

01/16/2020

JAN 16 2020

30000175

LEACHATE TREATMENT AGREEMENT
December 2019

DOUGLAS COUNTY CLERK

THIS AGREEMENT is made and entered into this 8th day of January, 2020, by and between DOUGLAS COUNTY, a political subdivision of the State of Oregon ("County"), GREEN SANITARY DISTRICT ("District"), and the CITY OF WINSTON ("City").

RECITALS:

County needs to have leachate that is generated by the landfill treated at the Winston-Green Wastewater Treatment Facility ("Facility") owned by City and District. This agreement is to memorialize the terms thereof. City and District together shall be referred to hereinafter as ("Contractor").

1 COUNTY'S OBLIGATIONS:

1.1 During the term of this agreement, County will deliver leachate from the landfill to the Contractor's Facility by trucking such leachate to be stored in a Baker Tank, located at the Contractor's Facility, and then released into the treatment process by Contractor's Facility operators.

1.2 Using a flow meter, the County will measure and record the quantity of leachate delivered to the Facility.

1.3 At the time of such delivery and at the County's sole expense, County shall test, measure, record and provide to the Contractor the proper manifest with the following information:

- Date
- Quantity Hauled in Gallons
- pH
- Ammonia
- Name of individual loading the truck
- Name of truck Driver
- Date of measurement meter calibration

1.4 County shall provide a monthly accounting and certification of all of the above information, including information not available at the time of delivery of the leachate, including Suspended Solids (SS) and 5-day Biochemical Oxygen Demand (BOD), Soluble BOD and monthly meter calibration data.

1.5 At the County's sole expense, the County shall also test leachate semi-annually for metals and other parameters required by the Contractor's Facility NPDES permit and will test for other metals or leachate constituents which might tend to cause a violation of the Contractor's permits or Facility operations guidelines. Testing will include but not be limited to the following: arsenic, cadmium, chromium, copper, lead, nickel, mercury, silver and zinc. Sampling and testing will take place in the first and third quarters of the year and the results will be reported to the Facility within 30 days of the end of the quarter, i.e., April 30th and October 30th of each year.

1.6 Any costs for analytical laboratory testing of the County's delivered leachate currently required or required during the term of this contract for the Contractor's Facility permit compliance shall be paid by the County.

1.7 County agrees to let Contractor spot test leachate whenever the Contractor deems appropriate. County shall pay for all spot tests performed by the Contractor following the receipt of the test results and an invoice with the itemized costs.

1.8 County agrees to pay all costs associated with leachate caused damage to the Facility or costs associated with Facility NPDES Permit violations resulting from leachate constituents.

1.9 County shall pay \$0.020 per gallon of leachate delivered on a monthly basis to the Contractor's Facility until such time as pretreatment is installed on the County leachate collection system. The price per gallon of delivered leachate can be renegotiated once pretreatment process is operational.

1.10 County shall pay a monthly laboratory fee of \$850 to cover daily ammonia tests performed by the Facility.

1.11 The County shall make substantial progress towards a pretreatment process by June 30, 2020. Failure to provide a Memorandum of Understanding (MOU), outlining the County's plan to provide leachate pretreatment including timeline, operation and maintenance of pretreatment system, description of pretreatment process and the date of project completion, may result in Contractor discontinuing to accept leachate. Operation of the pretreatment process shall be done under the requirements of Oregon Department of Environmental Quality, (ODEQ).

2 CONTRACTOR'S OBLIGATIONS:

2.1 Contractor shall accept leachate under this agreement and shall treat it. However, if conditions or circumstances of accepting County leachate would cause

the Contractor to violate its Facility NPDES permit, the Contractor can refuse to accept leachate.

2.2 Contractor shall test leachate, at County expense, for pH and ammonia level prior to release of leachate from Baker Tank into the treatment process.

2.3 The Contractor shall accept County leachate that meets acceptable limits for treatment by the Contractor without violating its Facility NPDES permit.

3 TERM:

3.1 The initial term of this agreement shall commence on 8th day of January, 2020 and shall continue through the 31st day of December 2020.

3.2 The parties may extend the term of this agreement annually. An extension shall be affected by written memorandum signed by authorized representatives of all parties. Each extension shall begin on January 1st and end on December 31st of the following year. Any extension shall be on the same conditions as this agreement.

3.3 Unless the context clearly indicates otherwise, any references in this agreement to the term of the agreement shall be deemed to include the initial term and extensions.

3.4 Any party may terminate this agreement with 60 days written notice to the other parties of its intention to do so. Or under the condition outlined in 2.1.

4 PAYMENT:

4.1 The County shall make monthly payments to Contractor for the services covered by this agreement. Payments shall be made within 30 days of the end of the billing period.

4.2 No payment shall be made under this agreement unless funds for that payment have been duly appropriated in accordance with ORS 294.305 et seq. (Local Budget Law). In the event no funds or insufficient funds to pay for the services are appropriated for subsequent fiscal years, the County shall immediately notify the Contractor, and this agreement shall terminate on the last day of the fiscal year for which appropriations are made.

4.3 County shall not be obligated to make any payment under this agreement in violation of the debt limitation imposed by Article XI, Section 10 of the Oregon Constitution.

5 COMPLIANCE WITH LAW: This agreement will be governed by and construed in accordance with laws of the State of Oregon. All parties shall promptly observe and comply with all present and future laws, orders, regulations, rules and ordinances of federal, state, and local governments with respect to the obligations covered by this

agreement.

- 6 **HOLD HARMLESS:** To the extent allowed by the Oregon Constitution, and within applicable limits of the Oregon Tort Claims Act, County shall defend, indemnify and save City and District, and their officers, agents and employees harmless from any and all claims, actions, costs, judgments, damages and other expenses, of whatsoever nature, alleged to have been proximately caused by the errors, acts, or omissions of County, its officers, agents, employees, or contractors, pertaining to, or arising out of this agreement. Notwithstanding the foregoing, County shall not be required to hold City harmless from claims to the extent such claims result from the fault of City, nor to hold District harmless from claims to the extent such claims result from the fault of District. Any and all obligations of County described herein which accrue during the term of this agreement shall survive expiration or termination of this agreement.
- 7 **COUNTY OFFICERS, AGENTS, AND EMPLOYEES:** County officers, agents, and employees are prohibited from receiving any pecuniary or material benefit from the Contractor in violation of ORS Chapter 244 or the County's policy on employee ethics set forth in the County Personnel Rule 20.2. Contractor shall not confer any appreciable pecuniary or material benefit on any officer, employee, or agent of the County during the term of this agreement.
- 8 **DEFAULT:**
- 8.1 There shall be a default under this agreement if any party fails to perform any act or obligation required by this agreement within fifteen days after the other party gives written notice specifying the breach. If the breach specified in the notice cannot be completely cured within the fifteen day period, no default shall occur if the party receiving the notice begins compliance within the fifteen day period and thereafter proceeds with reasonable diligence and in good faith to cure the breach as soon as practicable.
- 8.2 Notwithstanding subsection 8.1, any party may declare a default by written notice to the other parties, without allowing an opportunity to cure, if the other party repeatedly, materially breaches the terms of this agreement.
- 8.3 If a default occurs, before any party may bring an action in any court concerning any obligations under this agreement, such party must first seek in good faith to resolve the issue through negotiation, mediation, or through other non-binding alternative dispute resolution process.
- 8.4 If a default occurs and it is not resolved under subsection 8.3, the party injured by the default may elect to terminate this agreement and pursue any equitable or legal rights and remedies available under Oregon law. All remedies shall be

cumulative.

8.5 Any litigation arising out of this agreement shall be conducted in Circuit Court of the State of Oregon for Douglas County.

9 AUTHORITY OF PUBLIC WORKS DIRECTOR: The Public Works Director of the Douglas County Public Works Department shall have the authority to represent the County on all matters concerning administration of this agreement. The Director may give notices under the agreement, interpret the provisions of the agreement, implement the policies of the County with respect to the agreement, and take any action authorized by the Board of County Commissioners. The Director may approve extensions of the term of this agreement.

10 AUTHORITY OF WINSTON-GREEN WASTEWATER TREATMENT FACILITY MANAGEMENT COMMITTEE: The Facility Management Committee shall have the authority to represent the Contractor on all matters concerning administration of this agreement. The Management Committee may give notices under the agreement, interpret the provisions of the agreement, implement the policies of the Contractor with respect to the agreement, and take any action authorized by the Contractor. The City and District may approve extensions of the term of this agreement.

11 NOTICES:

11.1 Any notice required to be given under this agreement shall be in writing and shall be given by personal delivery, mail, or facsimile transmission. Any notice required to be given by law, shall be given in the manner specified by the applicable law.

11.2 Notices to County shall be mailed to the Public Works Director, Douglas County Public Works Department, 1036 S. E. Douglas, Roseburg, Oregon 97470.

11.3 Notices to the Contractor shall be directed to the Superintendent, Winston-Green Wastewater Treatment Facility, 658 Harmony, Roseburg, OR 97471.

12 NO WAIVER: No provision of this agreement shall be deemed waived unless such waiver is in writing and signed by the party waiving its rights. Any waiver of a breach by either party, whether express or implied, shall not constitute waiver of any other breach.

13 SEVERABILITY: If any provision of this agreement is held by a court to be invalid, such invalidity shall not affect any other provision of this agreement. This agreement shall be construed as if such invalid provision had never been included.

\\

\\

\\

14 **ENTIRE AGREEMENT:** This agreement and the exhibits incorporated in this agreement constitute the entire and final agreement between the parties. This agreement may be changed only by written amendments or modifications that are signed by both parties.

GREEN SANITARY DISTRICT

By Ronald Curry
Title Chair
Print Name Ronald Curry
Fed ID # 93-6011163
Date 1/9/2020

ATTEST

By Kay L. Huff
Title District Manager
Print Name Kay L. Huff
Date 1/9/2020

CITY OF WINSTON

By Mark D. Bauer
Title City Manager
Print Name MARK D. BAUER
Date 1-10-2020

ATTEST

By Cindy M. Sartin
Title Finance Clerk
Print Name Cindy M. Sartin
Date 01-10-2020

DOUGLAS COUNTY

By A. T. T.
Chair
By [Signature]
Commissioner
By [Signature]
Commissioner
Date 1-8-2020

REVIEWED AS TO CONTENT

By [Signature]
Department Head
Date 1/6/2020
Coding 54005000-519900

REVIEWED AS TO FORM

By [Signature]
Office of County Counsel
Date 1/13/2020

14 **ENTIRE AGREEMENT:** This agreement and the exhibits incorporated in this agreement constitute the entire and final agreement between the parties. This agreement may be changed only by written amendments or modifications that are signed by both parties.

GREEN SANITARY DISTRICT

By Ronald Curry
Title Chair
Print Name Ronald Curry
Fed ID # 93-6011163
Date 1/9/2020

ATTEST

By Kay L. Huff
Title District Manager
Print Name Kay L. Huff
Date 1/9/2020

CITY OF WINSTON

By Mario J. Bauer
Title City Manager
Print Name MARIO J. BAUER
Date 1-7-2020

ATTEST

By Cindy M. Sarti
Title Finance Clerk
Print Name Cindy M. Sarti
Date January 7, 2020

DOUGLAS COUNTY

By _____
Chair
By _____
Commissioner
By _____
Commissioner
Date _____

REVIEWED AS TO CONTENT

By Scott L. ...
Department Head
Date 1/8/2020
Coding _____

REVIEWED AS TO FORM

By [Signature]
Office of County Counsel
Date 1/8/2020