective February 6, 2001, agree that this Exhibit A, Compensation, shall be the sole method of determining compensation thereunder for the Scope of Services set forth in Exhibit B to that Contract.

1. Fee During Construction of Water Treatment Plant. From date of this contract OPERATOR shall be paid for services and expenses rendered during construction and start up of the Facility. These services shall only include the services listed in Attachment A-1 or as amended by mutual consent. Billing statements shall be submitted on the tenth Business Day of each month to the OWNER. Payments by OWNER shall be for labor provided and eligible expenses incurred, with a total cost not to exceed the amount shown in Attachment A-1. The billing statement shall include the staff of the OPERATOR that participated on the project during the Billing Period and the number of hours worked. Reimbursable expenses shall also be identified. OWNER shall pay the applicable fees and authorized expenses within 30 days of receipt of the billing statement. Charge rates shall be as provided in Attachment A-1 or as adjusted per Section 5. The amount of this fee, and the basis for determining this fee, shall be as shown in Attachment A-1, or as amended by mutual consent during the construction phase of the project. With the exception of continuing labor support from one of the Operations Specialists, all the work performed and expenses incurred for services described in Attachment A-1 shall be completed by the time of Substantial Completion. Within thirty days of the end of each Contract Year, there shall be a reconciliation of costs and payments pertaining to actual expenditures for services described in Attachment A-1.
2. Operating Fee. Starting January 14, 2002, OWNER shall pay to OPERATOR a monthly fee equal to one twelfth of the Annual Budget shown in Attachment A-2 or as adjusted per Section 5. The first payment will be prorated, and will be due and owed in accordance with Section 6.2.
 - 2.1 Fixed Labor Component. Per the scope of work described in Exhibit B, OWNER and OPERATOR have mutually determined the on-site staffing that is needed to successfully operate the Facility. This fixed component of the Operating Fee includes not only the direct costs of on-site labor, but also includes an overhead "multiplier" to cover all other labor-related costs of the OPERATOR including but not limited to technical support staff; overtime; bonuses; training, safety; office supplies; and the salaries, expenses, and overhead for off-site administrative and corporate support, as well as profit. The labor component of the Operating Fee shall be the fixed amount as shown in Attachment A-2, subject to annual adjustments per Section 5.
 - 2.2 Not-to-Exceed Costs. This component of the Operating Fee shall include all expenses associated with operating the Facility not otherwise covered in Section 2.1, Section 3 or Section 4. Not-to-Exceed Costs include but are not limited to

utilities other than electricity; public involvement expenses; lab services and other contract services; as well as fees for licenses and permits. The annual amount for Not-to-Exceed Costs is shown in Attachment A-2, subject to annual adjustments pursuant to Section 5. Within thirty days of the end of each Contract Year, OPERATOR shall calculate actual expenses contained within the Not-to-Exceed Costs. If the actual expenses are less than the budgeted amount, the OPERATOR shall credit OWNER 75% of the difference against future amounts due the OPERATOR hereunder. OPERATOR shall be responsible for any expenses over the budgeted amount.

3. Pass-Through Costs. These costs will be in an amount annually set by OWNER from a proposed budget prepared by OPERATOR. To assist OWNER, OPERATOR will by October 1 of each year provide a five-year rolling forecast for each of these cost categories based on OWNER's projection of water demand. OPERATOR will also provide by October 1 of each year a five-year rolling forecast of needed capital improvements to the Facility. These forecasts are to reflect expenditures necessary to insure complete water quality and contractual obligations:
 - 3.1 Granular Activated Carbon (GAC). As described in Exhibit B, OPERATOR will assist OWNER in securing competitive bids to purchase and replace GAC on a schedule agreeable to OWNER. If OPERATOR, specifically through US Filter or an affiliate of US Filter, is able to purchase GAC at a unit cost below "market price," OPERATOR and OWNER will share in the cost savings, with 75% of the savings paid to the OPERATOR. For purposes of this Section, "market price" will be determined by the lower of two alternative (i.e., non-US Filter or affiliate) bids acceptable to OWNER and/or actual prices recently charged to public agencies when purchasing comparable quantities of GAC.
 - 3.2 Chemicals (other than GAC). These expenditures are for non-laboratory chemicals used in the water treatment process.
 - 3.3 Electricity. Costs for electricity shall be paid by the OWNER. At the OWNER's preference this cost shall be paid either as a reimbursable expense on the OPERATOR's invoice, or as a direct billing from the electrical utility to the OWNER.
 - 3.4 Sludge Hauling and Disposal. The OWNER shall pay the costs for transporting and disposal of the solid residuals resulting from the water treatment process.
 - 3.5 Additional OWNER-Directed Laboratory and Monitoring Costs. From time to time, the OWNER may direct the OPERATOR to provide laboratory services and monitoring activities that are not otherwise conducted by the OPERATOR in meeting the OPERATOR's obligations under this Contract. In such cases, the OWNER will reimburse the OPERATOR for the additional laboratory and monitoring costs incurred.

- 3.6 Letter of Credit. At OWNER's discretion, OPERATOR will provide a letter of credit in an amount up to \$5,000,000. The cost associated with securing such a letter of credit will be passed through to the OWNER.
- 3.7 Telemetry: Costs incurred for transmission to and from remote monitoring stations will be reimbursed by the OWNER.
- 3.8 Maintenance.
- 3.8.1 Normal and Routine Maintenance. Normal and Routine Maintenance include facility and grounds upkeep, seals, bearings, hoses, belts, lubrication and other items required by preventive maintenance practices to keep the Facility in good working order and appearance.
- 3.8.2 Corrective Maintenance and Repair. Corrective Maintenance and Repair are items costing \$20,000 or less which involve maintenance and repair outside of normal and routine maintenance and repair activities. As part of OPERATOR's monthly reporting, OPERATOR must itemize Corrective Maintenance and Repair activities undertaken and costs incurred.
- 3.8 Year-End Reconciliation of Pass-Through Costs. Within thirty days of the end of each Contract Year, OPERATOR shall calculate actual expenses that year for Pass-Through Costs described in Section 3. If the actual expenses are less than the budgeted amount, the OPERATOR shall credit the OWNER 100% against future amounts due to OWNER hereunder. If the amount is greater than budgeted, the OWNER shall, within thirty calendar days of receipt of notice from OPERATOR and upon satisfactory review of the actual expenses, pay to the OPERATOR 100% of the amount by which the actual expenses exceed the budgeted amount.
4. Major Renewal and Replacement. As noted in Exhibit B, the OPERATOR will help develop and will annually update a recommended plan for major renewal and replacement of facilities and equipment for items in excess of \$20,000. OWNER shall maintain a Major Renewal and Replacement Fund which may be accessed by the OPERATOR, subject to OWNER's approval, to cover applicable expenditures. Specifications, schedule and cost for any renewal or replacement project undertaken per this Section must be approved by the OWNER before being implemented by the OPERATOR unless in an emergency.
5. Annual Operating Fee Adjustments. For each Contract Year, an annual adjustment escalator will be applied to the Fee During Construction described in Section 1 and the Operating Fee described in Section 2. The adjustment escalator shall be determined in accordance with the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index – Urban, All Item, Portland-Salem OR-WA, on the basis of December 31, 1999 to December 31, 2000 = 100 (CPI). If the CPI is discontinued or substantially modified, the parties shall mutually select another substantially equivalent index for the purpose of price escalation or deflation.

6. Payments.

6.1 Services During Construction. Payments associated with services performed during construction and continuing through startup shall be made in accordance with Section 1 and Attachment A-1.

6.2 Services During Facility Operation. Starting March 1, 2002, and on the first Business Day of each calendar month thereafter, OPERATOR shall provide OWNER with a statement for the Billing Period, which shall reflect the calculation of the Operating Fee as set forth in Section 2 and the Pass-Through Costs as set forth in Section 3. Each statement shall identify the applicable fees and costs for the Billing Period, the cumulative year-to-date actual costs (up through the Billing Period ending one month prior to the current invoice), and an updated estimate of end-of-the-year balances/deficits. The OPERATOR's monthly billing statement for the Fixed Labor Component and the Not-to-Exceed Costs shall be based on 1/12 the amount of the approved budget for the then current Contract Year. OWNER shall pay the applicable fees and costs for each Billing Period within thirty days of receipt of the billing statement.

6.3 Interest on Overdue Amounts. Interest shall accrue on all overdue amounts at the rate of two percent above the then current Prime Rate per annum from the time the amount is overdue.

7. OWNER Financed Capital Facility. If OWNER finances the construction of a facility capital modification, payment to the OPERATOR shall be adjusted as negotiated to reflect any change in operating and maintenance costs associated with the Facility as impacted by the facility capital modification.

8. Change of Scope. The fee paid to OPERATOR shall be adjusted, based on documented change in costs, for any mutually agreeable substantial change in the scope of services set forth in this Contract, and/or any substantial change in the costs of Facility operation and maintenance caused by a Change of Law.

Attachment A-1

WILSONVILLE WTP TRANSITION PLAN

Transition Phase Budget

USFOS understands from reviewing the project schedule that time is of the essence. USFOS will be prepared to begin supporting the design effort for this project as soon as primary award is given. The scope for Transition is estimated to run through substantial completion, except for the one operator who will be carried for one year.

Note: All Charge rates are in year 2000 dollars.

USFILTER POSITIONS AND CHARGE RATES

Abrev.	Position	Hourly Cost
PM	Project manager	\$ 46.88
CM	Construction manager	\$ 46.88
MS	Maintenance specialist	\$ 30.00
LS	Lab specialist	\$ 30.00
IS	Instrumentation specialist	\$ 30.00
SS	SCADA specialist	\$ 30.00
EHS	Enviro Health&Safety	\$ 46.88
AM	Area Manager	\$ 50.00
CS	Corp/Regional Tech Support	\$ 60.00
OS	Operations Specialists	\$ 27.00

ACTIVITIES	PARTICIPANT POSITIONS	HOURS	WAGE/ MO COST	TOTAL WAGE COST	Expense COST	TOTAL COSTS
1 Participate and assist in various workshops and review efforts to develop and define Transition needs and Performance Testing requirements	AM, CM, MS, LS, SS, EHS, CS	200		\$8,679	\$5,000	\$13,679
2 Participate in I&C/SCADA workshops to support the development of system design and operability	AM, SS, CM, CS, IS	120		\$5,445	\$2,500	\$7,945
3 Participate in weekly construction meetings and construction activities where O&M input is helpful to the success of the job during the initial construction period. Estimated at 10 manhours/month.	CM, OS, MS	120	\$ 466	\$5,588	\$1,200	\$6,788
4 Project Manager will be 100% chargeable to job from 3/14/01 to 1/14/02	PM	1733	\$13,541	\$41,243	\$10,000	\$91,243
5 Participate in construction meetings to provide the perspective of operations and maintenance personnel, as well as to coordinate O&M activities with the facility construction during period of 07/01/01 through 03/31/02.	CM, PM (PM cost included in salary, item 4)	90	\$469	\$4,219	\$750	\$4,969
6 Review of the O&M Manuals, manufacturer's submittals, and vendor training lesson plans.	CM, PM (PM cost included in salary, item 4)	120	\$469	\$5,626	\$1,200	\$6,826
7 Complete the US Filter Construction Support Checklists for each process and each phase of construction.	CM, PM (PM cost included in salary, item 4)	60	\$234	\$2,813	\$600	\$3,413
8 Conduct a weekly plant walk-through to identify possible operational, maintenance or safety concerns as early as possible.	PM; Costs included in Task #4					
9 Provide Project Personnel Begin the Recruitment and hiring of on-site personnel Establish a job qualification training plan to track on-site personnel training Train personnel on the concept of total quality management and how they play an important role Conduct initial orientation training for all new employees Coordinate, schedule and track vendor training.	PM; Costs included in Task #4					
10 Develop operational and process strategies Prepare operational flow charts for all processes Identify important process parameters and set up computerized process control management system database (Ops Systems, Inc., OpsWin32) Prepare preliminary standard operating procedures for each process. Supplement vendor training with additional in-house technical training on all processes and equipment.	CM, PM (PM cost included in salary, item 4)	40	\$1,875	\$1,875	\$1,500	\$3,375
11 Establish the Maintenance Management System Information Obtain a copy of Datastream MP2 computer software. Set up equipment information database. Inventory spare parts provided by manufacturers and setup database. Setup preventive and predictive maintenance tasks and schedule Establish equipment vendor database in computerized maintenance management system.	MS	160	\$4,800	\$4,800	\$1,500	\$6,300
12 Setup Laboratory Testing and QA/QC program Identify appropriate methods and develop site-specific SOPs. Procure the necessary materials and equipment. Develop site-specific QA/QC Manual. Develop site-specific Chemical Hygiene Plan. Perform testing and establish database of QC data. Determine control limits for each method. Apply for certification for the appropriate Fields of Testing, pass on-site inspection by the state accreditation agency, and obtain certification. Evaluate continuous monitoring lab equipment	LS	80	\$2,400	\$2,400	\$280	\$2,680

Attachment A-1

WILSONVILLE WTP TRANSITION PLAN

13 Obtain all pertinent State and Federal regulations and organize for ready access.	PM; Costs included in Task #4						
14 Contact State Regulatory Officials and establish a positive rapport.	PM; Costs included in Task #4						
15 Contact and discuss opportunities cooperation and mutual support with local officials and field staffs, such as the Wilsonville Public Works Department.	PM; Costs included in Task #4						
16 Review change orders during construction and notify OWNER of any possible budget impacts.	PM; Costs included in Task #4						
17 Pre-startup vendor notification Contact and procure solid waste and sludge disposal service Research energy cost and formulate a load shed plan or block purchase of power Contact Power utility and notify them of a change in service Procure telephons/cell phone/internet services Contact chemical vendors Setup local accounts for supplies and materials	PM; Costs included in Task #4						
18 Establish the site-specific E&H&S program Conduct a facility safety inspection to identify potential hazards Develop site-specific confined space entry procedures Develop site-specific lockout/tagout procedures Establish a comprehensive MSDS catalog and conduct awareness training for plant personnel. Conduct a Personal Protective Equipment Assessment for all chemical processes to ensure employee safety. Employee training on all specific chemical hazards under the Hazard Communication Standard. This will encompass making sure all tanks and pipes are properly labeled, and plant personnel have been trained on the properties and incompatibilities of each chemical. Conduct a "What If" Study with the staff to analyze and address any potential hazards in each chemical process Written Standard Operating Procedures for working with each chemical process, including bulk chemical receiving and offloading, operating procedures, and maintenance procedures. Develop site-specific emergency response procedures and conduct hands-on drills to deal with chemical spills. Conduct Safety Audit inspections of chemical process components and storage areas Verification of secondary containment for all chemical storage. Coordination with local Emergency Response Authorities to ensure they are aware of the characteristics, locations and quantities of chemicals on-site. Develop joint response plans. Develop a facilities evacuation plan	EHS	120	\$5,626	\$5,626	\$600	\$6,226	
19 I&C and SCADA Support Work to Designer Coordination Assistance for I&C coordination Process Narrative and Development Review Field Loop Check and Debugging Assistance Field calibrations and Check out Meetings System Design Work by I&C Engr This assumes that designer is directly responsible for job And the work by USFOS is in support	IS IS IS IS IS CS	50 30 40 40 40 80	\$1,500 \$900 \$1,200 \$1,200 \$1,200 \$4,800	\$1,500 \$900 \$1,200 \$1,200 \$1,200 \$4,800	\$175 \$105 \$140 \$140 \$140 \$680	\$1,675 \$1,005 \$1,340 \$1,340 \$1,340 \$5,480	
20 Pre-Startup and Startup Plant staff to Jan. 14, 2002 Assistant Project Manager as of 11/1/01 4 Operation & Maintenance Technicians as of 12/1/01 1 I&C Tech as of 10/1/01 1 Admin Assistant as of 10/1/01	Staff Staff Staff Staff	52 124 100 50	\$813 \$1,116 \$1,000 \$450	\$2,438 \$3,348 \$3,000 \$1,350		\$2,438 \$3,348 \$3,000 \$1,350	
21 Shutdown/Punch Lists/Equip Baseline Data	CM&MS	120	\$4,613	\$4,613	\$461	\$5,074	
22 Off-site Technical Assistance During Start-up and Acceptance Testing	CS, SS	80	\$4,200	\$4,200	\$2,100	\$6,300	
23 Start Up Supplies and Equipment			\$0	\$0	\$111,113	\$111,113	
24 Mobilization expense for temporary office and relocation of key personnel			\$0	\$0	\$35,000	\$35,000	
25 Extra Operating support for up to 1 year to provide additional coverage during warranty period	OS	2080	\$4,680	\$56,160	\$0	\$56,160	
TOTAL AUTHORIZED COSTS			\$5,729	\$57,550	\$214,222	\$175,184	\$389,408
CONTINGENCY BUDGET	AT 10%						\$38,941

Attachment A-2

Willamette River Water Treatment Plant at Wilsonville Annual Budget Plan for 3 MGD Average Production

Fiscal Year is July to June	Annual Budget (7)	Sub Totals
Fixed Labor Component (1)		
Labor and Benefits	6.5 FTE's \$398,980	
OH Multiplier @	0.774 \$308,811	
Sub Total		\$707,791
Not to Exceed Costs (2)		
Lab Services and Supplies	\$47,117	
Public Out Reach Services	\$5,000	
Natural Gas	\$2,000	
Diesel Fuel	\$1,050	
Storm water	\$2,400	
Other Permits and Fees	\$1,379	
Sub Total		\$58,946
Pass Through Costs		
Granular Activated Carbon (3)	\$57,629	
Chemicals		
Alum	\$8,904	
Ammonia	\$9,132	
HypoChlorite	\$5,712	
Polymers	\$6,477	
Caustic	\$9,401	
LOX	\$5,479	
Micro-sand	\$759	
Calcium Thio	\$1,534	
Other	\$0	
Electricity	\$148,368	
Sludge Hauling and Disposal	\$13,506	
Additional Monitoring/Testing (4)	\$40,000	
Letter of Credit (5)	\$0	
Telemetry	\$1,000	
Maintenance		
Routine	\$13,096	
Corrective	\$35,604	
Sub Total		\$356,601
Major Renewal and Replacement (6)	\$0	
Sub Total		\$0
Total Estimated Annual Budget		\$1,123,338
		\$1,123,338

Notes:

- (1) Includes all office supplies, insurance, technical support for operations, training, safety, overtime, admin services, and profit for contractor
- (2) 75/25 : Owner/Operator Sharing of savings
- (3) 25/75 Owner/Operator Sharing of savings on unit price negotiations due to USF Carbon Facility
- (4) As directed by Owner for testing needs in addition to requirements in Exhibit E
- (5) If/when required by Owner (with cost passed through to Owner)
- (6) None expected in first 5 years
- (7) This is a 12 month budget and is subject to indexing per Section 5 in Exhibit A.

EXHIBIT B

EXHIBIT B

SCOPE OF SERVICES

The parties to the Operations and Maintenance Contract effective February 6, 2001, agree to the following Scope of Services, and to the activities described in the Operations Plan Technical Supplement to this Contract. It is anticipated that by mutual consent between the OWNER and the OPERATOR, information in the Operations Plan Technical Supplement will be amended and updated from time to time during the term of the Contract.

Preamble

The OWNER has executed a design build agreement with Montgomery Watson, Inc., Montgomery Watson, Constructors and Montgomery Watson, Americas collectively called Montgomery Watson (MW) for design and construction of the Willamette River Water Treatment Plant. Design has been completed and construction is in progress. MW is to have 3 MGD capacity available for use by April 17, 2002 and the remaining 12 MGD of capacity available for use by August 17, 2002. This scope of services contemplates that the OPERATOR will provide assistance and familiarization during the construction of the plant. It further contemplates that the OPERATOR will provide operational staffing during the acceptance testing and that operational services shall begin five work days prior to the estimated January 21, 2002, beginning of the acceptance testing. OPERATOR and MW would be expected to operate the water treatment plant through its full range of operational capabilities during the acceptance test. Depending on the actual schedule for construction the acceptance test may be accomplished for an initial acceptance for facilities totaling a capacity of 3 MGD or greater and a subsequent test up to the 15 MGD capacity. OPERATOR will continue to operate the plant during the completion of the remaining capacity if not completed by April 17, 2002. OPERATOR may have additional sustained operational testing which they will desire to complete which is beyond the range of normal acceptance testing. This testing will be allowed to be conducted during the summer provided that it does not interfere with provision of water service or construction activities. If necessary to discontinue water service to conduct sustained operational testing this will be deferred until November 1, 2002. OPERATOR must provide one week of advance notice to the OWNER'S representative prior to this sustained operational testing. Following the sustained operational testing, OPERATOR will continue to operate the plant for the remainder of the contract period.

Willamette River Water Treatment Plant Construction

OPERATOR services and familiarization activities are described in the Operations Plan Technical Supplement to this Contract.

Willamette River Water Treatment Plant Commissioning

Commissioning activities, coordination and responsibilities of the OWNER, MW and the OPERATOR are generally described in Exhibit C Transition Plan except for the following:

As described in Exhibit C, Montgomery Watson will develop and distribute the initial draft of the proposed acceptance test.

Montgomery Watson will host a meeting between Montgomery Watson, OPERATOR and the OWNER to refine the acceptance test including parts of the plant startup, discuss equipment testing and transition to commercial operations as described in the Operations Plan Technical Supplement to this Contract.

OPERATOR activities prior to the beginning of the acceptance test will be included in the costs during plant construction. Costs beginning with acceptance testing and subsequent cost will be included in the monthly billing described in Exhibit A to this Contract, except for specialized acceptance personnel which may be included in the costs for services during plant construction.

The Transition Plan described in Exhibit C will result in, among other things, detailed criteria and protocols for acceptance testing of the Facility and for the transfer of responsibility from the design/construction phase to the operation phase. A document containing this information must be jointly prepared and approved in writing by OPERATOR and OWNER no later than June 30, 2001. If agreement is not achieved by that time, OWNER and OPERATOR hereby mutually acknowledge and reserve the right to unilaterally terminate this Contract. In that event, OPERATOR would receive compensation for reasonable demobilization expenses and expenses incurred in preparing to proceed to undertake its obligations hereunder. After June 30, 2001, termination of the Contract may be initiated only as provided for elsewhere in the Contract.

Extended Plant Operations

Provide up to fifteen million gallons per day of potable water except for the following circumstances:

Production will be reduced to prudent levels allowing for frequent filter backwashes when the raw water turbidity exceeds 200 NTU.

Production will be reduced to allow for adequate disinfection time and will be stopped when ozone production is off line.

Production will be temporarily halted when a hazardous spill has occurred upstream of the plant during the period when untreatable water is passing the plant intake structure.

Provide treatment services for water with raw standards as listed in the Raw Water Quality Technical Supplement using overall concept for treatment as described in the Operations Plan Technical Supplement to this Contract.

Provide treated water that meets or exceeds treated water quality goals as summarized in Exhibit E and included herein by reference.

Analyze water according to schedule and laboratory capability as described in the Operations Plan Technical Supplement to this Contract. Analysis includes regulation or concerns as described in the Raw Water Quality Technical Supplement that are not listed as performance goals in Exhibit E since the raw water meets EPA and state requirements. OPERATOR will

include such information in its 10th of the month reports set forth in Section 30.1.3 below and notify OWNER promptly of any problems or concerns therewith.

In addition to its obligations under any other provisions of the Contract Documents, OPERATOR must perform the following Services, including, but not limited to:

1. Provide all personnel and other resources to operate and maintain the Facility in the long-term best interests of OWNER.
2. Provide and/or pay all wages, benefits, salaries, fuel, telephone service and consumables, materials and supplies necessary and proper to operate and maintain the Facility.
3. Assist OWNER by performing all necessary sampling to ensure that Facility's performance complies with state, federal and other Governmental Requirements. Daily testing/analysis for the purpose of process control within OWNER parameters are the sole responsibility of OPERATOR.
4. Provide all staff items such as uniforms, vehicles and safety equipment, as well as facility office supplies, office equipment, process lab supplies, janitorial services, landscaping services and Facility communications services (including telephones, fax, pagers, etc.).
5. Provide staffing of sufficient, qualified and certified employees to operate and maintain the Facility in a manner reasonably acceptable to OWNER, consistent with good management practices. This shall include salaried and hourly employees as necessary to meet the performance requirements hereunder.
6. Trainees, who are not part of the staffing described in Section 5 above, will be paid at the expense of OPERATOR, and not out of any compensation that may be due under the Contract. Vacant positions must be filled within 30 days, unless a time extension is granted by the OWNER. Prolonged vacancies may be subject to deductions from monthly invoices at a rate of \$500 per week. The OWNER must be provided written notification regarding activities which result in employee disciplinary action. OPERATOR must provide OWNER with all OPERATOR certifications for all affected employees. OPERATOR must provide staffing dedicated to the operation and maintenance of the Facility. Staff provided from other facilities will only be paid the actual time on this project.
7. Enforcement of existing Facility Equipment warranties and guarantees and maintenance of all warranties on Facility Equipment purchased after the effective date of the Contract. OPERATOR must specifically maintain and operate all Facility Equipment in such a manner so as not to void any warranties that may be applicable to existing Facility Equipment or that may arise with Facility Equipment procured by OPERATOR during the term of the Contract. If OPERATOR's actions are such that any warranty on existing Facility Equipment or Facility Equipment procured during the term of the Contract is voided, OPERATOR will be required, at its own expense and not out of compensation that may be payable under the Contract, to re-procure conforming Facility Equipment with a new warranty equal to or greater than the applicable voided warranty.

8. Provide a five-year rolling plan of capital improvements to the OWNER by October 1 of each year.
9. Programs and Procedures.
 - 9.1 No later than completion of the acceptance test, OPERATOR must develop and implement the following programs and procedures:
 - 9.1.1 program for maintaining security, facility I.D. badges, and emergency response plan;
 - 9.1.2 operating, personnel and administration standard operating procedures for the Facility;
 - 9.1.3 an industry-recognized maintenance management program, including documentation of predictive and preventative maintenance.
 - 9.1.4 a Risk Management Program;
 - 9.1.5 Public Relations and Community Involvement programs, including tours of the Facility, public use of meeting room(s) at the Facility, preparation and distribution of public information regarding the Facility, and mechanisms to respond to citizen inquiries and concerns;
 - 9.1.6 on-going training programs, both classroom and hands-on, for all personnel;
 - 9.1.7 on-going safety program, including but not limited to audits, training, drills, etc.
 - 9.2 OPERATOR will submit to OWNER for approval written materials and procedures outlining in detail the foregoing programs/procedures. As necessary such written material or procedures will be updated and resubmitted.
10. Dispose of dewatered sludge. Treat, monitor, transport and dispose of all residual sludge from the Facility in compliance with all Governmental Requirements and this Contract. Provided the OPERATOR complies with these provisions, the OPERATOR is acting as an agent of the OWNER and therefore OPERATOR does not assume ownership of the residual sludge.
11. Assure that enough water is available at the clear well to meet OWNER's requirements based on daily order from OWNER.
12. Immediately notify OWNER of any known activity, problem or circumstance that threatens or affects the drinking water supply or health, safety or welfare of the users of the drinking water supply, and provide OWNER all information regarding the matter as it becomes available. This notification must be made via telephone to the OWNER representative immediately, and must be followed up with a detailed written report to the OWNER representative within 24 hours of the occurrence. Telephonic communication to the OWNER

representative will be satisfied only when the OWNER representative is contacted personally. If voice contact cannot be made with the OWNER representative, the OPERATOR is to call a 24-hour pager number provided by OWNER for this purpose. Voice mail messages will not satisfy this telephonic notice requirement. OPERATOR must also immediately:

- 12.1 Undertake remediation in accordance with Governmental Requirements and make its best, reasonable efforts to mitigate the problem; and
 - 12.2 Implement any applicable emergency plan, to the extent it is applicable to the situation.
13. Provide uninterrupted operation and maintenance of the Facility in a cost-effective, safe and business-like manner and in accordance with all Governmental Requirements, Prudent Industry Practices and the terms and conditions of this Contract.
 14. Treat raw water and supply finished water using all plant processes and barriers up to the design and operational capabilities of the Facility, in compliance with all Governmental Requirements and this Contract, in order to meet OWNER's demand for finished water. OPERATOR's inability to supply finished water in compliance with Governmental Requirements and this Contract as a result of any cause or event beyond its reasonable control, or the design or operational capabilities of the Facility, will not impose any liability upon OPERATOR for the duration of the cause or event. In such an event, OPERATOR must use its best, reasonable efforts to provide finished water in compliance with all Governmental Requirements and this Contract. Nothing in this clause will relieve OPERATOR from any other of its obligations under this Contract or applicable Governmental Requirements.
 15. Consistent with the other provisions of this Contract, operate the Facility in such a manner so as to reduce, to the maximum extent reasonably possible, the cost to the Facility of the use and demand for energy and the transportation and distribution of energy.
 16. In accordance with protocols established by OWNER, in consultation with OPERATOR, assist OWNER in responding to and, upon request by OWNER, respond to, various external requests, including:
 - 16.1 State and Federal grant audits and information requests;
 - 16.2 State and local government audits;
 - 16.3 Audits by independent public accountants;
 - 16.4 Information requests by users or groups of users of the Facility;
 - 16.5 Information requests from communities or groups of communities serviced by the Facility;

- 16.6 Information required for the annual financial audit of OWNER and financial representation letter; and
- 16.7 Oregon Public Records Act requests.
17. Assist OWNER in obtaining and maintaining all applicable federal, State and local certifications, licenses and permits required for the performance by OPERATOR of the Services including:
 - 17.1 collection and presentation of operational data to support information needs;
 - 17.2 maintenance and continuance of historical record-keeping activities required to establish and document the impact of existing operational activities, as agreed by the parties; and
 - 17.3 attendance at any meetings and hearings as may be reasonably requested by OWNER.
18. Assist OWNER in responding to requests from users of the Facility or communities that are provided services by the Facility, as reasonably directed by OWNER from time to time.
19. Establish and implement an effective quality assurance and quality control program for the Facility designed to assure accuracy and precision of water treatment, which program must include the use of EPA or other approved protocol by any regulatory agency having jurisdiction. (See the Operations Plan Technical Supplement to this Contract and Exhibit E.)
20. Operate and maintain the Facility in accordance to the approved design to minimize noise levels and any other adverse impact on communities contiguous to the Facility.
21. Use all reasonable efforts to minimize service disruptions, neighborhood impacts and other inconveniences due to the operation, construction, maintenance and repair activities of OPERATOR.
22. In accordance with protocols established by OWNER in consultation with OPERATOR, conduct field activities as necessary for the operation of the Facility, the maintenance and upgrading of maps of the Facility to show valves, pipes, meters and other facilities of the Facility and to reflect deviations noted in the field. OWNER may request engineering support within the scope of the activities specified in this Section.
23. Participate in all major pre-construction meetings and monthly coordination meetings with departments of OWNER and outside agencies involved in new capital projects.
24. Calibrate plant and finished water meters annually.
25. Safety of Persons and Property.

- 25.1 Take all reasonable precautions, including security measures, to prevent damage, injury or loss to the Facility and property adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, Facility Equipment, structures and utilities;
 - 25.2 Establish and maintain safety procedures for the protection of the Facility, the employees of OPERATOR and all other Persons, including invitees to the Facility;
 - 25.3 Develop and implement a safety program that, among other things, provides for the identification and management of all hazardous conditions at the Facility; and
 - 25.4 Conduct periodic inspections on both a scheduled and unscheduled basis to evaluate and ensure the continued effectiveness of OPERATOR's activities under this Contract.
26. Emergency Plan. On or before completion of acceptance testing, OPERATOR must provide OWNER with a plan of action to be implemented in the event an emergency occurs. The plan, among other things, must identify the proactive steps that will be taken by the OPERATOR to become informed of spills or other significant changes in upstream water quality that could impact the condition of raw water at the Facility's intake. Upon learning of such a spill or other significant change in upstream water quality, the OPERATOR shall immediately notify the OWNER in accordance with Section 12 above. The plan must provide that OWNER may, at its election, intercede and take, or direct OPERATOR to take, any actions required in response to any emergency. The plan must be reviewed and updated by the parties as frequently as necessary, and at least within thirty (30) days after the end of each year.
27. Improvement in Standards. OPERATOR must actively pursue improvements in:
- 27.1 The effectiveness and efficiency of operations of the Facility;
 - 27.2. The level at which the Facility is normally maintained; and
 - 27.3 The quality of drinking water delivered to customers of the Facility. Any such operational improvements that are achieved must be maintained throughout the remaining term of this Contract. However, any operational improvement that increase costs require OWNER approval.
28. Maintenance and Repair of Facility. Conduct all reasonable maintenance of Facility Equipment, buildings and grounds, and the furnishing of required repair parts and materials in accordance with this Contract. Facility Equipment and lab supplies must be inventoried and replacements provided by OPERATOR semiannually.
- 28.1 OPERATOR'S Responsibilities. OPERATOR must take good care of and maintain the interiors of the buildings and structures constituting the Facility and must make all repairs (Preventative Maintenance and Corrective Maintenance and Repairs) in and about the Facility necessary to preserve them in good order and condition, subject to ordinary wear and tear, which repairs must be in quality and class equal

to the original work. Incident to OPERATOR'S maintenance and repair of the Facility, the following provisions will apply:

- 28.1.1 Preventive Maintenance. Special attention must be given to Preventive Maintenance as set forth in the Contract and this Exhibit B.
- 28.1.2 Regular Inspections. OPERATOR must regularly conduct inspections of the Facility to determine if any maintenance and repair Services are necessary.
- 28.2 Self-Performance of Maintenance Functions. OPERATOR must self perform all maintenance Services for the Facility, if it chooses not to use Subcontractors/ Subconsultants for those Services.
- 28.3 Independent Subcontractors/Subconsultants. OPERATOR may contract with qualified independent Subcontractors/Subconsultants for the maintenance and repair of the Facility when financially feasible, prudent and in the best interests of the Facility and OWNER. Should OPERATOR choose to contract with Subcontractors/Subconsultants for work typically done by OPERATOR, OWNER shall not pay costs over and above what OWNER would have paid OPERATOR for such work.
- 28.4 Competitive Procurement of Services for the Facility. Whenever OPERATOR procures Services for the Facility, OPERATOR must procure those Services competitively through receipt of written quotes or bids so as to ensure that OWNER receives cost effective Services.
- 28.5 Operation and Maintenance Manuals. OPERATOR will provide assistance to OWNER and MW in preparation of initial operation and maintenance manuals. Upon successful completion of acceptance testing, OPERATOR will maintain up-to-date operation and maintenance manuals and written standard operating and maintenance procedures for the Facility (including such updating as may be required in order to clarify, refine or supplement procedures provided in the operation and maintenance manuals); provided, however, that all manuals and procedures must at all times be consistent with the manufacturer's recommendations. OPERATOR must promptly revise any operations and maintenance manuals (including standard operating and maintenance procedures):
 - 28.5.1 to update manuals as new data or information necessitates updates;
 - 28.5.2 as new Facility Equipment is placed in service and new Facility Equipment necessitates revisions to the manuals; and
 - 28.5.3 to reflect OPERATOR's approach or method to operating and maintaining the Facility. In no event will the maintenance and repair be less frequent and comprehensive than that recommended or specified in manufacturer's warranties and recommendations.

28.6 Approval Of Maintenance Procedures. OWNER must approve any modifications of major maintenance affecting the operation or appearance of the Facility. Maintenance expenditures exceeding \$20,000 in any one instance will be deemed major.

28.7 Equipment Maintenance. The OPERATOR will be provided an initial comprehensive inventory of the Facility's equipment. This inventory will identify the warranty terms and timeframes for each piece of equipment, including the dates on which the warranties are activated and expire. It will be the OPERATOR's responsibility to maintain and update this equipment inventory. The OPERATOR will also be given baseline equipment status conditions as determined during startup. The OPERATOR will work with the MW to establish the baseline during startup. The OPERATOR shall continue to perform this evaluation routinely throughout the life of the project. Initial inspection by MW shall be provided in reports to the OWNER and the OPERATOR about the baseline status of all equipment and will include the following:

- * Vibration profile for all equipment
- * Electrical survey of voltage, current, power, and related information
- * Thermographic survey of control panels
- * Equipment status sheet for each equipment unit

After these four reports are performed, the OPERATOR shall prepare an equipment status sheet composed of the various inspections performed on a particular piece of equipment. The data generated, combined with the physical inspection report by the OPERATOR maintenance specialists, shall be combined into a predictive maintenance evaluation report to the OWNER detailing the condition of the plant's equipment and providing a basis for establishing immediate and long-term maintenance needs and pertinent information that shall be used to update the O&M Manual. During the Operation Agreement period, this document shall be delivered to the OWNER on at least an annual basis during plant operations via updates to the O&M Manual. The report shall also provide a major portion of the data to be included in the computerized maintenance management system, which shall be implemented during the initial stages of plant operation.

28.8 Ongoing and Preventative Maintenance. The OPERATOR's maintenance plan within the O&M Manual reflects procedures and standards for modern water treatment facilities. In no event shall maintenance be less frequent and/or less comprehensive than that specified in manufacturers' warranties and manuals.

The OPERATOR shall develop and implement a comprehensive computer-based maintenance management program that develops readily available historical data, including an inventory of spare parts and provision for enforcing warranties on equipment or materials purchased. The OPERATOR's maintenance management program shall address at least the following:

- * Buildings, grounds, and structures
- * Electrical systems and instrumentation

- * Process mechanical equipment
- * Valves, gates and OPERATORS
- * Cathodic protection systems
- * Storm drains and catch basins
- * Mobile equipment
- * Laboratory, monitoring, and sampling equipment
- * Heating, ventilation, and air conditioning
- * Communications equipment
- * Computer systems
- * Ozone generation system
- * Sodium Hypochlorite generation system (IF USED)
- * Chemical feeds systems
- * Pumping systems
- * SCADA facilities
- * Other specialized tools and equipment
- * Water treatment and storage systems

The grounds, facilities and infrastructure shall be maintained at a level adequate for the efficient, long-term reliability and preservation of the OWNER's capital investment. The OPERATOR shall at a minimum perform the following activities relevant to the buildings and grounds:

- a. Maintain the buildings, grounds, and landscaping in an aesthetically attractive and clean condition. NOTE: The park outside the fence line is not part of the maintenance responsibility of the OPERATOR.
- b. Mow the grass, including trimming of any edges, to maintain an attractive appearance of the facilities.
- c. Wash all windows twice a year, or more frequently, on an as-needed basis.
- d. Repair all roof leaks within five days of discovery.
- e. Implement regularly scheduled pest control measures.
- f. Repair all plumbing leaks immediately.
- g. Damp mop floors twice per week or more frequently on an as-needed basis with a cleaning solution appropriate for use in such facilities. All spills must be cleaned immediately.
- h. Strip all floors and apply new floor finish on a periodic basis.
- i. Wash down walls and wall tiles at least every six months, or more frequently, as appropriate.

- j. Apply paint as necessary to all painted surfaces, as appropriate. All painted surfaces within the facilities shall be painted at least every five years, except for such surfaces that have maintained their original condition and would be adversely affected by frequent painting.
- k. Clean offices, meeting room and restrooms daily, including weekends.
- l. Provide for daily collection of solid waste from all receptacles within the Facility and remove solid waste from the Facility at least once per week.
- m. Periodically prune trees to minimize interference with or damage to the Facility and site work during storm events.
- n. Repair cracks, erosions, depressions, and potholes, and slab shifts on paved areas, sidewalks, and other areas, as necessary. Periodically resurface paved areas, if necessary.

All preventive maintenance activities shall, as a minimum, meet the requirements of suppliers. As such, all equipment usage shall be logged through the SCADA system to provide the necessary input to the computerized maintenance management plan. The maintenance plan shall generate work orders that are specific to the item of equipment. These work orders shall outline the required maintenance, describing the work to be undertaken. The resultant maintenance work shall be logged as to when the work order was issued, when completed, by whom, duration of work, and listing of consumables used in providing the required work. This information shall be maintained for all equipment and presented on a monthly basis to the OWNER to confirm that the work being undertaken as required so as to protect the investment in the infrastructure.

The OPERATOR shall provide continuous inspection to detect any significant variance from the baseline. Corrective action shall be taken to prevent major damage to the equipment, as well as protect warranties on new equipment.

When a process element is taken off-line for maintenance, it shall be isolated to ensure protection of plant maintenance staff.

The OPERATOR shall maintain the cathodic protection system in accordance with the approved Operations and Maintenance Manual to ensure that all underground piping achieves its full useful life.

- 28.9 Major Renewal and Replacement Plan. The OPERATOR will assist MW in establishing a detailed Major Renewal and Replacement Plan to be included in the Operations and Maintenance Manual, based on the specifics of the equipment and systems constructed. The OPERATOR will annually update the Major Renewal and Replacement Plan for OWNER's review and approval. Costs for implementing renewal and replacement projects will be paid in accordance with Section 4 of Exhibit A.

28.10 Preliminary Granular Activated Carbon (GAC) Replacement Plan. The interval for replacement of the GAC is dependent on several variables including:

- * GAC size and quality
- * Raw Water characteristics
- * Optimum operation of the chemical coagulation/sedimentation process
- * Optimum operation of the ozonation Process
- * Number of times the OPERATOR backwashes a filter using chlorinated water

The OPERATOR recognizes that predicting the replacement interval is open to differing interpretations. OPERATOR will assist OWNER in developing a protocol agreeable to OWNER for testing GAC performance in this Facility and for determining replacement needs and schedule. For budget purposes only, complete replacement will be initially estimated at four years, with actual replacement subject to the protocols that are developed.

Annually, the OPERATOR shall develop and submit to the OWNER the OPERATOR's assessment of the condition of the GAC and its best projection as to the amount of replacement for that year when complete GAC Replacement will be required.

The Base GAC Replacement Interval is established at four years. The OWNER shall maintain a GAC Replacement Reserve Fund which may be accessed by the OPERATOR, subject to the conditions described below. If, in the reasonable judgment of the OWNER, the OPERATOR's operation of the upstream treatment processes have been optimized for performance relating to GAC life, and it is determined by the OWNER that other factors outside the control of the OPERATOR have intervened, then the OWNER will authorize complete replacement of the GAC sooner than the Base GAC Replacement Interval.

- * OPERATOR shall solicit competitive bids or proposals from quality GAC sources approved by the OWNER, who will purchase GAC directly from the supplier.
- * The OPERATOR's Service Fee shall include whatever Facility staff labor is required for GAC replacement. Nothing in the foregoing shall relieve the OPERATOR from its obligations to meet the Performance Guarantees.

29. Repair of Damage Due to OPERATOR Fault. OPERATOR must procure, provide and implement, at its sole cost and expense, any item concerning the Facility to the extent that is required as a result of the fault of OPERATOR or to the extent that it results from any event or circumstance the occurrence of which gives rise to a successful claim by OWNER for indemnification from OPERATOR pursuant to this Contract.

30. Information, Data and Reports.

30.1 Reports.

- 30.1.1 For each billing period, OPERATOR must provide OWNER with a tally of year-to-date costs incurred, cash balances, and a projection as to anticipated costs for the remainder of the Contract Year. This tally shall be in line item detail.
- 30.1.2 OPERATOR must execute, and file punctually when due, all forms, reports and returns required by law relating to employment of personnel by OPERATOR or OPERATOR'S operation and management of the Facility. OPERATOR will have no responsibility for the preparation of any federal, state or local tax reports or returns on behalf of OWNER.
- 30.1.3 OPERATOR must, on or before 10th Day of each month of the Contract, file with OWNER, in form and substance reasonably acceptable to OWNER, the following information, data and reports for the immediately preceding month:
- 30.1.3.1 an itemized listing of the amount of materials, supplies and chemicals used by OPERATOR;
 - 30.1.3.2 the volume of raw water processed through the Facility and the volume of finished water pumped from the Facility;
 - 30.1.3.3 the volume and quality of residual sludge treated, transported to and disposed of and the location thereof;
 - 30.1.3.4 a statement summarizing the status of any projects, repairs or replacements and other Services, if any, to the extent planned, undertaken or completed by or in process with respect to the Facility;
 - 30.1.3.5 all correspondence, citations, notices, directives or similar information received from any federal, state or local governmental regulatory agency having jurisdiction over the operation, maintenance or ownership of the Facility, pertaining to the Facility, not otherwise provided to OWNER by OPERATOR at an earlier date pursuant to this Contract;
 - 30.1.3.6 a summary of compliance status and water quality, including identification of any violation that occurred;
 - 30.1.3.7 a summary of operation and maintenance activities, including process control results and identification of maintenance backlogs;
 - 30.1.3.8 a summary of any accidents or incidents related to health and safety;
 - 30.1.3.9 a list of projects and repairs or replacements planned or undertaken by any Person and their status;

30.1.3.10 detailed cost records of all maintenance activities undertaken, including predictive, preventative, corrective and routine maintenance, segregated by labor, parts and supplies costs;

30.1.3.11 information reasonably requested by OWNER to make informed evaluations regarding Facility Equipment repair and replacement;

30.1.3.12 any additional information concerning the Facility, as OWNER may reasonably request from time to time; and

30.2 Confidential or Proprietary Information; Intellectual Property; License.

30.2.1 Nothing in this Contract obligates OPERATOR to provide to OWNER:

30.2.1.1 its proprietary or confidential information;

30.2.1.2 information otherwise legally privileged, in whole or in part;

30.2.1.3 information whose provision may be wholly or partially precluded by Governmental Requirements.

30.2.2 Notwithstanding Section 30.2.1, OWNER is granted by OPERATOR a limited, non-exclusive, non-transferable, royalty-free license to utilize in its ownership, operation, maintenance, expansion, modification or other administration of the Facility (and receive from OPERATOR and retain copies of all drawings, specifications, designs, data, and plans (collectively, "Intellectual Property") related to the Facility and generated by OPERATOR or its designates during the performance of this Contract). This limited, non-exclusive, non-transferable, royalty-free license to utilize such Intellectual Property is granted with OWNER'S agreement that all such Intellectual Property, and all intellectual property rights in and to such Intellectual Property, are the sole property of OPERATOR or its designates. OWNER shall have the right to use this Intellectual Property after the term of this contract expires for this Facility. Such Intellectual Property is for use solely with respect to the Facility, and may not, without OPERATOR's prior written consent, be used by OWNER, or its employees, representatives or agents, on any separate project not related to the Facility for completion of the Services by other Persons, or for any separate work or services.

30.3 Record Keeping; Accounting Services; Reports.

30.3.1 OPERATOR must maintain reasonable books and records, including computer data concerning its provision of Services under this Contract. All producible statements, receipts, invoices, vouchers, checks, leases, contracts, Subcontracts, work sheets, financial statements, books and records, and all other instruments and documents relating to the operation and maintenance of the Facility, including all computer data bases, must be

maintained by OPERATOR using OPERATOR'S standard accounting or reporting procedures, forms, charts of accounts or reports.

30.3.2 OWNER will have the right to inspect and copy all producible documents in OPERATOR'S possession relating to the Facility, wherever located, at all reasonable times, and from time to time, during the term of this Contract and for a period of 3 years after the final termination or expiration of this Contract. OWNER has the right to direct the specific location where OPERATOR must produce documents for OWNER's inspection. Nothing in this Section will obviate the requirement that OPERATOR turn copies of all OWNER requested producible documentation concerning the Facility upon the expiration or termination of this Contract.

30.3.3 Formatting of Reports.

30.3.3.1 All reports regarding the Facility provided by OPERATOR to OWNER must be provided in an acceptable format so that all aspects of the Facility to which OPERATOR is required to report are represented.

30.3.3.2 OWNER may, at any time, and from time to time, upon reasonable prior notice, direct that the format of any report required to be submitted by OPERATOR to OWNER under this Contract be changed.

30.3.3.3 All reports must be prepared utilizing GAAP consistently applied, to the extent that GAAP is applicable.

31. Environmental Responsibilities. OPERATOR must provide the following Services concerning environmental matters relating to the Facility:

31.1 Develop and procure, to the extent required of OPERATOR by applicable Governmental Requirements, all applicable environmental permits and complete all permit requirements, and provide associated reporting to OWNER.

31.2 Develop, submit and execute, to the extent required of OPERATOR by applicable Governmental Requirements, all environmental management plans, including Facility Response Plan (FRP) and Spill Prevention Control and Countermeasures (SPCC), and review and update such plans annually, in accordance with applicable Governmental Requirements.

31.3 Develop and execute best management practices for the Facility in accordance with OPERATOR's Maintenance and Operating Manual for the Facility.

31.4 Provide routine and annual preventative maintenance for the Facility's on-site pollution control systems.

- 31.5 Coordinate and support Facility-wide and area-wide emergency, disaster and security organizations, including police, fire, ambulance, rescue and emergency management agencies.
- 31.6 Remediate in accordance with Governmental Requirements and report any known spills or releases at the Facility or involving the Facility. In the event any spill or release at the Facility or involving the Facility is not caused by OPERATOR or its agents, OPERATOR will be entitled to seek compensation for its remediation pursuant to the Clause titled "CHANGES UNDER CONTRACT; PROPOSALS; COMPENSATION".
32. Maintain records of all maintenance Services and inspections; repairs and/or replacements of Facility Equipment; correspondence with regulatory, emergency disaster and security organizations; environmental permits and permit reports of environmental, health, safety and security actions, their investigation, follow-up and courses of action. Records must be well organized and kept in files for access and inspection by OWNER personnel.
33. OPERATOR must, upon the termination or expiration of this Contract, promptly deliver to OWNER, at no cost or expense to OWNER:
- 33.1 all copies of the then-current version of any operations and maintenance manuals for to the Facility (including as-built drawings) in its possession;
 - 33.2 a statement of the standard operating procedures used by OPERATOR for the Facility; and
 - 33.3. any other documents required to be produced by OPERATOR to OWNER upon the earlier termination or expiration of this Contract.
 - 33.4 At the conclusion of the Operation Agreement, the OPERATOR shall return the Facility to the OWNER in good repair and in sound, proper and well-maintained condition without the necessity for the OWNER to undertake a major overhaul when assuming facility management responsibilities.
34. Assumption of Facility. OPERATOR understands and agrees that its obligations under this Contract is based on, among other factors, its assumption of the Facility as a new, start-up Facility on the commencement date of this Contract, including the then-current state of construction and maintenance of the Facility and upon OPERATOR participation in the initial acceptance test phase of the Facility.
35. Extended Plant Operations. In accordance with protocols established by the OWNER in consultation with OPERATOR, OPERATOR will field test the capacity of water treatment components to include the Actiflo systems and the filtration systems. It is anticipated these tests would be accomplished on a 3-year cycle and would be conducted during the low Willamette flows, normal Willamette flows, and at near flood conditions. OWNER will reimburse OPERATOR for expenses if protocols require expenditures beyond approved budget.

EXHIBIT C

EXHIBIT C

TRANSITION PLAN

The Transition Plan outline is organized into the following sections:

- Quality Assurance and Quality Control
- Startup Coordination and Planning Requirements
- Facility Startup and Preliminary Testing
- Facility Transition to Normal Operation

I. QUALITY ASSURANCE AND QUALITY CONTROL

The QA/QC systems provide a mechanism for communications, review and oversight to verify that plant equipment has been installed correctly and to ensure that different project elements will function together as a fully integrated system. The QA/QC systems called for in this Transition Plan Outline provide for standardization of startup planning and commissioning activities. The QA/QC process will involve activities and procedures such as:

- Equipment status tagging procedures,
- Notification by Constructor of readiness to conduct equipment testing or startup the facility,
- Startup Team meets and agrees on test protocol,
- Startup Completion Matrix developed for the respective system under review,
- Responsibility for test performance, monitoring and witnessing assigned,
- Tests scheduled,
- Tests conducted,
- Test results recorded on standardized Equipment Test Checklists,
- Analysis of test results by Startup Team,
- Correction plan and retesting schedule developed as required,
- Final Inspection by Startup Team, identify and prioritize deficiencies,
- Completion of punch list items by Constructor, and
- Final acceptance and documentation.

II. STARTUP COORDINATION AND PLANNING REQUIREMENTS

A. DEFINITIONS

The following is a definition of terms used in this Transition Plan Outline:

Commissioning. Describes the overall process of placing new facilities into full operational service. It consists of a range of activities performed in preparation of facilities equipment testing, initial activation, break-in and the debugging of new equipment and treatment process systems. Commissioning covers a period of time running from the end of the installation phase to a point where routine operations have been established.

Operator. US Filter Operating Services, Inc. hired by the City of Wilsonville and the Tualatin Valley Water District to operate and maintain the facilities designed and built by Montgomery Watson.

Startup. Describes the planned and coordinated operation of the entire facility by the Constructor, subcontractors, design engineer, Operator and manufacturer's representatives. During startup, processes and equipment are loaded with process materials, initially activated, dynamically balanced to achieve stability and then adjusted to run at different points across the full operational range. During startup, intensive observations are performed to determine system characteristics and to confirm that the facility operates in the manner intended. Startup begins after all functional and preliminary testing for equipment has been successfully completed.

Startup Team. The Startup Team is comprised of representatives from Montgomery Watson (including MWCI as Constructor including subcontractors and manufacturer's representatives, and Montgomery Watson as design engineer) and the Operator. The team will also coordinate all activities with the City of Wilsonville, particularly as they impact the delivery of water from this supply.

Testing. Functional and preliminary testing describes the activities conducted prior to startup to ensure that equipment will operate in the manner intended. Functional testing is conducted to demonstrate the integrity of construction, proper installation and to validate that equipment systems and components will function correctly.

Transition. Transition to normal operations is the process of implementing operations support systems, consisting of the maintenance management, process control management, purchasing and administrative services, that are necessary to support long-term facility operations. Training and skills development continues as the facility operates and experience is transferred from the Startup Team to the Operator. During the transition phase, the Operator assumes increasingly greater levels of responsibility over the facility. Upon completion of transition, full responsibility for operation of the facility is turned over from the Startup Team to the Operator. System problems that only become apparent after continuous and prolonged operation of the treatment facility are also identified and solved during the transition period.

B. RESPONSIBILITIES OF STARTUP TEAM MEMBERS

1. MWCI (Constructor)

Construction of the Willamette River WTP, performed by Montgomery Watson Constructors utilizing a team of subcontractors including but not limited to Slayden Construction, Natt McDougal Company, and Tigard Electric, on time per the specifications incorporating all agreed upon change orders, communication, notification and performance of functional and preliminary testing of equipment.

2. MONTGOMERY WATSON (DESIGN ENGINEER)

Provide overview assistance in the construction management of the facility including response to requests for design clarification, and guidance to operations' staff on the operational intent of the facility.

3. OPERATOR

Develop and implement the entire startup program. Provide the operations expertise to facilitate startup and provide guidance during construction on the operability of the various components for the system.

C. COMMUNICATIONS

Frequent communication between the parties that comprise the Startup Team is essential for a successful stamp. Most startup issues can be traced to poor communications.

1. COMMUNICATIONS HIERARCHY

The communications hierarchy is important to maintain so that confusing or contradictory instructions are not given to members of the Startup Team. Outlined below are the major communication paths between the Operator and the Startup Team.

a. BETWEEN STARTUP TEAM MEMBERS DURING CONSTRUCTION PHASE

The point of contact for all issues will be Montgomery Watson. No formal discussions or directives will be given to Montgomery Watson subcontractors without following the chain of command through Montgomery Watson. The Operator and Montgomery Watson will communicate directly on startup related issues such as control systems and process intent.

b. BETWEEN STARTUP TEAM MEMBERS DURING COMMISSIONING PHASE

Initially, startup coordination meetings will be conducted weekly. As startup progresses and the activity level increases, startup meetings will occur each morning. The purpose of startup meetings is to identify problems that require prompt action, coordinate activities and follow up on the status of pending actions.

2. WRITTEN COMMUNICATIONS

During the commissioning and startup phase of the project, a series of logs, checkout sheets and summary sheets will be used to document the status of equipment preparations. These logs and checkout sheets facilitate communication to help ensure that equipment and the facility are ready for sump. Draft Equipment Checkoff Logs will be submitted for review. Summary sheets to detail the progress of the commissioning activities up to startup will also be prepared. Submittal to the members of the Startup Team will allow their review and update as necessary to meet the needs and objectives of each of the team members.

3. STARTUP STATUS REPORTS

Startup status reports will be prepared by the Operator to discuss accomplishments during the previous reporting period, highlight upcoming significant stamp events and to identify key issues that require attention.

D. ESTABLISH SYSTEM FOR OPERATIONS REVIEWS

1. REVIEW PROCEDURES

- Responsibility and routing of submittals
- Timing
- Method for documentation and transmittal of comments
- Methodology for resolution of identified problem areas

2. REVIEW TOPICS

- Operability and maintainability review of shop drawings
- Instrument and control systems
- System tie-in plans
- Equipment testing plans
- Startup and commissioning procedures
- Operation and Maintenance documentation review
- Training course syllabus, lesson plans and teaching aids
- Spare parts

III. FACILITY STARTUP AND PRELIMINARY TESTING

Establish Standardized Startup Testing and Inspection Practices for Common Equipment and System Types.

Standardized procedures and practices for testing, supervision of startup activities, recording of test results and information handling will be established for the following:

A. PUMPING SYSTEMS (GREATER THAN 2 HP)

- Pump and motor
- Suction and discharge lines
- Isolation valves, actuators, proximity switches and position control devices
- Related pump drive devices (VFDs, positive displacement stroke controllers)
- Pump system auxiliaries (seal water, bearing cooling, etc.)

B. INSTRUMENTATION TESTS

- Primary instrument calibration procedures
- Signal transmitters
- Process control elements
- Loop checks
- Process controllers dry and wet tests

C. CONTROL SYSTEM TESTS

- PLCs logic and sequencing
- DCS interface
- Man-machine interface
- Control mode change response
- Standard level control system operational test
- Standard flow control system operational test
- Standard pressure control system operational test
- Standard density/torque control system test
- Standard analytical control loop system operational test

D. ELECTRICAL EQUIPMENT TESTS

- Motor operation current draw, voltage, power speed and protective devices

- Transformer primary and secondary voltage, temperature rise current and efficiency
- Circuit breakers mechanical operation trip and reset
- Equipment protective relay settings
- Circuit continuity and megger testing

E. STARTUP COMPLETION CHECKOFF MATRIX

Verification of completion of startup activities and confirmation that requirements have been met are coordinated through Startup Completion Matrices developed for each equipment system and unit treatment process. Requirements for matrix development are incorporated into the QA/QC manual. The matrix incorporates the following:

1. **System Name.** Name describes the unit process.
2. **Equipment Name.** Equipment name and sub-component name describes the basic equipment involved.
3. **Equipment and Sub-Component Number.** This number is tagged to each major piece of equipment and is the main identifier.
4. **Maintenance Summary Forms.** Each major piece of equipment will have a maintenance summary form. These forms will be the basis of collecting information required and will be the basis for data input into the maintenance management system (assumed to be used by the Operator). This information will be manually collected and used for a computerized maintenance management system. These forms will be placed into a separate file for each major piece of equipment. As the file is completed the Equipment Checkoff Matrix will be ticked as finished. This is but one aspect of completing the path to allow startup.
5. **Functional and Preliminary Testing.** Functional and preliminary testing is the testing that is completed after the piece of equipment is installed. This testing verifies the piece of equipment is installed correctly and is ready for operation, i.e., that all ancillary equipment and instrumentation is ready and has been tested and approved by the Operator.
6. **Spare Parts Supplied.** While not a major portion of the construction contract, the turnover of all spare parts to be supplied by the Constructor will be accomplished after startup. Additionally, the Constructor will provide a list of manufacturer-recommended spare parts.
7. **Operating Permits.** Operating permits required by law for mechanical and related systems will be secured.
8. **Equipment Safety Tagging Procedures.** The placement of safety tags indicating ownership and responsibility for control of the equipment are important for the safe and successful equipment checkout and startup of the treatment facility.
9. **Equipment Labeling and Identification.** Each piece of equipment, including valves, meters, etc., have an individual identification number. The Maintenance Management System and the SOPs use this numbering system and require the tagging of each piece of equipment for proper identification. To ensure proper startup and safety procedures, this step must be completed prior to startup.

10. **Control System.** Although the control system was checked out at the staging area, it needs to be checked once again after installation to ensure it has been correctly installed. At the staging area, only the appropriateness of the software was checked. This recheck will ensure the instrumentation is talking to the correct equipment. This entails checking each I/O point.
11. **Training.** This very important aspect of the commissioning process is required to facilitate the proper operation and maintenance of the equipment. Preventive maintenance schedules and procedures will be taught to the maintenance staff. Principals of operation, equipment descriptions and operating procedures will be taught to the operating staff. The Operator will review and approve of lesson plans, and schedule dates. Delivery and validation of the training must be completed before proceeding with actual startup of the process equipment.
12. **Manufacturer's Operations and Maintenance Manuals.** O&M documents from equipment suppliers must be supplied and approved before startup. These manuals contain the operational instructions. Preventive maintenance schedules and procedures that must be followed to correctly operate the equipment and protect warranty,
13. **Commissioning Procedures.** Preparation of startup procedures will be prepared by the Constructor. The Startup Team must evaluate and come to agreement on the way each equipment unit and process will be started. Review by the Startup Team provides an additional check on the technical aspects of the plan and ensures that important activities, such as the removal of blind flanges, lubrication, initial flushing, filling, venting and other steps, are completed before startup.
14. **Standard Operating Procedures (SOPs).** SOPs for operation of individual equipment units and sub-components need to be developed before startup to ensure proper operation from the beginning. Procedures and operational guidelines that provide for coordinated operation of individual equipment as a system will need to be developed by the Startup Team. Significant effort for development of SOPs will be provided by the Operator. These SOPs will be developed and dry tested before startup. During startup they will be wet tested and updated as necessary for continued use by the operations staff.

F. DEVELOP STANDARDIZED FORMAT FOR OPERATING PROCEDURES

- Develop guidelines for development and review
- Develop standard format for structure and content
- Develop master index for use in identifying procedures by process, system, equipment and activity

G. DOCUMENT STARTUP QA/QC PROCEDURES IN A MANUAL

It is necessary to consolidate startup QA/QC procedures into a manual that will aid communications and provide a reference source.

H. TRAIN STARTUP TEAM AND OTHERS ON QA/QC PROGRO

- QA/QC process
- Equipment testing, checkoff procedures and handling of forms
- Equipment startup tagging procedures

IV. FACILITY TRANSITION TO NORMAL OPERATION

Following the equipment commissioning and preliminary testing of treatment facilities, the next phase of activity will involve processing of water through the new plant. The Transition Plan will identify the activities and schedule duration for the transitional operation. This is a critical time since water will begin to be processed from the new treatment facility. Initial steps will involve providing water to the new treatment facility for preliminary testing prior to actual production. Quantities of raw water to the new facility will increase as the plant initiates the Acceptance Test period. As a minimum, the activities that are developed in the Transition Plan related to Transitional Operation will include:

- A raw water delivery schedule established in quantities of millions of gallons per day for testing of equipment and treatment processes.
- A plan for handling water used in testing that may not be suitable for distribution and consumption without additional treatment.
- A plan that addresses the procedures that will meet health department requirements and receive approval for allowing treated water to be conveyed to the distribution system. This plan will emphasize the procedures that will ensure that an acceptable water quality is being produced prior to distribution and the quality assurance procedures that will be in place to maintain acceptable quality during the transition period.
- Scheduling and coordination with the City of Wilsonville for discontinuing use of well supplies if identified as part of the transition operation.
- A sequence of activities with durations when water will be placed through the new facility. This will include the estimated water quantity to be produced in millions of gallons per day.
- Identification and description of the water quality testing that will be occurring to satisfy the regulatory and performance requirements. This will identify each water quality parameter, the locations of the test to be performed, the method of testing and the frequency of testing.

A. ACCEPTANCE PLAN

The Acceptance Test is a critical milestone in the overall project development. The testing conducted during this period will confirm the hydraulic and water quality performance capabilities of the constructed treatment facility. The goals and objective are to satisfactorily demonstrate compliance with each of the stated performance criteria during this period. A detailed Acceptance Plan will be prepared and submitted to the City of Wilsonville and the Tualatin Valley Water District, for review at least 120 days prior to the proposed test period.

The Acceptance Test Plan will consist of the following elements:

- Summary of the testing team organization by individual, their responsibilities and the representation of their firm affiliation.
- Definition of procedures to be used in testing of the individual performance criteria. This will include sampling and testing protocol for each water quality parameter at the locations within the treatment process requiring testing.
- Identification of each day's activities with a breakdown of work that will occur during each hour of the day of testing, the individual responsibilities, testing, identification and documentation of problems or observations noted during the test period.
- Preparation of the communication system to be used at remote locations to notify other testing members of performance that may not be noticed from instrumentation at the Control Room. Emergency procedures to be followed should an equipment failure occur during the test will be identified.
- Identification of instrumentation equipment to be used for recording and indicating performance.

- Preparation of a summary of raw water to be delivered by day and the anticipated treated water to be delivered by each day during the test period.
- Summary of maintenance and operations activities by process or selected piece of equipment that will occur during each day of testing.
- Preparation of the procedures to be used to verify compliance with the performance requirements related to water quality and hydraulic capacity.
- Summary of the hydraulic testing to be performed and specification of the days this testing will occur. Water surface elevations will be measured where available to confirm the design hydraulic calculations.
- Provision of a test activity that performs manual startup and shutdown activities, automatic shutdown and simulated power failure and standby power operation.
- Summary of the documentation, data collection and laboratory reports for each day of scheduled testing activities with a summary of the test results prepared for each day. A summary report for the entire test period will also be prepared consolidating all of the daily test records and results.

EXHIBIT D

EXHIBIT D

(NOT USED)

EXHIBIT E

EXHIBIT E

FINISHED WATER STANDARDS

The Operator shall operate the plant in a manner such that the drinking water produced is in compliance with all drinking water regulations, including primary and secondary maximum contaminant levels (MCLs), treatment techniques, and other regulations promulgated by the Oregon Health Division and the U.S. Environmental Protection Agency (USEPA), as of the date of the proposal submission and as subsequently modified, added or amended. In addition, the drinking water produced shall meet the specific Water Treatment Monitoring Frequencies listed below and the Performance Standards listed in Table E-1. In operating to maintain compliance with these requirements, the Operator shall maintain all water treatment processes (including but not limited to, clarification, ozonation, filtration and final disinfection) in the plant in operation at all times. These processes must be operated to meet the Finished Water Standards performance requirements.

All analytical methods used to demonstrate compliance shall be in accordance with the Oregon Health Division and the USEPA approved methods. In the event that a particular parameter does not have an approved method, the Operator shall propose a method for approval by the Owner. Compliance for all performance standards presented below shall be determined by the Owner unless stated otherwise.

The Operator shall perform all monitoring required by applicable drinking water regulations and by the finished water performance standards. All monitoring data collected by the Operator shall be provided on or before the 10th of each month to the Owner, subject to the requirement for immediate notification per Section 12 of Exhibit B. Monitoring frequency shall be as required by the regulatory agencies unless more frequent monitoring is required in Table E-2.

Table E-1
Finished Water Standards

Water Quality Parameter	Unit	Existing Regulations	Treated Water Goal
Total/fecal coliform	# /100 mL	<5% positive in system	0% positive leaving plant
Turbidity	NTU	<=0.3	<0.1 each filter
Particles (>3 µm)	Count / mL	None	<50
Pathogen Removal/Inactivation			
Viruses		4 logs	Provide multi-barrier: 2-log removal & 2-log inactivation
<i>Giardia</i>		3 logs	Provide multi-barrier: 3-log removal & >1-log inactivation
<i>Cryptosporidium</i>		2 logs	Provide multi-barrier: 3-log removal & 1-log inactivation
Disinfection By-product			
Trihalomethanes	µg/L	80	<40
Haloacetic Acids	µg/L	60	<30
Bromate	µg/L	5 to 15	<5
Synthetic Organic Chemicals	µg/L	Varies	All non-detect
Volatile Organic Chemicals	µg/L	Varies	All non-detect
Inorganic Chemical	µg/L	Varies	<50% MCL
Alkalinity	Mg/ l CaCO ₃	None	>=20
PH	-	None	>=7.5
Arsenic	µg/L	2 to 10	<=2
Sulfate	Mg/L	250	<MCL
Taste & Odor Compounds			
Geosmin	Ng/l	None	<7
MIB	Ng/l	None	<8
Odors	TON	3	<3
Tastes	-	None	Non-objectionable

Total Organic Carbon

Mg/l

35% reduction in
TOC if raw water in
TOC is from 2-4
Mg/l

45% reduction in
TOC if raw water
TOC is from
4-8 Mg/l.

35% reduction in
TOC if raw water in
TOC is from 2-4
Mg/l.

45% reduction if raw
water TOC is from
4-8 Mg/l.

**Table E-2
WATER TREATMENT MONITORING FREQUENCIES**

Parameter	Treated Water Monitoring Frequency	Raw Water Monitoring Frequency
HYDRAULIC PARAMETERS		
Treatment Facility Total Production	Daily	
Treatment Facility Flow	Continuous	
PHYSICAL/CHEMICAL/INORGANIC/PARAMETERS		
Conductivity	Weekly	
Temperature	Continuous	Continuous
Total Alkalinity	Weekly	Weekly
Total Hardness	Weekly	Weekly
Calcium Hardness	Weekly	Weekly
Total Organic Carbon (TOC)	Weekly	Weekly
Iron	Monthly	Monthly
Turbidity	Continuous, each filter	Continuous
Particles	Continuous, each filter	Continuous
Color	Weekly	Weekly
PH	Continuous	Continuous
UV-254	Weekly	Weekly
Chlorine Residual	Continuous	
Total Dissolved Solids	Weekly	
MICROBIOLOGICAL/ORGANIC PARAMETERS		
Total Coliform	Daily	Daily
E. coli	Daily	Daily
Viruses	Quarterly	Quarterly
Giardia	Monthly	Monthly
Cryptosporidium	Monthly	Monthly
Total Trihalomethanes	Monthly	
Haloacetic Acids	Monthly	
Regulated VOC's/SOC's	Quarterly	Quarterly
Regulated IOC's	Quarterly	Quarterly
TON	Weekly	Weekly
Parameter for Granular Activated Carbon Filters		
	Filter	Monitoring Frequency
Iodine Number	Each Filter	Quarterly
Atrazine Isoterm	Each Filter	Semi-annually at time of Iodine number
TOC Isoterm	Each Filter	Semi-annually at time of Iodine number

EXHIBIT F

EXHIBIT F

FACILITY DESCRIPTION

Project and Treatment Components

The overall project designed and constructed to the capacities, regulations and water quality goals described herein includes generally the following facilities. Facilities will be designed with redundant equipment to provide the firm project capacity with largest component of each process out of service.

- Intake Screens – submerged type Johnson screens with air flush.
- Intake Pipeline – submerged connecting screens to intake wetwells.
- Intake Wetwell – circular reinforced concrete caisson type construction.
- Intake Pump Station – four vertical turbine type pumps with below ground discharge. Pump station will also house screen cleaning compressors (2 units) and air receiver, and electrical motor control equipment. Overall pump station layout will accommodate ultimate 120 mgd of pump equipment.
- Raw Water Meter – metering provided on raw water pump discharge for monitoring and control.
- Chemical Addition and Mixing – chemical addition and mixing provided for raw water including coagulant, coagulant aid, disinfection, carbon dioxide solution, aqueous ammonia solution and caustic soda addition.
- Ballasted Coagulation (Actiflo) – the Actiflo process will be used for coagulation and solids removal. Two parallel trains will be provided which can each treat the maximum initial phase of treatment flow. The Actiflo process is complete with all equipment and hydraulic structures.
- Ozone Disinfection – ozone will be provided for disinfection and will be located immediately downstream of the Actiflo process. The process will initially include two counter-cocurrent contact basins, two medium frequency ozone generators, liquid oxygen and off-gas ozone destruction equipment.
- Filtration – four gravity dual media filters will be provided, each with 72 inches of granular activated carbon media over 12-inches of sand media. Backwash will be provided from pumps located at the clearwell and air scour provided from blowers housed in the filter gallery. Filter to waste will also be provided with two pumps capable of delivering water to the filter influent channel or the raw water piping.

- Clearwell – A 2.5 million-gallon clearwell will be provided of rectangular construction. It will also provide a location for high service and backwash pumps.
- High Service Pump Station – A high service pump station will be provided to deliver treated water for transmission and distribution. The pump station will accommodate four high service pumps and backwash pump, piping and valving equipment.
- Finished Water Meter – A finished water meter will be provided to monitor and control treated water uses.
- Treated Water Pipeline – A treated water pipeline will be provided from the high service pump station, along the plant access roadway and extend to Kinsman Road and Wilsonville Road. Turnouts to the distribution system will be provided at Brockway Road and Wilsonville Road.
- Site Electrical Services – Primary power will be routed to the plant site from Wilsonville Road along the western edge of the City property. The power will be metered and a transformer will reduce the voltage on-site for process requirements. A diesel fuel standby power supply will be provided for a maximum of 4-5 mgd of total capacity including raw water, complete treatment and high service pumping.
- Instrumentation and Control – An instrumentation and control system will be provided allowing remote monitoring and control of all on-site processes. Monitoring of offsite turnouts and other offsite SCADA monitoring will also be provided.
- Washwater Equalization – A washwater equalization basin will be provided to store a maximum of two repetitive backwashes. The facility will also include a pump station to return the waste backwash water to the raw water pipe.
- Sludge Thickening – A sludge thickener will be provided to provide initial dewatering of solids removed from the Actiflo process. The thickened sludge will be pumped to dewatering equipment with pumps located in an adjacent pump station.
- Sludge Dewatering – Thickened sludge will be dewatered in centrifuges. The dewatered sludge will be hauled to landfill for final disposal. The centrifuges will be located in a stand-alone building of two-story configuration.
- Administration Building – An administration building will be provided for plant operations including control room, laboratory, office space, conference room, restrooms, dressing/shower facilities, lunchroom and instrument repair room.
- Chemical Building – A chemical building will be provided to store chemicals in bulk or portable storage containers and also provide metering equipment, piping and valving. Chemicals included in this facility will be: aqueous ammonia, calcium thiosulfate, carbon dioxide, caustic soda, ferric chloride, liquid alum, polyelectrolyte, anionic polyelectrolyte, filter aid polyelectrolyte, polyphosphate, sodium hypochlorite

and space for a spare chemical. The chemical building will be prepared to house ultimate chemical needs.

The Deeds for the property are included as Attachment F-1.

ATTACHMENT F-1

AFTER RECORDING RETURN TO:

City of Wilsonville - C.J. Sylvester
8445 SW Elligson Rd.
Wilsonville, OR 97070

UNTIL A CHANGE IS REQUESTED, ALL

TAX STATEMENTS SHALL BE SENT TO
THE FOLLOWING ADDRESS:
8445 SW Elligson Rd.
Wilsonville, OR 97070

DEED

DAVID S. YOUNG, MARLENE A. YOUNG, and SHERILYNN J. YOUNG, as tenants in common, each to an equal and undivided 1/3 interest, Grantors, convey and specially warrant to CITY OF WILSONVILLE, an Oregon municipal corporation, Grantee, the following described real property free of encumbrances created or suffered by the Grantors except as specifically set forth herein, situated in Clackamas County, Oregon, to-wit:

Parcel I, as described in the attached Exhibit A.

The said property is free of all encumbrances created or suffered by Grantors, except easements, access agreements, roadway agreements, and maintenance agreements of record, and changes (if any) in the location of the Willamette River.

Grantee has inspected the said property; is aware of its farm, household and river uses; and accepts the condition of the said property as is.

Further, DAVID S. YOUNG, MARLENE A. YOUNG, and SHERILYNN J. YOUNG, as tenants in common, each to an equal and undivided 1/3 interest, Grantors, convey to CITY OF WILSONVILLE, an Oregon municipal corporation, Grantee, the following described real property comprising an easement, situated in Clackamas County, Oregon, to-wit:

Parcel II, as described in the attached Exhibit A.

///
///
///
///
///
///
///
///
///
///

We certify this instrument to be a true

Copy _____ recorded 9-4-98
Book _____ Page _____ Fee 98083412
Records of Clackamas County, Oregon.

CHICAGO TITLE INSURANCE COMPANY

By ABRODKE

The true consideration for this conveyance is \$1,475,000.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 4 day of September, 1998.

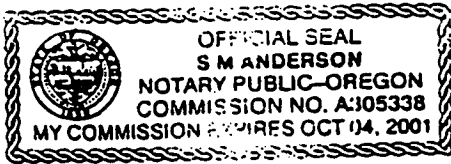
David S. Young
David S. Young

Marlene A. Young
Marlene A. Young

Sherilynn J. Young
Sherilynn J. Young

STATE OF OREGON, County of Clackamas ss. 9-4-98, 1998
Personally appeared the above named DAVID S. YOUNG and acknowledged the foregoing instrument to be his voluntary act and deed.

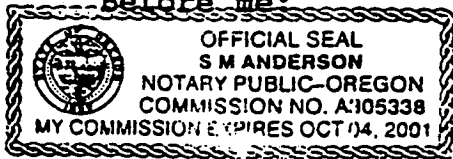
Before me:



S M Anderson
Notary Public for Oregon
My Commission Expires: 10-4-2001

STATE OF OREGON, County of Clackamas ss. 9-4-98, 1998
Personally appeared the above named MARLENE A. YOUNG and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:



S M Anderson
Notary Public for Oregon
My Commission Expires: 10-4-2001

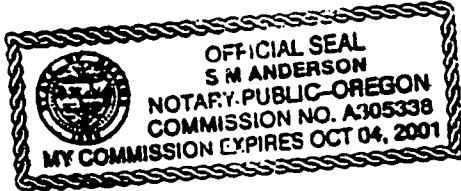
STATE OF OREGON, County of Clackamas ss. 9-4-98, 1998
Personally appeared the above named SHERILYNN J. YOUNG and
acknowledged the foregoing instrument to be her voluntary act and
deed.

Before me:

S M Anderson

Notary Public for Oregon

My Commission Expires: 10-4-2001



PARCEL I:

Legal Description

A tract of land in a portion of the Robert V. Short DLC No.46 located in the Northwest and Southwest one-quarters of Section 23, Township 3 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a point on the North line of said Section 23, that bears East a distance of 20.00 feet from the Northwest corner of said Section 23; thence South 0°03'00" East, parallel with and 20 feet Easterly of the West line of said Section 23, a distance of 1397.22 feet to an interior angle corner in the Northerly line of that tract of land conveyed to Hardy S. Young by Deed, described in and recorded under Fee Number 74-10618 Clackamas County Deed Records; thence North 89°51' East, along said Young's North line, a distance of 580.00 feet to a 5/8 inch iron rod at the Northwest corner of that tract of land conveyed as a Tract I to Joe Bernert Towing Company, Inc., in a contract recorded under Fee Number 75-9882, Deed Records; thence South 0°03' East, along the Westerly line of said Towing Company Tract, a distance of 220.00 feet to a 5/8 inch iron rod at the Northeast corner of that tract of land conveyed to Joe Bernert Towing Company, Inc., by a contract described in and recorded under Fee Number 90-2243, Deed Records; thence South 89°51' West, along the Northerly line of last said tract, a distance of 60.00 feet to a 5/8 inch iron rod; thence South 77°08'26" West, along last said Towing Company Tract, a distance of 492.25 feet to a 5/8 inch iron rod; thence South 0°03' East, along the Westerly line of last said tract, a distance of 141.69 feet to a 5/8 inch iron rod; thence South 49°54'37" East, along a Westerly line of last said tract, a distance of 659.97 feet to a 5/8 inch iron rod at an angle corner in said Westerly line; thence South 9°47'13" East, along said Westerly line, a distance of 747.37 feet to a 5/8 inch iron rod, being the South corner of said Fee Number 90-2243, said South corner being on the West line of said Tract I of Fee Number 75-9882; thence South 0°03' East, along the West line of said Tract I, a distance of 225.18 feet, more or less, to the South line of said Fee Number 74-10618; thence South 83°31'40" West, along the South line of said Fee Number 74-10618, a distance of 517.54 feet, more or less, to the mouth of a ravine; thence South 77°46'41" West, continuing along the South line of Fee Number 74-10618, a distance of 79.72 feet to the Southwest corner thereof; thence North, along the Westerly line of said Fee Number 74-10618, a distance of 966.90 feet to a point; thence North 58°00' West, a distance of 117.48 feet to a point on the West line of said Section 23; thence North 0°03" West, along said West section line, a distance of 2299.44 feet to the Northwest corner of said Section 23; thence East a distance of 20.00 feet returning to the point of beginning.

PARCEL II:

TOGETHER WITH an easement for road and utility purposes over the following described parcel:

A tract of land situated in Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows, to wit:

A strip of land 60.00 feet in width and heretofore known as the Industrial Way Road easement, the centerline intersection of said 60.00 foot strip of land with the centerline of Market Road No. 6 (also known as Wilsonville Road), which intersection is North 89°56' East along the centerline of Market Road No. 6, 1278.43 feet from the Northwest corner of said Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, from said place of beginning; thence leaving said centerline of Market Road No. 6, South 31°36' East along the centerline of said 60.00 foot strip of land 263.90 feet; thence South 17°48' East 64.49 feet; thence South 10°22' West, 145.34 feet to the intersection of the North line of the Bailey D.L.C. No. 45; the same point of intersection being South 89°55' East 163.15 feet from the Northwest corner of the Thomas Bailey D.L.C. No. 45; thence South 10°22' West 906.74 feet along the centerline of said 60.00 foot strip of land South to the point of intersection of said centerline with the West line of said Thomas Bailey D.L.C.

AFTER RECORDING RETURN TO:
City of Wilsonville - C.J. Sylvester
8445 SW Elligson Rd.
Wilsonville, OR 97070

UNTIL A CHANGE IS REQUESTED, ALL
TAX STATEMENTS SHALL BE SENT TO
THE FOLLOWING ADDRESS:
8445 SW Elligson Rd.
Wilsonville, OR 97070

DEED

DAVID S. YOUNG, Grantor, conveys and specially warrants to CITY OF WILSONVILLE, an Oregon municipal corporation, Grantee, the following described real property free of encumbrances created or suffered by the Grantor except as specifically set forth herein, situated in Clackamas County, Oregon, to-wit:

Parcel I, as described in the attached Exhibit A.

The said property is free of all encumbrances created or suffered by Grantor, except easements, access agreements, roadway agreements, and maintenance agreements of record, and changes (if any) in the location of the Willamette River.

Grantee has inspected the said property; is aware of its farm, household and river uses; and accepts the condition of the said property as is.

Further, DAVID S. YOUNG, Grantor, conveys to CITY OF WILSONVILLE, an Oregon municipal corporation, Grantee, the following described real property comprising an easement, situated in Clackamas County, Oregon, to-wit:

Parcel II, as described in the attached Exhibit A.

///
///
///
///
///
///
///
///
///
///

We certify this instrument to be a true
Copy _____ recorded 9-4-98
Book _____, Page _____, Fee 98083411
Records of Clackamas County, Oregon.

CHICAGO TITLE INSURANCE COMPANY
By ABROCKE

The true consideration for this conveyance is \$600,000.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 4th day of September, 1998.

David S. Young
David S. Young

STATE OF OREGON, County of Wackamas ss. 9-4-98, 1998
Personally appeared the above named DAVID S. YOUNG and
acknowledged the foregoing instrument to be his voluntary act and
deed.

Before me:

S M Anderson
Notary Public for Oregon
My Commission Expires: 10-4-2001

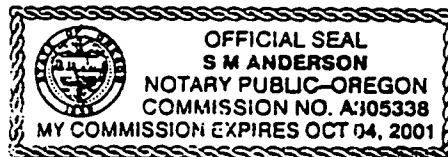


EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

Being a part of the R. V. Short Donation Land Claim in Township 3 South, Range 1 West, Willamette Meridian, in the County of Clackamas and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point on the line between Sections 22 and 23, said township and range, 792.23 feet South 0°03' East of the Northwest corner of said Section 23; running thence South 0°03' East on said section line 604.99 feet to the Southwest corner of M.A. Holbrook Tract as recorded in Book 159, Page 546, Records of Deed for Clackamas County, Oregon; thence North 89°50' East 1239.0 feet along the South boundary of the said Holbrook Tract to the East line of the above mentioned Short DLC; thence North 0°17' West along the East boundary of the said Short DLC 545.7 feet to a point; thence North 87°25' West 1237.9 feet to the place of beginning.

EXCEPT the West 20 feet thereof conveyed for private roadway.

AND FURTHER EXCEPTING THEREFROM that portion included in Quit Claim Deed to Joe Bernert Towing Co., Inc. recorded December 29, 1987 as Recorder's Fee No. 87057703.

PARCEL II:

TOGETHER WITH an easement for road and utility purposes over the following described parcel:

A tract of land situated in Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows, to wit:

A strip of land 60.00 feet in width and heretofore known as the Industrial Way Road easement, the centerline intersection of said 60.00 foot strip of land with the centerline of Market Road No. 6 (also known as Wilsonville Road), which intersection is North 89°56' East along the centerline of Market Road No. 6, 1278.43 feet from the Northwest corner of said Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, from said place of beginning; thence leaving said centerline of Market Road No. 6, South 31°36' East along the centerline of said 60.00 foot strip of land 263.90 feet; thence South 17°48' East 64.49 feet; thence South 10°22' West, 145.34 feet to the intersection of the North line of the Bailey D.L.C. No. 45; the same point of intersection being South 89°55' East 163.15 feet from the Northwest corner of the Thomas Bailey D.L.C. No. 45; thence South 10°22' West 906.74 feet along the centerline of said 60.00 foot strip of land South to the point of intersection of said centerline with the West line of said Thomas Bailey D.L.C.