

**AGREEMENT
BETWEEN ALDERWOOD WATER AND WASTEWATER DISTRICT
AND
CROSS VALLEY WATER DISTRICT
FOR
PROVISION OF POTABLE WATER SUPPLY
AND
ADDRESSING THE BEAR CREEK TRUNK SEWER**

THIS AGREEMENT, made and entered into this 28th day of MARCH, 2006, by and between the ALDERWOOD WATER AND WASTEWATER DISTRICT, a special purpose municipal corporation, hereafter called the "Alderwood", and CROSS VALLEY WATER DISTRICT, a special purpose municipal corporation, hereafter called the "Cross Valley," both of which are located in and existing under the laws of the State of Washington.

WHEREAS, Alderwood and Cross Valley are located in Snohomish County and share, in part, a common boundary; and

WHEREAS, Alderwood and Cross Valley supply water to customers within their respective boundaries; and

WHEREAS, Alderwood and Cross Valley entered into an agreement on June 1, 1999 such that Alderwood could provide interim and emergency water supply to Cross Valley at or near the intersection of 228th Street SW and Highway 9; and

WHEREAS, Cross Valley installed a connection between its system and Alderwood's system at the intersection of 228th and Highway 9 for the purpose of providing temporary and emergency supply to either party; and

WHEREAS, King County is constructing a wastewater treatment plant (the Brightwater Treatment Plant) and related conveyance, portal, and outfall system in south Snohomish County (the Brightwater Project); and

WHEREAS, King County has requested potable water supply for the Brightwater Treatment Plant construction and startup which is located in Cross Valley's service area near the intersection of 228th Street SE and Highway 9; and

WHEREAS, Cross Valley's ability to meet the King County demands from its ground water supply under normal operation conditions will be taxed, and during periods of peak demands, Cross Valley may not be able to supply the King County demand; and

WHEREAS, Alderwood has sufficient supply so that it could supply Cross Valley with water to meet the King County demand; and

WHEREAS, Cross Valley has requested Alderwood to provide it with supply for the Brightwater Treatment Plant through the existing connection at 228th SE and SR 9; and

WHEREAS, Alderwood and King County entered an agreement on October 17, 2005 regarding the supply of water to the Brightwater Treatment Plant; and

WHEREAS, the agreement between Alderwood and King County also addressed the emergency provision of water to Alderwood and Cross Valley customers in the event that construction of the Brightwater Project causes permanent damage to the water supply of either Alderwood or Cross Valley's private wells in their respective service areas such that there is no longer an adequate water supply or water quality for a particular customer or resident; and

WHEREAS, Alderwood's ability to supply water to its customers along Highway 9 is limited and Cross Valley is currently installing a water distribution system in Highway 9; and

WHEREAS, pursuant to the provisions of RCW 57.08.044, Cross Valley is willing to provide temporary water service to said properties and Alderwood is willing to authorize such temporary service; and

WHEREAS, Alderwood and Cross Valley entered an interlocal agreement dated June 3, 1997 for sanitary sewer construction for the Bear Creek Sewer Trunk; and

WHEREAS, Alderwood and Cross Valley entered an interlocal agreement dated September 9, 1999 for maintenance and operation of the Bear Creek Sewer Trunk; and

WHEREAS, Cross Valley and King County entered into the Lower Bear Creek Acquisition Agreement on October 24th, 2000 which conveyed the lower Bear Creek Trunk Sewer to King County for a set reimbursement; and

WHEREAS, Cross Valley entered a mitigation agreement with King County on December 20, 2005 to address water supply issues associated with the Brightwater Project and to convey the remainder of the Bear Creek Trunk Sewer from Cross Valley to King County for a set payment;

NOW THEREFORE, it is mutually agreed as follows:

1. PURPOSE

The purpose of this Agreement is to set forth the mutual obligations and rights of Alderwood and Cross Valley for the following activities:

- A. Establishing an interim and emergency potable water supply connection between Cross Valley and Alderwood. (Refer to Section 3.)
- B. Provision of emergency potable water supplies for Alderwood customers now on private potable water wells near the Brightwater Project. (Refer to Section 4.)
- C. Provision of emergency potable water supplies for Cross Valley customers now on private potable water wells near the Brightwater Project. (Refer to Section 4.)
- D. Provision of interim potable water supplies to King County associated with the construction and startup of the Brightwater Project. (Refer to Section 5.)
- E. Provision of water supply for Cross Valley in the event the construction of the Brightwater Project causes permanent damage to the water supply of Cross Valley so that there is no longer an adequate water supply. (Refer to Section 6.)
- F. Provision of temporary water service to the Alderwood customers near the Alderwood and Cross Valley boundary. (Refer to Section 7.)

- G. Addressing the outstanding activities between Alderwood and Cross Valley regarding the Bear Creek Trunk Sewer. (Refer to Section 8.)

2. DURATION

This Agreement shall become effective immediately upon the signing by all parties and shall remain in effect until terminated; provided, however that the respective indemnification obligations of Alderwood or Cross Valley in "Section 8. Legal Relations" shall survive the expiration or termination of this Agreement.

This agreement supersedes the June 1, 1999 agreement between Alderwood and Cross Valley.

3. EXISTING CONNECTION

- A. Cross Valley installed a connection between its system and Alderwood's system at the intersection of 228th and Highway 9 for the purpose of providing emergency supply to either party. This connection consists of an 8-inch pipe, meter, and backflow prevention device, which is valved to provide emergency supply by manual operation. Alderwood made the tap connection to the Alderwood system.
- B. Alderwood paid the labor costs of its own staff associated with installation. Cross Valley paid for all material, fees, all non-labor construction costs, including permitting, and the labor costs associated with installation.
- C. Cross Valley shall be responsible for maintaining the connection between the systems, including the by-pass facilities, at its expense. Cross Valley shall test the 4-inch meter for flow accuracy no less than annually. Copies of the test report shall be provided annually to Alderwood at the address provided in Item 19. below.
- D. Cross Valley shall test the cross connection control facilities for this connection on an annual basis. Copies of the test report shall be provided annually to Alderwood at the address provided in Item 19. below.

4. EMERGENCY SUPPLY

Whenever either party requires emergency supply, that party shall request the other party's permission to use the emergency connection. When the request is made, an estimate of the time the connection will be open shall be provided.

5. INTERIM SUPPLY

Interim supply to King County shall become effective immediately upon execution of this agreement and shall remain in effect until terminated or until King County has provided written notice to Alderwood of completion of the construction, startup and commissioning of the Brightwater Treatment Plant. Within 10 days of written notice by King County of the commissioning of the Brightwater Treatment Plant, Alderwood shall notify Cross Valley of the intent to terminate the interim supply.

The need for this interim supply is estimated to last to about 2011. Pursuant to this agreement, Alderwood agrees to supply Cross Valley with 850 gpm for Cross Valley, such that Cross Valley can supply 850 gpm to King County's Brightwater Project through the connection at SE 288th and SR 9. King County will purchase the water and make the required connections through Cross Valley.

6. WATER SUPPLY

Provisions of water supply by Alderwood to Cross Valley shall be provided through the emergency connection provided for herein. Supply shall be only that amount necessary to replace Cross Valley's water supply lost due to permanent damage caused by the Brightwater Project construction.

7. TEMPORARY WATER SERVICE

- A. **Service.** Cross Valley may provide temporary individual water service to that property described on Exhibit "A", which is incorporated by reference herein, which property is located within the boundaries of Alderwood. No other property within Alderwood shall be allowed to connect to the system serving the property without the prior approval of both Alderwood and Cross Valley. Service by Cross Valley shall terminate when Alderwood notifies Cross Valley that it is prepared to provide service. All costs associated with termination of service and transfer of service to Alderwood shall be the responsibility of Alderwood. Services charges will be prorated to the date Alderwood terminates service.
- B. **Fees and Charges.** Cross Valley shall collect all fees and charges required by its resolution, its Developer Extension Agreement, and imposed by Cross Valley as a condition of connecting to its system.
- C. **Service/Billing Procedure.** Water service shall be provided to the property at Cross Valley's service rates as established or as hereafter amended, by resolution, which shall be collected by Cross Valley pursuant to Cross Valley's normal billing and collection procedures, including the right to lien and foreclose, if necessary.
- D. **Construction/Installation.** Construction and installation of the water service to the properties shall be in accord with Cross Valley's Developer Extension Agreement and Cross Valley's standards and specifications.
- E. **Operation.** The extension to the property shall be operated pursuant and subject to Cross Valley's resolutions, rules and regulations.
- F. **Nondiscrimination.** Cross Valley agrees not to discriminate against customers services pursuant to this Agreement with respect to rates and charges, conditions of service, or imposition of emergency measures.
- G. **Other Agreement.** Cross Valley will enter into any agreements with property owners necessary to implement this agreement.

8. BEAR CREEK TRUNK SEWER

- A. Within 45 days of the payment from King County for the Bear Creek Trunk Sewer described in the Cross Valley and King County mitigation agreement dated December 20, 2005, Cross Valley shall reimburse Alderwood for it's share of the cost to design and construct the Bear Creek Trunk Sewer. This cost is \$802,686.95.
- B. Within 30 days of receipt of this payment, Alderwood shall notify Cross Valley in writing that the Alderwood and Cross Valley interlocal agreement dated June 3, 1997 for construction of the Bear Creek Sewer Trunk, and the interlocal agreement dated

September 9, 1999 for maintenance and operation of the Bear Creek Sewer Trunk are terminated.

9. WATER COMPATIBILITY

It is understood by both parties that the water source for Alderwood is surface whereas Cross Valley's source is ground water. Neither party shall be responsible to the other for water compatibility issues.

10. PAYMENT

- A. **General Terms.** Meter readings for all master meters associated with this agreement shall be taken by Cross Valley and provided to Alderwood within five to seven days of reading. Bills for water shall be submitted in the next practicable billing cycle. Payment shall be due thirty days after the date of billing. Delinquent amounts shall bear interest of 12% per annum.
- B. **Emergency and Water Supply.** Emergency supply shall be paid for at the connection's maximum rate of hourly flow times, the number of hours supply is provided, or portion thereof, times the wholesale cost per gallon. The wholesale rate shall be equivalent to the rate Alderwood charges its wholesale customers.
- C. **Interim Supply.** Cross Valley shall reimburse Alderwood for the required meter and connection charge to Alderwood. This water supply shall be billed by Alderwood to Cross Valley at Alderwood's then current, out of District, multi-commercial rate, as amended by resolution.

11. LEGAL RELATIONS

This is an agreement for interim, emergency and temporary supply of water, and temporary water service. The parties are neither partners nor joint ventures; and neither is the agent of the other. Each party agrees to defend, indemnify and hold the other party harmless from any claim, liability, damage, or judgment, including reasonable attorney's fees, arising from or related in any way to supplying water on such interim, temporary and emergency bases as set forth herein, but only to the extent of the indemnifying party's negligence. Cross Valley agrees to defend, indemnify and hold Alderwood harmless from any claim, liability, damage, or judgment, including reasonable attorney's fees, arising from or related in any way to supplying temporary water service to Alderwood customers, but only to the extent of the Cross Valley's negligence.

12. INSURANCE

Each party shall seek and maintain with responsible insurers all such insurance as is customarily maintained with respect to water systems of like character a policy or policies of comprehensive personal liability and property damage insurance. Each party shall supply to the other party upon request a certificate showing such insurance to be in force.

13. NO TRANSFER OF OWNERSHIP

Neither party shall by virtue of this Agreement acquire any proprietary or governmental interest in the water system of the other party.

14. WAIVER

No waiver by either party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition nor shall a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

15. DISPUTES

If a dispute arises between Alderwood and Cross Valley, the parties agree that they will attempt to resolve the issues through mutual negotiation. In the event that the parties are not able to reach an agreement through such negotiation, the parties agree to engage in mediation in order to resolve the dispute. Mediation may be requested by either party, and shall be attempted prior to the institution of any lawsuit arising under this Agreement. The parties agree to share the costs of mediation equally. Venue for any litigation arising out of or related to this Agreement shall vest in the Superior Court of Snohomish County, Washington.

16. TERMINATION

Alderwood and Cross Valley have the right to terminate this Agreement only by mutual agreement.

17. CHANGES AND MODIFICATIONS

Either party may request changes, amendments, or additions to any portion of this Agreement; however, except as otherwise provided in this Agreement, no such changes, amendments, or addition to any portion of this Agreement shall be valid or binding upon either party unless it is agreed to in writing. All amendments shall be made part of this Agreement.

18. NO THIRD PARTY BENEFICIARY

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns. This Agreement shall not release or discharge any obligation or liability of any third party to any party herein.

19. NOTICES

Any notice, reports and payments to be given pursuant to this Agreement may be given orally via phone and shall be followed up formally in writing and delivered to each party as follows:

Cross Valley Water District
8802 – 180th Street SE
Snohomish WA 98296-4804
FAX: 360-668-9634

Alderwood Water and Wastewater District
3626 - 156th Street S.W.
Lynnwood, WA 98087-4021
FAX: 425-742-4562

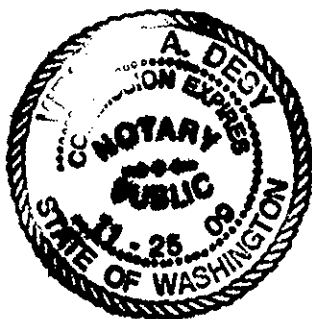
or to such other address as the parties may designate in writing from time to time to the other. Notices mailed by either party shall be deemed effective on the date received. Notices sent via facsimile by either party shall be deemed effective on the date sent, with proof of that the facsimile transmission was successful (i.e. facsimile confirmation sheet). Either party may change its address or facsimile number for receipt of reports, notices, or payments by giving the other written notice of not less than five days prior to the effective date.

20. ENTIRE AGREEMENT

These provisions represent the entire and integrated agreement of the parties and may not be modified or amended except as provided herein. Any understanding, whether oral or written which is not incorporated herein is expressly excluded.

This Agreement is to take effect upon ratification by the Board of Commissioners Alderwood Water and Wastewater District and ratification by the Board of Commissioners of Cross Valley Water District.

SIGNED this ____ day of _____, 2006



ALDERWOOD WATER & WASTEWATER DISTRICT

By: Ray M George
Its: PRESIDENT

CROSS VALLEY WATER DISTRICT

By: Gunter Desch
Its: PRESIDENT

STATE OF WASHINGTON
COUNTY OF SNOHOMISH

On this date, March 20, 2006 personally appeared before me known to be the PRESIDENT of the Board of Commissioners of Alberwood Water & Wastewater a municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the fee and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed is the corporate seal of said municipal corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Douglas A. Dery

Notary Public in and for the state of

Washington, residing at Snohomish

My Appointment Expires 11/25/09

STATE OF WASHINGTON
COUNTY OF SNOHOMISH

On this date, March 28, 2006 personally appeared before me known to be the President of the Board of Commissioners of Cross Valley Water & Wastewater a municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the fee and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed is the corporate seal of said municipal corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Robert B. Wagner

Notary Public in and for the state of

Washington, residing at Snohomish

My Appointment Expires Dec 10, 2008

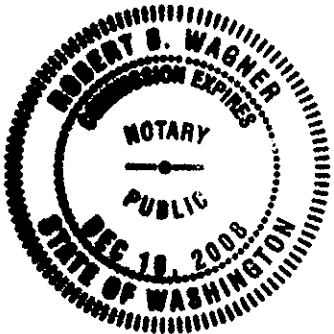


EXHIBIT A



TEMPORARY SERVICE AREA

