



Council Request Update

August 3, 2017

Council Request: 17-134

Assigned to: City Manager's Office

Request: Find an alternative night for the Board & Commission Appreciation Night

Response: Based on the response from City Council, Monday, August 28th has been selected for the 2017 Board & Commission Appreciation Night.

Council Request: 17-136

Assigned to: Police Department

Request: Calls for Service

Response: Please see attached from Code Enforcement Supervisor David Lewis

Council Request: 17-137

Assigned to: Wastewater Treatment Plant

Request: How can Littleton create a wastewater treatment agreement with Sterling Ranch without Englewood City Council's approval?

Response: Please see attached from the L/E WWTP Director John Kuosman



TO: Chief John Collins
FROM: Code Enforcement Supervisor David Lewis
DATE: August 2nd, 2017
SUBJECT: Council Request 17-136

CR17-083
Requested by: Rita Russell: Calls For Service
Assigned to: Code Enforcement

The following is a list of calls for service at each of the following addresses since January 1st, 2017:

■ W. Warren Ave.

- 04/25/17 Code Enforcement "Trash, Illegal Auto Shop"
Unfounded
- 04/27/17 Code Enforcement "Illegal Auto Shop"
A referral was made to community Development.
Community Development met with the City Attorney
about this property. The City did not have enough
evidence to issue a municipal violation.

■ S. Bannock St.

- 03/02/17 Code Enforcement "Illegal Shed, Outdoor Storage"
Notice of violation issued for Outdoor Storage
Community Development/Building deemed the storage
shed to be compliant with the building code and did not
require a permit.
- 04/03/17 Code Enforcement "Illegal Shed"
Referral to Community Development/Building.
Community Development/Building inspected the shed
and found it to be in compliance.
- 04/05/17 Code Enforcement "Inspection"
Property was mostly in compliance and property owner
was working towards voluntary compliance.
- 04/18/17 Police requested "Welfare Check"

05/16/17 Code Enforcement "Inspection"
Property in compliance
06/11/17 Police requested "Domestic"
07/03/17 Police requested "Domestic"
07/27/17 Code Enforcement "Illegal Shed, Trash"
The reporting party was referred to Community
Development about the shed. An inspection for trash is
pending.

■ S. Washington Circle

01/07/17 Police requested to "Assist Other Agency"
01/07/17 Police requested to "Assist Other Agency"
06/07/17 Code Enforcement "Weeds and Trash"
Unable to locate current owner due to foreclosure
06/12/17 Code Enforcement "Follow Up"
The County Assessor information was updated. A notice
of violation was sent to the new property owner. Follow
up is still in process to gain voluntary compliance.

Subject: FW: Littleton Agreement with Sterling Ranch
Attachments: 2015 - DOMINION WATER AGREEMENT.pdf

From: John Kuosman
Sent: Wednesday, August 2, 2017 11:59 AM
Subject: FW: Littleton Agreement with Sterling Ranch

Eric,
Per your request I have read through the attached agreement and offer the following as a summary:

- 1) Dominion Water and Sanitation District is permitted with CDPHE to provide treatment services up to 0.6 million gallons per day (MGD) to the Sterling Ranch Development and nearby properties.
- 2) The City of Littleton is allocating up to 0.6MGD of its existing owned capacity in the L/E WWTP to Dominion for use in both start-up and emergency operations scenarios.
- 3) There is no defined time limitation in the agreement for Littleton to allocate this capacity for Dominion's use.

In my reading, there is nothing in this agreement prohibited in the Joint-Use Agreement and the agreement documents Littleton's responsibility for administering the agreement with Dominion in parallel with its other connector agreements and the capacity it owns at the L/E WWTP.
Both parties of the Joint Use Agreement have this same right, subject to the limitations of the capacity they each own.

It is my recommendation that this email (with the attachment) be distributed to the Englewood Council only as a follow-up to the July 26 Study Session.
At this point I would not recommend having this topic be an agenda item on the August 17th Joint Council meeting, but I will be happy to discuss it on the 17th if questions arise.
Please let me know if you need anything additional needed from me or plant staff related to this item.
Thank you!
John

From: Wendy Heffner [<mailto:wheffner@littletongov.org>]
Sent: Thursday, July 27, 2017 2:22 PM
To: Mark Relph <mrelph@littletongov.org>
Cc: Eric Keck <ekeck@englewoodco.gov>; John Kuosman <jkuosman@englewoodco.gov>; Keith Reester <kreester@littletongov.org>
Subject: Re: Littleton Agreement with Sterling Ranch

Per Mark's request, here is the agreement that provides wastewater transmission and treatment for Sterling Ranch.
Thanks Wendy

Wendy Heffner, MMC
City Clerk
2255 W. Berry Ave.
Littleton, Colorado 80120
[303-795-3753](tel:303-795-3753) (office)
littletongov.org
[Twitter](#) | [Facebook](#) | [YouTube](#)



**START-UP AND EMERGENCY BACK-UP WASTEWATER TREATMENT
INTERGOVERNMENTAL AGREEMENT**

This **START-UP AND BACK-UP WASTEWATER TREATMENT INTERGOVERNMENTAL AGREEMENT** (“**Agreement**”) is entered into and effective as of the 18th day of August, 2015, by and between **DOMINION WATER AND SANITATION DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**Dominion**”), and the **CITY OF LITTLETON, COLORADO**, a Home Rule City (the “**City**”) (each a “**Party**” and, collectively, the “**Parties**”).

RECITALS

A. Dominion is a Title 32 special district organized pursuant to the laws of the State of Colorado and is authorized among other responsibilities to construct, operate and maintain certain wastewater treatment facilities and improvements to serve properties within and beyond its service area which facilities include the Chatfield Basin Water Reclamation Facility (the “**Dominion WRF**”).

B. Pursuant to C.R.S. § 32-1-1001(1)(d)(I), Dominion is permitted to enter into contracts and agreements affecting the affairs of Dominion.

C. The City is the owner, in part, of the Littleton/Englewood Wastewater Treatment Plant and has rights to convey and treat wastewater from the City and other areas, by contract with the City, to the Littleton/Englewood Wastewater Treatment Plant.

D. Dominion may, subject to agreement with Roxborough Water & Sanitation District, use Roxborough’s wastewater interceptor to convey Dominion’s wastewater to the Littleton/Englewood Wastewater Treatment Plant, which agreement with Roxborough must incorporate all obligations and responsibilities to Littleton to the same degree as are applicable to Roxborough.

E. This Agreement is in the public interest and in the furtherance of the protection of the public health and safety of the citizens of Dominion and the City and is being executed and performance covenanted between the Parties pursuant to and in conformity with Article XIV, § 18 of the Constitution of the State of Colorado and C.R.S. § 29-1-201 (Intergovernmental Relations – Cooperative Contracts), and the achievement of said purpose or purposes is be liberally construed.

F. Dominion will own and operate wastewater treatment facilities to provide service to Sterling Ranch and nearby properties. The Dominion Water and Sanitation District is permitted to treat 0.6 MGD of sanitary sewer effluent, by the Colorado Water Quality Control Division pursuant to CPDES Permit #CO0041645. Currently, there are no wastewater flows to Chatfield Basin Water Reclamation Facility, although flows will increase. At very low flows, the wastewater treatment facilities may not function as efficiently. Therefore, conveying and treating early low flow wastewaters to Littleton/Englewood Wastewater Treatment Plant could be more efficient.

G. It is prudent and best practice for wastewater treatment facilities to plan and arrange emergency backup measures.

H. The discharge permit for the Chatfield Basin Water Reclamation Facility specifically addresses bypasses or upsets at the wastewater reclamation facility. While Dominion has safety measures in place to prevent bypasses and upsets, and also emergency measures to contain wastewaters in the event of a bypass or upset, emergency conveyances to Littleton/Englewood Wastewater Treatment Plant would provide an additional protective measure in the event of a bypass or upset.

I. Dominion has offered to provide emergency backup services for Roxborough in the event the Roxborough interceptor malfunctions or cannot convey wastewater to Littleton/Englewood Wastewater Treatment Plant.

J. The Parties desire to enter into this Agreement to establish the terms by which the City will provide certain start-up and emergency back-up wastewater services to Dominion and by which Roxborough and Dominion will provide certain back-up wastewater services to one another.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

I. START-UP SERVICES

1.1 Start-Up Assistance.

- (a) If Dominion desires instream wastewater service from Littleton/Englewood Wastewater Treatment Plant, Dominion will provide advance notice to the City of the anticipated schedule and flows from Dominion.
- (b) If requested, the City agrees to provide appropriate letters to Douglas County or other agencies, confirming that Littleton/Englewood Wastewater Treatment Plant “will serve” the initial customers served by Dominion.
- (c) Subject to the conditions set forth herein, the City shall accept wastewater from Dominion for treatment and shall treat, or cause it to be treated, and shall dispose, or cause it to be disposed of, in accordance with the terms of this Agreement. Dominion shall have no liability for exceedances of permit limits, upsets or bypasses at the Littleton/Englewood Wastewater Treatment Plant, except to the extent it can be shown that the exceedances of permit limits, upsets or bypasses are the direct result of actions or failures to act on the part of Dominion.

- (d) Dominion shall, at all times, bear sole responsibility for compliance with the terms and conditions of its CPDES Permit #_CO0041645.

1.2 Payment for Start-up Assistance.

(a) In exchange for the services provided, and subject to a two percent (2%) increase every year beginning with the payment due in 2017, Dominion shall pay the City on or before January 15th each year, the greater of the following:

(i) Two hundred dollars and no/100 (\$200) per Single Family Equivalent (SFE) per year for homes that have been issued building permits and connected to Littleton/Englewood Wastewater Treatment Plant; or

(ii) Forty thousand dollars and no/100 (\$40,000) per year, whichever is greater (which amounts shall be prorated for 2015, from October 15, 2015, through December 31, 2015).

(b) Dominion shall submit to the City an annual summary of the number of homes that have been issued building permits and connected to the Littleton/Englewood Wastewater Treatment Plant system.

(c) Each Party is responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as set forth in Section 1.2(a), unless otherwise approved in advance by the appropriate Party in writing.

II. EMERGENCY BACK-UP SERVICES

2.1 Emergency Back-up Services by the City to Dominion. The City shall provide emergency back-up wastewater treatment services to Dominion, which service shall not be unreasonably withheld or denied, unless the provision of the emergency back-up services would cause the Littleton/Englewood Wastewater Treatment Plant to exceed Plant's permitted capacity.

2.2 Payment for Emergency Assistance. If emergency, bypass or upsets causes Dominion to transmit untreated wastewater to the City, and such flows continue beyond two days, then Dominion shall pay \$1000, as a one-time payment, plus \$2/day/SFE for each day beyond two days; or such other amounts as may be negotiated by the Parties.

III. GENERAL SERVICE PROVISIONS

3.1 Service Standards. During any period of time that the City provides start-up services or emergency services to Dominion, the Parties shall each perform the respective responsibilities as follows:

- (a) safely and in accordance with the standard of care, skill, qualifications and diligence customarily provided by others performing similar work;

(b) take reasonable precautions for safely and prudently conducting the services required by this Agreement, including maintaining insurance to the extent required by law;

(c) advise the appropriate Party of the status of the start-up services or emergency services required by this Agreement on a regular basis and work in coordination with the appropriate Party's consultants to provide, to the extent available, complete information for the exercise of the Party's powers and discretionary authority; and

(d) refrain from entering into any contract, oral or written, in the name of the other Party or which would conflict with the start-up services or emergency services being provided, and from incurring any debt, liability or obligation for or on behalf of the other Party. Obligations incurred by the City or Dominion shall be obligations of the City or Dominion, respectively, and the other Parties shall have no responsibility therefor, except as may otherwise be provided herein.

3.2 Services are Non-Exclusive. The Parties expressly acknowledge that Dominion's service area includes properties which are not within the community known as Sterling Ranch, and Dominion is solely responsible to insure that all notices or notifications to the Colorado Water Quality Control Division are made concerning the area and extent of its service.

3.3 The Parties acknowledge that the CPDES Permit for the Littleton/Englewood Wastewater Treatment Plant contains specific requirements for the pretreatment of numerous classes of commercial and industrial wastewater. Prior to the operation of this Agreement, Dominion shall either:

(a) have adopted a pretreatment program meeting the requirements of the law and approved by the Colorado Water Quality Control Division and the U.S. EPA, or

(b) entered into an agreement with the City of Englewood to authorized Plant staff to conduct the necessary permit compliance actions mandated by the CPDES Permit for the Littleton/Englewood Wastewater Treatment Plant.

In the event that any commercial or industrial facility in the Dominion Service area, contributing wastewater that will be treated by the Littleton/Englewood Wastewater Treatment Plant, declines or fails to provide required pretreatment, fails to properly operate or maintain pretreatment technology or fails to comply with a non-compliance order or cease and desist order issued by the City of Englewood. Dominion shall immediately take steps to curtail the discharge of wastewater until the non-compliance has been resolved.

3.4 Limitations on Authority. Each Party shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the other Parties in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the board of directors, or city council, of the Party as reflected in the minutes of the Party's board or city council meetings, except as required by section 3.3 above.

3.5 Independent Contractor Status. During any period of time that the City and Roxborough provide start-up services or emergency services to Dominion or that Dominion provides emergency services to Roxborough, each Party shall be serving as an independent contractor, as provided in C.R.S. §8-40-202(2)(b)(I)-(IV), as amended, and nothing herein contained shall constitute or designate the servicing Party or any of its employees, agents, subcontractors or suppliers as employees of the other Parties. The services to be performed pursuant to this Agreement shall be at each Party's sole cost, risk and expense, and no part of the cost thereof shall be charged to the other Party, except the payments to be made by Dominion pursuant to Sections 1.2(a) and 2.2 and except as otherwise provided herein. Each Party shall not be responsible for the other Party's means, methods, techniques, sequences or procedures of work or for safety precautions incident thereto.

3.6 Compliance with Applicable Law. Each Party shall provide the services set forth herein in full compliance with all applicable laws, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction over the activities of the Parties.

3.7 No Right or Interest in Party Assets. Each Party shall have no right or interest in any of the other Parties' assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated herein.

3.8 Work Product. "**Work Product**" shall consist of all written materials maintained by the Parties in connection with performance of this Agreement, including, but not limited to, all test results, logs, surveys, maps, plans, drawings, specifications, reports, data, PDF formatted electronic files and other documents, in whatever form. Each Party shall maintain reproducible copies of Work Product available for the other Parties' use, and shall provide such copies to the other Parties' upon request at reasonable commercial printing rates. The use of the term "Work Product" does not imply that Littleton shall not have access to any and all records required for it to insure compliance with the terms and conditions of the Littleton/Englewood Wastewater Treatment Plant's NPDES Permit or any regulatory or compliance order issued thereunder.

3.9 Limitations on Acceptance. Other provisions of this Agreement notwithstanding, this Agreement shall, at all times, be subject to the requirements of Section 110 of the Charter of the City. Dominion recognizes that sewer service to the City area is dependent upon natural forces and technological limitations, which may be beyond the control of the City. No liability shall attach to the City hereunder on account of any failure to adequately anticipate the availability of sewer service or because of an actual sewer service failure due to an occurrence beyond the reasonable control of the City. The City agrees to provide adequate facilities to the sewer service users within Dominion's service area based upon historical experience insofar as reasonably possible. The City agrees that it will not obligate itself for furnishing a greater amount of service than it can reasonably foresee will be available, and accordingly, will periodically evaluate present and future capacity requirements of the City and the districts that contract with the City for sewer service in order to adequately plan for and meet such requirements, and further, to advise Dominion of any plans for meeting future capacity requirements in a timely manner so as to allow Dominion adequate time to comment on said plans. If conditions develop such that it becomes apparent to the City that all areas outside the City for which sewer service has been committed cannot be supplied adequately pursuant to this and similar contracts, the City reserves the right, in order to protect the existing sewer service

users, to discontinue or to allocate the granting of further taps hereunder; provided, however, that the City shall be obligated to exercise this right for discontinuance or allocation both within the City and Dominion as to inside or outside City sewer taps in accordance with Section 110 of the Charter of the City.

3.10 Water Rights. The Parties acknowledge that the entities utilizing the Littleton/Englewood Wastewater Treatment Plant rely on a variety of municipal water supplies to serve their customers. As a result, the wastewater flows to the Littleton/Englewood Wastewater Treatment Plant have to be accounted for in various water rights decrees and augmentation plans. The wastewater generated by Dominion will be subject to being measured and accounted for through its augmentation plan. Dominion shall be solely responsible for developing and maintaining all required accounting required for its purposes. The proposed accounting must be submitted to and approved by the City and the City of Englewood prior to the delivery of wastewater under this Agreement.

IV. TERM AND TERMINATION

4.1 Term. The term of this Agreement shall begin on October 15, 2015, or later as agreed to by both Parties, and shall continue until terminated.

4.2 Termination. Any Party may terminate its involvement in this Agreement for convenience or for cause, in whole or in part, by written notice of termination given to the other Parties at least three hundred and sixty (360) days prior to the effective date of such termination. Any termination notice provided pursuant to this Section 4.2 shall specify the extent of termination and the effective date of the same. If terminated, Dominion shall pay the City for all services satisfactorily performed under this Agreement through the termination date.

V. MISCELLANEOUS

5.1 Assignment. The Parties shall not assign any of their rights or delegate any of their duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and of no effect.

5.2 Modification; Amendment. This Agreement may be amended from time to time by agreement between the Parties hereto; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the Parties unless the same is in writing and duly executed by the Parties.

5.3 Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

5.4 Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

5.5 Governing Law and Jurisdiction. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be exclusive to the State District Court in and for the County of Douglas, Colorado.

5.6 Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

5.7 Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

5.8 Notices.

(a) All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally recognized overnight air courier service, by electronically-confirmed facsimile transmission or electronic mail transmission (so long as followed by a written notice provided via one of the other methods described in this Section 6.8) or by depositing same in the United States mail, postage prepaid, addressed as follows:

To Dominion: Dominion Water and Sanitation District
c/o CliftonLarsonAllen
8390 E. Crescent Parkway, Suite 500
Greenwood Village, Colorado 80111
Phone: (303) 779-4525
Fax: (303) 773-2050
Email: david.peak@cliftonlarsonallen.com
Attn: Dave Peak

With a Copy To: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: (303) 592-4380
Fax: (303) 592-4385
Email: mmcgeady@mcgeadysisneros.com
Attn: MaryAnn McGeady

To the City: City of Littleton
Attn: City Manager
2255 West Berry Avenue
Littleton, Colorado 80120
Phone: (303) 795-3700
Fax: (303) 795-3818
Email: mpenny@littletongov.org

With a Copy To: City of Littleton
Attn: City Attorney
2255 West Berry Avenue
Littleton, Colorado 80120
Phone: (303) 795-3725
Fax: (303) 795-3818
Email: kschledorn@littletongov.org

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service, upon electronic confirmation of facsimile transmission or electronic mail transmission (so long as followed by a written notice provided via one of the other methods described in this Section 6.8), or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

(b) Prior to initiating either Start-Up Services or Emergency Back-Up Services contemplated by this Agreement, Dominion shall notify the Littleton/Englewood Wastewater Treatment Plant at: Attn: Plant Manager, 900 S. Platte River Drive, Englewood, Colorado 80110.

5.9 Default/Remedies. If any Party fails to perform any of its responsibilities, obligations or agreements to be performed in accordance with the provisions of this Agreement, and if such failure of performance continues for a period of thirty (30) days following written notice of default from any other Party (or such additional period of time as may reasonably be required to cure such default; provided that the curative action is commenced within such thirty (30) day period and is diligently and continuously pursued to completion), then any non-defaulting Party, at its option, may elect (i) to treat this Agreement as remaining in full force and effect; or (ii) terminate this Agreement as of any specified date. Any non-defaulting Party shall additionally be entitled to exercise all remedies available at law or in equity. In the event of any litigation or other proceeding to enforce the terms, covenants or conditions hereof, any non-defaulting Party in any such litigation or other proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

5.10 Instruments of Further Assurance. Each Party covenants it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts,

instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

5.11 Compliance with Law. This Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules, and regulations of the jurisdiction in which the Agreement is performed. The Parties declare that they have each complied and will comply with all federal, state and local laws regarding business permits, certificates and licenses required to perform the services described herein.

5.12 Non-Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed to be a waiver of any subsequent default hereunder. Notwithstanding any provision to the contrary in this Agreement, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits or protections provided to the Parties under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S.

5.13 Inurement. This Agreement shall inure to and be binding on the successors and permitted assigns of the Parties hereto.

5.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

[SIGNATURE PAGES FOLLOW]

ATTEST:

CITY OF LITTLETON, COLORADO

DocuSigned by:
[Redacted Signature]

7FEE432A8287419...
Wendy Heffner
CITY CLERK
Council

APPROVED AS TO FORM:

DocuSigned by:
[Redacted Signature]

By: [Redacted Signature]
B432418D3EEB403...
Phil
President of the

DocuSigned by:
[Redacted Signature]

4A3FB34EA4384FE...
Kristin
CITY ATTORNEY

016446\0014\12204894.6