

INTERGOVERNMENTAL AGREEMENT FOR URBAN WATER REUSE

Between

COBB COUNTY

and

THE CITY OF ACWORTH

for

ACWORTH SPORTS COMPLEX IRRIGATION

THIS AGREEMENT, made and entered into on this the 25th day of June, 2004, by and between COBB COUNTY, a political subdivision of the State of Georgia, hereinafter referred to as "Owner" and THE CITY OF ACWORTH, an incorporated municipality located within Cobb County, hereinafter referred to as "User".

WITNESSETH:

WHEREAS, Owner holds a National Pollutant Discharge Elimination System (NPDES) permit for its Northwest Cobb Water Reclamation Facility (WRF) that allows discharge of treated effluent ("Reclaimed Water") for urban reuse; and

WHEREAS, pursuant to that permit, Owner and User wish to enter into this Agreement providing for delivery of Reclaimed Water to User's facility; and

WHEREAS, Owner is willing to deliver Reclaimed Water for irrigation use by User; and

WHEREAS, User desires to utilize such Reclaimed Water for irrigation of lands owned or controlled by the User, known as the Acworth Sports Complex, shown on the attached drawing, Exhibit A.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants contained herein, the receipt and sufficiency which are hereby acknowledged, Owner and User do hereby agree as follows:

1. Term: This Agreement shall commence on the date of its execution by Owner and shall remain in effect for a period of ten years, unless terminated in accordance with the terms and provisions as stated herein.

2. Quantity and Quality: Owner makes no guarantee as to the availability of any minimum pressure, flow, or volume of Reclaimed Water. Subject to the above, Owner agrees it will

endeavor to provide User with 350,000 gallons per week of Reclaimed Water, if available. This amount shall be subject to the provisions of the Owner's NPDES Permit, as amended from time to time.

The User understands and agrees that the Reclaimed Water to be delivered at the Point of Delivery will be delivered without a detectable residual of disinfectant. Any facilities or equipment deemed necessary by User to introduce a residual of disinfectant in the irrigation system shall be the sole responsibility of User.

3. Use of Reclaimed Water: User shall accept the Reclaimed Water delivered by Owner and use it for irrigation of lands described on Exhibit "A" (consisting of one page) in any manner determined by the User, except that use of the Reclaimed Water shall be consistent with and fully in compliance with local, state and federal regulations. Prior to use, User shall file with the Owner a written plan detailing intended use of Reclaimed Water which filing shall be updated as needed. User shall not discharge the Reclaimed Water directly into the surface waters of the State of Georgia without written authorization from the Georgia Department of Natural Resources and other applicable regulatory bodies of local or federal jurisdiction. User shall take all reasonable precautions, including signs and labeling, to prevent confusion between Reclaimed Water and other water sources. Owner shall be deemed to be in possession and control of the Reclaimed Water until it shall have been delivered to the User at the Point of Delivery. After such delivery the User shall be deemed to be in possession and control thereof; however, User is prohibited from conveying Reclaimed Water to any other premises or location.

User shall develop and implement a public information program to inform the general public and the users of the sports complex of the utilization of Reclaimed Water for irrigation purposes. This program shall include a component of public notification and education prior to the initiation of irrigation with Reclaimed Water and a component of on-going dissemination of information to new users of the athletic facilities. The public information program shall be developed by User and approved by Owner prior to the initiation of delivery of Reclaimed Water to User.

4. Point of Delivery: The Point of Delivery of the reclaimed water from the Owner to User is the meter or as otherwise noted on approved engineering drawings.

5. Facilities and Piping: User shall, at its cost and expense, install all necessary piping, pumps, electrical lines, and other appurtenant equipment necessary to convey Reclaimed Water from Owner's effluent force main to User's facilities. All engineering costs relating to design, construction and permitting of the Reclaimed Water facilities shall be borne by the User. In addition, the User shall install such metering devices, valves, and fittings as are required by the Owner and the regulatory and permitting agencies. A list of the proposed flow monitoring and recording equipment is included as Exhibit "B" (consisting of one page) of this Agreement.

User shall be responsible for all operation and maintenance costs and other expenses relating to the meter (including periodic testing and calibration), valves, pumps, additional piping, or other appurtenant facilities required from the Point of Delivery to the irrigation system. User shall be responsible for all costs associated with required sampling and analysis for this Reclaimed Water application site.

The Owner shall be responsible for the operation and maintenance costs relating to the operation of the Northwest Cobb WRF as well as the Reclaimed Water and transmission system to the Point of Delivery, only.

6. Fees and Charges: User shall pay to Owner such rates, fees and charges in effect for Reclaimed Water and as amended by Owner from time to time. If, under the terms of Owner's policies, the amount of Reclaimed Water expected to be delivered to User under this Agreement is changed at any time, base facility charges shall be revised correspondingly. User shall commence payment of base facility charges for the Reclaimed Water delivered to them on the first full billing period from the date of this Agreement. The base facility charge is due and payable on a monthly basis, regardless of the quantity of reclaimed water used during the month. The base facility charge in effect at the execution of this Agreement is \$ 750.00 per month.

7. Non-Delivery: In the event Owner is unable or for any reason does not deliver the Reclaimed Water to User, all responsibility of User under this Agreement shall cease, and neither party shall be further bound or liable to other party. Under no circumstances shall Owner be liable for any consequential damages, and, by entering into this Agreement, Owner does not in any way waive its sovereign immunity rights.

8. Disruption of Service: User understands and agrees Owner may be required to temporarily disrupt Reclaimed Water delivery due to emergency conditions, water quality related diversion, planned system maintenance, or other situations. When there is an unforeseen situation affecting the delivery of Reclaimed Water, the Owner will notify the User's designated response personnel included on the "Emergency Shutdown Protocol" list included as Exhibit "C" (consisting of two pages) to this Agreement. Upon being provided such notice, User agrees to immediately cease usage of Reclaimed Water and manually disable the irrigation control system to preclude automatic operation. Immediately following the disabling of the control system, the User shall provide confirmation of the action taken by contacting the Northwest Cobb WRF operations staff. Reclaimed Water use may resume when the User receives notification from the Owner that the disruption of service situation has ended.

9. Reporting: The User shall provide and maintain appropriate devices to measure and continuously record the flow rate and quantity of Reclaimed Water usage. User shall submit a Usage Report to the Owner on a monthly basis, indicating the total quantity of Reclaimed Water used during the preceding calendar month, and accompanied by a copy of the trend chart from the flow recorder for the corresponding period. The trend chart shall indicate the day and time and rate of flow for each instance of Reclaimed Water usage during the month. The Usage Report shall be submitted to the Owner within five business days following the last day of each month during the term of this Agreement.

10. Permit Applications: The Owner agrees to cooperate and assist User with User's permit applications to various governmental bodies, authorities and agencies concerning User's application of the Reclaimed Water contemplated herein. User shall pay all expenses and fees in conjunction with User's permit applications.

11. Transfer or Modification of Commitment: The right of User to sell, transfer or encumber the land in areas irrigated with the Reclaimed Water shall not be unreasonably restricted by this Agreement, except that written notice of any proposed sale or transfer must be given to Owner

at the address noted herein, at least 60 days prior to the sale or transfer. So long as use of the property shall continue to be for irrigation and related purposes, any responsible subsequent party in interest shall be obligated to receive and pay for the specified quantity of the reclaimed water under the same terms and conditions of this Agreement, unless modified by mutual consent of Owner and the buyer or transferee. User may not otherwise sell, transfer or encumber its rights under this Agreement.

12. Indemnification: User agrees to indemnify, defend, protect, save and hold forever harmless Owner and any and all of its respective board members, directors, officers, employees, agents, and independent contractors from and against all liabilities, obligations, claims, damages, penalties, costs and expenses, including without limitation, court costs, expert witness fees and attorneys' fees and expenses for which Owner may become obligated or liable by reason of User's use of the Reclaimed Water or any intentional or negligent act or omission by User, its employees, agents, invitees, or independent contractor in the performance of this Agreement or otherwise arising out of the subject of this Agreement.

13. Access: Owner shall have the right, at any reasonable time to enter upon the property of User to review and inspect the practices of User with respect to conditions agreed to herein. Such entry shall normally be for the purpose of review of the operation of reclaimed water irrigation system, for inspection of Owner owned mains and appurtenances, and for sampling or monitoring on the property of User.

14. Disclaimer of Third Party Beneficiaries: This Agreement is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

15. Severability: If any court finds any part of the Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected.

16. Applicable Law: This Agreement shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in that state and venue shall lie in Cobb County, Georgia.

17. Extent of Agreement: This Agreement constitutes the entire Agreement between the parties as to the use of Reclaimed Water made available by the Owner and has been entered into voluntarily and with independent advice and legal counsel and has been executed by the authorized representative of each party on the date written above. This Agreement shall not be valid or enforceable until both parties have signed it. Modifications to and waivers of the provisions herein shall be made in writing and signed by the parties hereto.

18. Attorneys' Fees and Costs: Should either party employ an attorney to enforce any of the provisions of this Agreement, or defend any action instituted by the other party, the prevailing party shall be entitled to be reimbursed by the other party for all reasonable costs, charges and expenses including attorneys' fees, expended or incurred in connection therewith including same on appeal.

19. Notices: All notices required pursuant to this Agreement shall be in writing, sent by Registered or Certified Mail, Return Receipt Requested, postage prepaid, addressed as follows:

Owner: Chairman
COBB COUNTY BOARD OF COMMISSIONERS
100 Cherokee Street, Suite 300
Marietta, GA 30090-9680

With copy to:

Director
COBB COUNTY WATER SYSTEM
660 South Cobb Drive
Marietta, GA 30060

User: Mayor
CITY OF ACWORTH
4375 Senator Russell Square
Acworth, GA 30101

20. Termination for Cause and Convenience: Either party may, without liability, and by providing the other party with 30 days prior written notice, terminate this Agreement at its convenience. Additionally, either party may terminate this Agreement if the other party fails to comply with any provision of the Agreement and such failure to comply continues after receipt of notice and a 30-day opportunity to cure.

THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original.

Robert L. Brice
Director, Cobb County Water System

Date of BOC approval:

Approved as to form:

County Attorney

COBB COUNTY
BOARD OF COMMISSIONERS
OWNER

CITY OF ACWORTH
USER

By:

Signature

Thomas W. Allegood

Typed Name

Mayor

Title

June 22, 2004
Date

Attest:

By:

AFFIX SEAL

By:

Signature

Typed Name

Chairman, Cobb County
Board of Commissioners

Date

Attest:

By: *Andrea S. Richardson*
Dep. Clerk



APPROVED
PER MINUTES OF
COBB COUNTY
BOARD OF COMMISSIONERS

6/22/04

Recommended:

Northwest Cobb WRF
Agreement for Urban Water Reuse
June 2004

EXHIBIT B
INTERGOVERNMENTAL AGREEMENT FOR URBAN WATER REUSE
Flow Monitoring and Recording Equipment
Reclaimed Water Irrigation of Acworth Sports Complex

The following equipment has been proposed by the User to monitor and record the usage of Reclaimed Water at the Sports Complex. This equipment has been reviewed by the Cobb County Water System and found to be acceptable for its intended purpose of Reporting (see Paragraph 9 of the Agreement). The manufacturer and model number listed for each device represents the selection for the initial installation. Subsequent renewal or replacement of this equipment may involve devices produced by other manufacturers that perform similar functions.

Flow Meter

Data Industrial IR220B Brass Irrigation Flow Sensor

- Signal conductor from Sensor to Flow Monitor/Totalizer to be installed in metallic conduit.

Flow Monitor/Totalizer

Data Industrial Series 1500 Flow Monitor

- Transmitter Option: Analog Output 4-20 mA
- Digital Output: 2 Relays – 1 Alarm/Set Point, 1 Totalizer

Flow Recorder

Dickson ES-120 Electronic Signal Data Logger

- DicksonWare™ Software and Serial Download Cable Version 8.0
- Certificate of Validation (New Unit)
- Locking Wall Mount Case, Small
- Logger Calibration Software

EXHIBIT C

INTERGOVERNMENTAL AGREEMENT FOR URBAN WATER REUSE

Emergency Shutdown Protocol

Reclaimed Water Irrigation of Acworth Sports Complex

Disruption of Service

In the event a disruption of Reclaimed Water service is necessary, the Cobb County Water System will notify City of Acworth personnel to manually shut down the Acworth Sports Complex irrigation system. The following City of Acworth employees will be called in the order listed until voice contact is made with one of the contact persons. The employee notified is responsible for ensuring that the irrigation control system is immediately disabled and that the operations staff of the Northwest Cobb WRF is called to confirm that the system has been shut down. The normal irrigation schedule (noted hereinafter) may be resumed only following notification from the Cobb County Water System that the disruption of service situation has ended.

Contact Scenario 1 – During Normal Business Hours. (Normal business hours for the city are Monday through Friday, 8:00 a.m. to 5:00 p.m.)

Days: Monday, Tuesday, Wednesday, Thursday, Friday
Hours: 8:00 a.m. to 5:00 p.m.

| | Employee/Department | Number | Type |
|---|------------------------------|--------------|------------|
| 1 | James Albright | 404-597-7883 | Cell Phone |
| 2 | Richard Beard | 678-794-6801 | Cell Phone |
| 3 | Steven Oser | 678-758-7254 | Cell Phone |
| 4 | Acworth Parks and Recreation | 770-917-1234 | Department |
| 5 | Becky Pruitt | 678-794-6805 | Cell Phone |
| 6 | Acworth City Hall | 770-974-3112 | Department |
| 7 | Acworth Public Works | 770-975-0679 | Department |
| 8 | Acworth Police Department | 770-974-3111 | Emergency |

Contact Scenario 2 – During Non-Business Hours / Weekends / Holidays. (Scenario 2 will be used during non-business hours on Monday through Friday, all hours on the weekends, and holidays.)

Days: Monday through Friday / Weekends / Holidays

Hours: 5:00 p.m. to 8:00 a.m. on Weekdays/ All hours during weekends and holidays (see list of holidays observed).

| | Employee / Department | Number | Type |
|----|---------------------------|--------------|------------|
| 1 | James Albright | 404-597-7883 | Cell Phone |
| 2 | Richard Beard | 678-794-6801 | Cell Phone |
| 3 | Steven Oser | 678-758-7254 | Cell Phone |
| 4 | Becky Pruitt | 678-794-6805 | Cell Phone |
| 5 | James Albright | 770-966-7722 | Home Phone |
| 6 | Richard Beard | 770-966-1030 | Home Phone |
| 7 | Steven Oser | 770-429-8490 | Home Phone |
| 8 | Becky Pruitt | 770-607-4283 | Home Phone |
| 9 | Brian Bulthuis | 770-652-9928 | Cell Phone |
| 10 | Brian Bulthuis | 770-966-8021 | Home Phone |
| 11 | Acworth Police Department | 770-974-3111 | Emergency |

The City of Acworth observes the following holidays: New Years Day, Martin Luther King Jr. Day, Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day.

Irrigation Schedule

The City will be irrigating during the early morning hours between 1:00 a.m. and 4:00 a.m. During the growing season 1" of water will be applied to the surface throughout the week. If there are rainy conditions then the fields will not be irrigated that week. During the establishment period more water will be applied than normal. During the first month of establishment the grass will be watered on a daily basis. Once the grass has reached full establishment the city will resume the normal watering schedule.

Updates

The City must immediately notify the Water System of any changes to the contact lists and/or to the irrigation schedule.