

BOARD OF COUNTY COMMISSIONERS FOR
ADAMS COUNTY, STATE OF COLORADO

RESOLUTION APPROVING AN AGREEMENT BETWEEN ADAMS COUNTY AND THE
CITY OF AURORA FOR WATER SERVICE AT FRONT RANGE AIRPORT

Resolution 2014-169

WHEREAS, Aurora is a home rule municipality duly established pursuant to Article XX of the Constitution of the State of Colorado; and

WHEREAS, Aurora by and through its Utility Enterprise operates a municipal water supply, treatment, and distribution system for its residents and customers; and

WHEREAS, Adams County is a body corporate and politic which, among other things, owns and operates an airport known as Front Range Airport on land situated outside the corporate boundaries of Aurora; and

WHEREAS, Aurora's Utility Enterprise is authorized to enter into joint operating agreements, contracts, or arrangements with consumers concerning water, wastewater, and storm drainage facilities, whether acquired or constructed by the Utility Enterprise or the consumer, and accept grants and contributions from consumers for the construction of water, wastewater, and storm drainage facilities; and

WHEREAS, Adams County and the City of Aurora have negotiated the attached Agreement whereby the City of Aurora will provide Front Range Airport with water for a period of six (6) months from the date of this agreement at one-hundred fifty percent (150%) of Aurora's commercial rate for customers located within Aurora.

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners of the County of Adams, State of Colorado, that the Agreement for Water Service at Front Range Airport with the City of Aurora, a copy of which is attached hereto, be and hereby is approved.

BE IT FURTHER RESOLVED that the Chairman is authorized to execute said Agreement.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry _____	Excused
Tedesco _____	Aye
Hansen _____	Aye

Commissioners

STATE OF COLORADO)
County of Adams)

I, Karen Long, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 4th day of April, A.D. 2014.

County Clerk and ex-officio Clerk of the Board of County Commissioners
Karen Long:



By:



Deputy

AGREEMENT

This Agreement is made and entered into this 21st day of April, 2014, by and between the CITY OF AURORA, Colorado, a municipal corporation of the Counties of Adams, Arapahoe, and Douglas, acting by and through its Utility Enterprise ("City" or "Aurora"), and the BOARD OF COUNTY COMMISSIONERS OF ADAMS COUNTY, COLORADO, regarding water service for FRONT RANGE AIRPORT.

WITNESSETH

WHEREAS, Aurora is a home rule municipality duly established pursuant to Article XX of the Constitution of the State of Colorado; and

WHEREAS, Aurora by and through its Utility Enterprise operates a municipal water supply, treatment, and distribution system for its residents and customers; and

WHEREAS, the County is a body corporate and politic which among other things owns and operates an airport known as Front Range Airport on land situated outside the corporate boundaries of Aurora; and

WHEREAS, Aurora's Utility Enterprise is authorized to enter into joint operating agreements, contracts, or arrangements with consumers concerning water, wastewater, and storm drainage facilities, whether acquired or constructed by the Utility Enterprise or the consumer, and accept grants and contributions from consumers for the construction of water, wastewater, and storm drainage facilities.

NOW THEREFORE, be it agreed as follows:

1. Recitals Incorporated. The foregoing recitals set forth above are incorporated and made part of this Agreement.
2. Consideration. The mutual promises set forth herein represent the consideration for this Agreement. Both parties acknowledge the adequacy and sufficiency of said promises as consideration for this Agreement.
3. Lease Water. Aurora agrees to Lease to the County potable water according to the following terms and conditions:
 - 3.1 Amount. The amount of potable water delivered to the County under this Agreement shall not exceed the amount available through the use of the County's four-inch (4") tap in accordance with Aurora's standard fixture rate. Should the County's fixture rate at any time exceed the City's standard fixture rate, the County shall purchase from Aurora a new water tap in the amount of Aurora's then-current water tap fee rate.
 - 3.2 Price. The County shall pay to Aurora in exchange for all potable water delivered an amount equal to one hundred fifty percent (150%) of Aurora's commercial rate for customers located within Aurora. Aurora shall install and maintain a master meter at the

County's property line, which meter shall measure the amount of water delivered to the County.

3.3 Billing and Payment. Aurora shall send the County a monthly invoice for the amount of water delivered to the County, as measured by the master meter described in Section 3.2 above. The County shall make full payment to Aurora within thirty (30) days of the date of each invoice.

3.4 Term and Renewal. The term of this Agreement shall be for a period of six (6) months.

4. Curtailed Deliveries. Aurora reserves the right to curtail any and all deliveries of water to the County in the event of a severe water shortage should the Aurora City Council or City Manager determine that the system wide curtailment or prohibition of nondomestic water use is necessary and proper, or in the event wells 23A and 2OLF fail. Aurora agrees to use its best efforts to provide notice to the County prior to curtailing any deliveries.

5. Capital Improvements, Operation, and Maintenance. The County understands and agrees that it shall be solely responsible for all costs of operation, maintenance, and capital improvements necessary or desirable downstream of the master meter described in Section 3.2. Aurora shall be responsible for all costs of operation, maintenance, and capital improvements upstream of said meter, including the master meter, the meter vault for said meter, and the appurtenances thereto.

6. No Transfer of Water Rights or Facilities. The parties agree that no portion of this Agreement shall be construed or interpreted as a transfer of title or a transfer of ownership of any water right or any facility for the supply, treatment and distribution of water which is owned by either party.

7. Water Quality. Aurora shall use its best efforts to maintain all applicable state and federal standards with regard to the quality of water provided by Aurora at the meter to the County pursuant to this Agreement.

8. Indemnification. The following indemnification provisions shall apply:

8.1 General Indemnification Obligation. To the extent permitted by law the County shall indemnify, defend and hold harmless Aurora and its officers, employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and attorneys fees, incurred as a result of any alleged negligent or intentional act or omission by the County, its officers, employees, and agents related to the performance of this Agreement, including but not limited to any failure of water flow amounts to meet applicable standards for fire protection, it being expressly acknowledged by the County that said flow amounts may not be sufficient to meet fire protection standards or to provide adequate fire protection.

8.2 Governmental Immunity. Notwithstanding any provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a

14. Applicable Law and Venue. This Agreement and its applications shall be construed in accordance with the laws of the State of Colorado; and the parties agree that venue shall lie in Arapahoe County, Colorado.
15. Recording. This Agreement may be recorded by either party.
16. Execution of Additional Documents. The parties agree to execute any further documents reasonably necessary to complete the transactions provided for or contemplated by this Agreement.
17. Remedies. If either party is in default, the non-defaulting party may elect to treat this Agreement as terminated, in which case the non-defaulting party may recover damages limited to breach of contract only. Specific performance shall not be available as a remedy.
18. No Costs and Fees. In the event of litigation or alternative dispute resolution between the parties arising out of this Agreement, the parties agree that each shall pay their own costs and expenses including attorneys' fees.
19. Integrated Agreement. This Agreement consists only of the terms and conditions stated herein. No other document related to or generated as a result of this Agreement shall form a part of this Agreement unless it is expressly referenced and incorporated herein. This Agreement is intended as a complete integration of all understandings between the parties, their successors and assigns concerning the substance hereof. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing.
20. The COUNTY agrees that it will not claim in any way that AURORA has any duty or requirement to supply water to the COUNTY, or its successors, assigns, or customers after AURORA ceases in accordance with the terms and conditions of this Agreement to supply water hereunder.

WHEREFORE, the parties hereto set their hands and seals on the date here and above first written.

CITY OF AURORA, COLORADO,
ACTING BY AND THROUGH ITS
UTILITY ENTERPRISE

Stephen D. Hogan, Mayor

Date

ATTEST:

Janice Napper, City Clerk

Date

APPROVED AS TO FORM FOR AURORA:

Christine McKenney, Assistant City Attorney

Date

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ACS #

BOARD OF COUNTY COMMISSIONERS
OF ADAMS COUNTY, COLORADO

By: 
Chairman

4-21-14
Date

ATTEST:


Keisha Hirsch, Deputy Clerk

4-21-14
Date

APPROVED AS TO FORM FOR ADAMS COUNTY:

 for DKE

4/21/14
Date