

INTERGOVERNMENTAL AGREEMENT FOR IMPLEMENTATION OF 2004 IGA

This INTERGOVERNMENTAL AGREEMENT FOR IMPLEMENTATION OF 2004 IGA (“Implementation Agreement”) is made and entered into this ____ day of _____, 2014, by and between the City of Commerce City, a Colorado home rule municipality (“Commerce City”) and South Adams County Water and Sanitation District, a special district and political subdivision of the State of Colorado (“South Adams”).

RECITALS

A. Commerce City and South Adams entered into an Intergovernmental Agreement dated April 28, 2004 (“2004 IGA”).

B. The 2004 IGA addressed public water and wastewater service matters, as well as certain land area planning and development issues with respect to specific lands described therein. (*See* the description of lands contained in paragraph 1 on page 2 of the 2004 IGA referred to as “GSA and RMA Lands.”).

C. The general provisions of the 2004 IGA have been to the mutual benefit of both parties, but there is a need to outline parameters for addressing small requests for public water and sewer service.

D. To further the overall goals of the 2004 IGA, the parties agree to define a procedure to implement the provisions of Sections 12 and 13 of the 2004 IGA regarding annexation of properties within the “GSA”, as such term is defined in the 2004 IGA, and lands within the Rocky Mountain Arsenal (“RMA Lands”) and to address properties which will use facilities financed by any General Improvement District organized by Commerce City (each, a “GID”).

AGREEMENT

NOW, THEREFORE, in consideration of the above and the mutual covenants and commitments made herein, the receipt and sufficiency whereof are hereby acknowledged, the parties agree as follows:

1. Affected Provisions.

Section 12 of the 2004 IGA provides in pertinent part:

Based upon the commitments herein to make additional water resources and wastewater treatment capacity available to the RMA Lands and the GSA, South Adams will require the properties to be served in these two areas be annexed to Commerce City to the extent allowed by law. It is recognized that South Adams already has included properties into its boundaries that are not annexed into Commerce City, and the application of the annexation requirement of these properties may result in some cases which must be individually reviewed and determined by South Adams and Commerce City.

Section 13 of the 2004 IGA provides in pertinent part:

South Adams hereby agrees that it shall only issue water and sewer taps to property within the GSA or the RMA Lands with prior City approval of development of those lands in the form of a building permit, and after South Adams makes a determination that the development is in compliance with South Adams' Rules and Regulations.

In light of these provisions, the purpose of this Implementation Agreement is to define implementation parameters for Sections 12 and 13 of the 2004 IGA, as set forth in paragraphs 2 and 3 below.

2. Annexations Not Required; Standard Allocation.

a. Properties developing within the GSA or RMA Lands, including properties establishing a new use or expanding an existing use, shall not be required to annex into the City in order to receive water and wastewater services from South Adams if the proposed development is less than one (1) acre in size or the new use, or expanded portion of the existing use, proposed would utilize four (4) equivalent residential units (ERUs) or fewer.

b. South Adams may choose, in its sole discretion, to provide water and wastewater service to properties that meet the parameters described in subsection "a" above; provided, however, that South Adams shall not provide ERUs in excess of the City's standard allocation to such properties without the City's prior written consent regardless of annexation status.

c. Properties lacking the necessary contiguity to annex into Commerce City are not eligible to receive water and wastewater services from South Adams in excess of the City's standard allocation, unless those properties dedicate additional water resources to cover the demand above the standard allocation.

3. Exception – GID Facilities. South Adams shall not provide water and wastewater service to properties that meet the parameters described in paragraph 2a above if, in order to serve such properties, the use by South Adams of facilities financed by any GID ("GID Facilities") is required, unless the owner of such property enters into a reimbursement agreement with the applicable GID for use of the GID Facilities.

4. Notifications by South Adams. For all other properties which will use GID facilities, South Adams hereby agrees to provide notice to the developers of such properties, at the earliest practical time in the development process, that the properties are required to either join the applicable GID or enter into a reimbursement agreement with such GID for use of the GID Facilities. South Adams also agrees to provide notice to developers of properties within the GSA when their proposed projects may exceed the City's standard allocation and advise such developers that they may need to acquire their own acceptable water resources.

5. Term and Effective Date of the Agreement. This Agreement shall become effective upon execution by Commerce City and South Adams and shall remain in effect until mutually terminated in writing by the parties.

6. Party Representatives. Any notices hereunder shall be made to the following:

Commerce City: City Manager
City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022

with a copy to: City Attorney
City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022

South Adams: General Manager
South Adams County Water and Sanitation District
P.O. Box 597
Commerce City, CO 80037-0597

South Adams' Attorney: Timothy J. Beaton, Esq.
Moses, Wittemyer, Harrison and Woodruff, P.C.
PO Box 1440
Boulder, CO 80306-1440

Name and address changes for representatives shall be made in writing, and mailed to the other representatives at their then-current addresses.

7. Except for implementation of this method of considering small user requests in the GSA, the provisions of the 2004 IGA shall remain in full force and effect.

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

CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk

Approved as to form:

Gregory D. Graham, Assistant City Attorney

Recommended for approval:

James A. Hayes, Deputy City Manager

**SOUTH ADAMS COUNTY WATER AND
SANITATION DISTRICT**

By: _____
President

ATTEST:

Secretary