



HISTORIC
FRANKLIN
TENNESSEE

ITEM #7
CIC
07-12-12

MEMORANDUM

July 2, 2012

TO: Board of Mayor and Aldermen

FROM: Mark Hilty, Water Management Director
David Parker, City Engineer
Eric S. Stuckey, City Administrator

SUBJECT: Consideration of Resolution 2012-40; a Resolution to Approve the Standard Reclaimed Water Use Agreement and to Authorize the Water Management Department Director and City Administrator to Enter into such Agreements with Reclaimed Water Customers without the Prior Approval by the Board of Mayor and Aldermen (BOMA)

Purpose

The purpose of this memorandum is to provide information to the BOMA in order to consider Resolution 2012-40 to establish a Standard Reclaimed Water Use Agreement and to authorize the Water Management Department Director and City Administrator to enter into such agreements with reclaimed water customers.

Background

Reclaimed water, while it is not an essential service, is a key component of the City of Franklin's water resources and is a tool to help reduce potable water demands and to manage effluent discharge to the Harpeth River. The reclaimed water distribution system has expanded significantly in the last several years. To better manage reclaimed water demands, it is necessary to establish a standard agreement that captures data to establish customer needs, to determine appropriate meter sizes and to establish the terms of service for reclaimed water for large use customers (non-single family residential).

Entering into such agreements with reclaimed water customers is essential to manage system demands and to evaluate the addition of new customers.

Financial Impact

None.

Recommendation

Staff recommends the BOMA approve Resolution 2012-40 providing for a standard Reclaimed Water Use Agreement and to authorize the Water Management Department Director and City Administrator to enter into such agreements with reclaimed water customers without the prior approval by the BOMA.

RESOLUTION NO. 2012-40

A RESOLUTION TO APPROVE THE STANDARD RECLAIMED WATER USE AGREEMENT AND TO AUTHORIZE THE WATER MANAGEMENT DEPARTMENT DIRECTOR TO ENTER INTO SUCH AGREEMENTS WITH RECLAIMED WATER CUSTOMERS WITHOUT THE PRIOR APPROVAL BY THE BOARD OF MAYOR AND ALDERMEN

WHEREAS, the City of Franklin ("City") is the owner and operator of a water reclamation plant ("Plant") that discharges treated municipal wastewater ("Reclaimed Water") suitable for use irrigation and other purposes; and

WHEREAS, it is in the best interest of the City and the health, safety and welfare of its residents to be able to sell reclaimed wastewater for irrigation and other purposes pursuant to National Pollutant Discharge Elimination System (NPDES) Permit Number TN0028827; and

WHEREAS, the Board of Mayor and Aldermen has reviewed and is in concert with the Reclaimed Water Use Agreement (Exhibit A) as presented by staff; and

WHEREAS, the Board of Mayor and Aldermen believe that removing approval of certain agreements/contracts from the Board of Mayor and Aldermen's agenda and giving such authority to the Director of the Water Management Department to execute these agreements on behalf of the City provides for more expedient conduct of City business; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee desires to move towards the most effective administration of City business.

NOW THEREFORE, BE IT RESOLVED, BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE THAT:

Section 1. The Reclaimed Water Use Agreement, attached to this Resolution as Exhibit A, is approved for use whenever a potential Reclaimed Water System customer desires, or is required to connect to the City's Reclaimed Water System, or for the use of Reclaimed Water upon his premises.

Section 2. The Director of the City's Water Management Department and City Administrator are authorized to enter into Reclaimed Water Use Agreements on behalf of the City of Franklin for the purchase of Reclaimed Water by potential Reclaimed Water System customers without seeking prior approval from the Board of Mayor and Aldermen.

IT IS SO RESOLVED AND DONE, this 24th day of July, 2012.

City of Franklin, Tennessee

Attest:

Dr. Ken Moore
Mayor

Eric S. Stuckey
City Administrator

Approved As To Form:

Kristen L. Corn, Staff Attorney

RECLAIMED WATER USE AGREEMENT

(Insert contracting entity)

COF Contract No _____

THIS AGREEMENT is entered into by and between the **City of Franklin, Tennessee** ("City") and **(Insert Contracting Entity)** ("Customer"), subject to the following premises, terms and conditions:

WHEREAS, the City is the owner and operator of a water reclamation plant ("Plant") that discharges treated municipal wastewater ("Reclaimed Water") and the Customer wishes to use Reclaimed Water for irrigation of **(description of what is to irrigated)**; and

WHEREAS, it is in the best interest of the City and the health, safety and welfare of its residents to be able to sell reclaimed wastewater for irrigation and other purposes pursuant to National Pollutant Discharge Elimination System (NPDES) Permit Number TN0028827; and

WHEREAS, water is Franklin's most precious natural resource and reclaimed water is an important part of our water supply system which is specially treated for applications such as irrigation.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements of the parties, it is hereby agreed as follows:

1. AGREEMENT TO SUPPLY RECLAIMED WATER

(a) The City agrees to furnish the Customer at the point of delivery herein specified, during the term of this Agreement or any renewal or extension hereof, Reclaimed Water meeting the standards set out herein in such quantity as may be required by the Customer not to exceed _____ gallons per day, at a maximum flow of _____ gallons per minute. A _____ size meter model _____ is required for this installation.

(b) The Customer shall not be required to receive any minimum amount of Reclaimed Water, however, the Customer shall be required to pay a minimum monthly charge of _____ and No/100 Dollars (\$_____.00) (the "Minimum Monthly Charge") for Reclaimed Water, based on fifty percent (50%) of the maximum monthly demand as established in the customer projections, except in the event there is a continuous interruption of Reclaimed Water for more than forty-eight (48) hours in which event, the Minimum Monthly Charge shall be abated on a per diem basis until the interruption ceases. This Minimum Monthly Charge represents a payment at the City's current rates and is subject to change upon prevailing rates as approved by the Board of Mayor and Aldermen. Except as otherwise provided in this

Agreement, the Customer shall pay the Minimum Monthly Charge regardless of actual usage. If, based on rates then in effect according to the provisions of Section 2 below, the charge for actual usage for a billing cycle is less than the Minimum Monthly Charge; the Customer shall not be entitled to a refund unless the decreased usage is due to a continuous interruption of services in excess of forty-eight (48) hours in which case the Customer shall be entitled to a per diem abatement as provided herein. If, based on the rates then in effect, the charge for actual usage for a billing cycle exceeds the Minimum Monthly Charge; the Customer shall pay for the Reclaimed Water actually used for that billing cycle.

(c) Should the Customer fail to pay the Minimum Monthly Charge or fail to pay for the amount of Reclaimed Water actually used the City shall have the right, pursuant to the Franklin Municipal Code as may be amended from time to time, to disconnect the Customer from the Reclaimed Water and terminate this Agreement.

2. PAYMENT FOR RECLAIMED WATER

(a) Subject to the terms contained herein, the City shall charge the Customer and the Customer shall pay to the City, the sum of the Minimum Monthly Charge plus the sum of the prevailing rate per 1000 gallons of reclaimed water used in excess of the Minimum Monthly Charge divided by the Reclaimed Water Rate. The City reserves the right to adjust the Reclaimed Water Rate to all Reclaimed Water system customers as may be approved from time to time by the Franklin Board of Mayor and Aldermen based on a cost of services analysis.

3. TERM OF AGREEMENT

This Agreement shall take effect on the date hereof and shall continue in effect for an initial term ten (10) years ("Initial Term"). The Customer shall have the right to request extending the term of this Agreement for two (2) renewal terms of five (5) years each (each defined as a "Renewal Term"). Either party may give notice of cancellation which must be given in writing thirty (30) days or more prior to termination or to the end of the Initial Term or the first Renewal Term, as the case may be.

4. RECLAIMED WATER QUALITY

(a) The quality of Reclaimed Water delivered by the City to the Customer hereunder shall meet the standards of the City's National Pollution Discharge Elimination System (NPDES) Permit No. 0028827 issued _____, 20__ ("Permit" or "NPDES Permit") and all other applicable and governing laws, statutes and ordinances. The City shall test and monitor all pollutants as required by the NPDES Permit to evidence compliance with this subsection. The test procedures and results will be made available to the Customer upon request. The Reclaimed Water and the City's procedures at all

times will meet minimum standards established pursuant to the NPDES Permit and all other applicable and governing laws, statutes and ordinances.

(b) The City shall operate their respective portions of the Reclaimed Water System in accordance with the standards established by the Tennessee Department of Environment and Conservation ("TDEC") and the City. The City's portion of the Reclaimed Water System facilities are the Plant and the public distribution system up to and including the meter installed for the Customer's service. The Customer's portion of the Reclaimed Water System facilities are all of the privately owned distribution, storage, and delivery points behind (downstream) from the meter (delivery point).

(c) The City shall be allowed access to the Customer's facilities in order to observe operating procedures and to collect samples for testing.

5. RELATED FACILITIES

(a) The City, at its expense, shall operate and maintain all facilities necessary for the purpose of delivering Reclaimed Water hereunder to the development.

(b) The Customer, at his expense, shall procure, furnish, install, operate and maintain all facilities necessary for receiving, applying, and utilizing the Reclaimed Water delivered to the Customer.

6. TEMPORARY INTERRUPTIONS OR REDUCTIONS

The City may temporarily discontinue or reduce the quantity of Reclaimed Water to be furnished to the Customer as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the plant or any part thereof necessary for the furnishing of Reclaimed Water to the Customer or other City customers but so far as feasible the City will coordinate such discontinuance or reduction and give the Customer due notice in advance of such temporary discontinuance or reduction, except in case of an operating emergency, in which case no notice need be given. The City shall endeavor to prevent any such interruption or reduction of service, other than interruptions or reductions caused by operating emergencies, from continuing for a period longer than twelve (12) consecutive hours. Interruptions or reductions of service caused by operating emergencies shall be addressed immediately. In the event of an upset (as defined in the NPDES Permit) at the plant which adversely affects the Reclaimed Water quality, the City may temporarily discontinue delivery of the Reclaimed Water until such upset is corrected. The City shall endeavor to correct such upsets, interruptions or reductions in service caused by operating emergencies as soon as possible. An operating emergency shall include, but not necessarily be limited to, a discontinuance or reduction due to supply line breaks, mechanical failure of the plant or any part of the delivery system, power failure, flood, fire, earthquake or

other catastrophe. In the event an interruption continues for more than forty-eight (48) consecutive hours, Customer shall have the right to receive a per diem abatement in the Minimum Monthly Charge beginning on the second (2nd) day and continuing until such interruption ceases.

The City shall not be liable for any damages for any interruption of service whatsoever other than the reduction in fees as particularly noted herein.

7. INDEMNIFICATION OF THE CITY

The City shall not be responsible for the control, use or distribution of the Reclaimed Water beyond the delivery point to the Customer. The Customer shall hold the City and its officers and agents and employees harmless on account of damage or claim of damage of any nature whatsoever for which there is a legal responsibility, including property damage, personal injury or death arising out of or connected with the Customer's control, use or distribution of such Reclaimed Water beyond the delivery point. Nothing in this Section shall be deemed to provide an indemnification to the City against liability attributable to the failure of the City to maintain the minimum standards of quality required for the Reclaimed Water by the NPDES Permit, this Agreement and applicable law.

8. COMPLIANCE WITH LAWS

The City and the Customer, in carrying out their respective provisions of this Agreement, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Tennessee and shall obtain all required permits or licenses from the appropriate Federal and/or State authorities.

9. ASSIGNMENT

This Agreement may not be assigned by the Customer to any person or entity who may acquire the Customer's interest in the development or project for which the Customer has entered into this Agreement without the City's prior written approval.

IN WITNESS WHEREOF, the parties have executed this Agreement, the day and year first above written.

(Customer's Legal Name)

By: _____

Title: _____

Date: _____

ATTEST:

CITY OF FRANKLIN, TENNESSEE

By: _____
Eric S. Stuckey, City Administrator

By: _____
Dr. Ken Moore, Mayor

Date: _____

Date: _____

Approved as to form by:

Shauna R. Billingsley, City Attorney

DRAFT