

STATE OF SOUTH CAROLINA) INTERGOVERNMENTAL AGREEMENT
COUNTY OF GREENVILLE)

THIS AGREEMENT made this 21 day of May 2007, by and between Western Carolina Regional Sewer Authority ("WCRSA") and City of Mauldin ("City of Mauldin"), (collectively, the "Parties").

WHEREAS, WCRSA and City of Mauldin are political subdivisions of the State of South Carolina. WCRSA owns and operates trunk lines and wastewater treatment facilities. The City of Mauldin, as a sub-district of WCRSA to the extent provided for in Act 745 of 1967 as from time to time amended, owns and operates wastewater collection facilities. Both are authorized by South Carolina law to enter into contractual agreements with each other under the authority of Section 13 on article VIII of the constitution of South Carolina and under the code of Laws of South Carolina, Section 6-15-20 to provide joint public facilities and service considered to be mutually desirable; and

WHEREAS, the execution of a mutually beneficial agreement between these parties to limit the inflow and infiltration into mutually used facilities will facilitate continued growth and an improved wastewater collection system in the Mauldin area; and

WHEREAS, establishing regular and systematic consultation by the parties can lead to improved planning for their respective operations and capital improvements in order to limit inflow and infiltration to acceptable levels; and

WHEREAS, appropriate authorities of City of Mauldin and WCRSA have approved and authorized the execution of this Agreement for the limited purposes and agreements set forth below.

NOW THEREFORE, in consideration of the above, the benefits to the parties, reliance upon their mutual promises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. City of Mauldin shall implement a continuous program of maintenance and management for that portion of its wastewater collection system (the "Collection System") connected to the WCRSA system. Such program shall be in compliance with the provisions of this Agreement as it relates to Infiltration and Inflow (I&I), be in compliance with the Satellite System Permit regulations of the South Carolina Department of Health and Environmental Control (DHEC), and be in compliance with the U. S. Environmental Protection Agency

(EPA) Region 4 CMOM Program relating to Sanitary Sewer Overflows (SSO's).

2. City of Mauldin agrees to implement a collection system management, maintenance and rehabilitation program (the "Operations & Rehabilitation Program") in the areas of the City of Mauldin system served by WCRSA. The "Operations & Rehabilitation Program" shall include the following:

- a. A "Work Plan" to include such milestones as, what improvements will be needed, project outcomes, where they will be done, a schedule for completion, and the identification of the annual revenue stream to be dedicated to the continued operation, maintenance and rehabilitation of City of Mauldin collection system. It is agreed that the "The City of Mauldin Work Plan for SSES/Rehab for FY 2007" dated February 2, 2007, as shown in the attached Exhibit A has been prepared under the auspices of a South Carolina Registered Engineer and is mutually acceptable. The City of Mauldin shall be responsible for Work Plan implementation beginning on the first day of the month immediately following the date of execution of this Agreement.
- b. This "Work Plan" will be managed by the City of Mauldin's Director of Public Works and will be reviewed and, if necessary, revised annually, to achieve the objectives originally stated in this agreement. WCRSA shall be afforded an opportunity to assess and make comments on the City of Mauldin's annual status report. It is agreed that both parties will mutually identify defects in their respective portions of the City's sewer system and annually share their plans for rehabilitation. It is understood the time for completion of the Work Plan will not exceed a period of fifteen (15) years from the date of this Agreement. It is further understood that the Agreement may terminate prior to expiration of the 15 year period should the City be able to achieve flow reductions in accordance with the Babbitt equation cited in paragraph 3 of this agreement at the point of connection for each of the eight (8) City sub-basins (TFM 1-8) and at each of the WCRSA monitoring stations FM 59, FM 70, and FM 71 as designated in Exhibit A in Figure TFM-1, dated 12-16-05.
- c. The City will provide to WCRSA documentation supporting an ongoing program of SSES work to include, smoke testing, televising, field inspections and investigations as necessary to identify sewer system defects and prioritize corrective actions. The quantities or frequency of such work shall meet guidelines cited under the EPA Region IV CMOM program and shall be representative of established best management practices in the industry for sewer collection systems.
- d. The "Work Plan" includes the installation of temporary sub-basin flow monitors and the ongoing use of the data to verify the magnitude of infiltration and inflow in accordance with regionally adopted procedures and reporting standards cited in paragraph 3 of this agreement. Reports of such monitoring

shall be provided to WCRSA. Sub-basin monitoring shall be prioritized based on the location of areas of overflows or system surcharging affecting the WCRSA trunk system. The annual system monitoring goal shall range between 5 and 8 percent of the City of Mauldin's total sewer collection system. The temporary flow monitors will remain in operation until a minimum of one (1) one-inch or greater rain event occurs and may continue longer in operation at the discretion of the City's Public Works Director. WCRSA has installed and will continue to operate and maintain permanent flow monitors in the three (3) main interceptors (FM 59, FM 70, and FM 71) leaving the City of Mauldin. Data collected from these monitors will be shared with the City on a monthly basis. For documentation of I/I reduction, the data will not be considered valid unless there are at least three (3) rain events exceeding one inch (1") or greater in local rainfall accumulation as measured by the closest rain gauge site. Both parties reserve the right to request third party review of submitted reports and supporting data.

e. The "Work Plan" includes the implementation and maintenance of Geographical Information System/Maintenance Management System (GIS/MMS) systems defining and documenting City of Mauldin's sanitary sewer infrastructure inventory and work history. Such systems shall be adequate to support an appropriate and adequate condition rating and asset management system.

f. Operation of the City of Mauldin Collection System will be within guidelines of the DHEC Permit program, and this Agreement.

g. It is understood that the goal of WCRSA is to reduce peak flows at its wastewater treatment plants to no more than 2.5 times the average daily dry weather flow, up to and including the 10 year design storm when monitored in the WCRSA system at a manhole or manholes in proximity of the plant accepting flow from the City of Mauldin's system. The City of Mauldin agrees to reduce its portion of system I&I such that the wet weather flow rate from City of Mauldin's collector system does not cause peak flows that exceed the Peaking Factor as cited in Paragraph 3 of this agreement at the eleven points of compliance described in Paragraph 2b, i.e. TFM 1-8 and FM 59, 70, and 71. Periodically, WCRSA and City of Mauldin will mutually identify and coordinate flow monitoring of sections within both the City of Mauldin and the WCRSA systems and correlate data for the purpose of identifying the contributions of I&I from WCRSA, the City of Mauldin, and the other contributing sub-districts. The locations of the sections will be reasonably selected to achieve the intended purpose of allocating I&I contributed by City of Mauldin. City of Mauldin shall not be held accountable for I&I that is not reasonably attributed to the City.

3. City of Mauldin will work to reduce the peaking factor (the "Peaking Factor") in its system. It may use the flow

metering points in WCRSA's three main interceptors leaving the City of Mauldin as indicators of progress, and as reference points to validate compliance towards the regionally adopted performance standards using the "Babbitt Equation" and those procedures for its use as cited in the Western Carolina Regional Performance Standards Committee Recommendation dated October 20, 2003 as shown in the attached Exhibit B. The Babbitt equation will use population estimates from house counts in each basin and population equivalents calculated from non-resident sources using SCDHEC approved criteria for estimating sewer flows. Where the preceding information cannot be obtained, population may be estimated by dividing the monthly Average Dry Day Flow of the storm event period by 100 gallons/day/person. The city can use the Babbitt Equation or any other equation/method which results in the meeting or exceeding the goal set in paragraph 2G above. It is presumed that if the city meets the Babbitt Equation at points of connection to WCRSA system cited in paragraph 2b above, that portion of the city's collection system has met the intent of paragraph 2G above. The objective is to eliminate negative impacts to WCRSA's facilities and operations and restore sewer line & plant capacity that may be currently unavailable because of excessive collector system inflow and infiltration.

4. The "Work Plan" identifies funding mechanisms formally adopted by City of Mauldin to complete the identified system rehabilitation projects within the agreed upon periods or milestones cited in the "Work Plan".
5. The "Work Plan" identifies the projected annual revenue fees to be dedicated to the continued operation, maintenance and rehabilitation of City's sanitary sewer systems in compliance with State and Federal law and this agreement.
6. The City of Mauldin's responsible Manager or Official, under the auspices of a SC Registered Engineer, will provide WCRSA an annual status report documenting the progress and funding expensed on the "Operations/Rehabilitation Program" and the remaining needs to complete the scheduled rehabilitation projects delineated in the mutually agreed upon "Work Plan". The City of Mauldin will endeavor to provide all necessary resources to complete the "Work Plan". Each year the "Work Plan" will be updated as part of the City's annual budgeting process, and the expenditures by account items will be projected for the subsequent periods.
7. Any new connections to be made to the City's Collection System or WCRSA's system served by City of Mauldin, including direct connections into WCRSA interceptors shall be permitted by City of Mauldin, as required, and pursuant to this Agreement and WCRSA regulations. All users will be required to comply with WCRSA's Sewer Use Regulations.
8. By mutual Agreement City of Mauldin may have the use of engineers, contractors, suppliers, or services

employed by, or contracted with WCRSA for implementation and management of its work plan and other related activities at the City's expense.

9. The Parties agree to communicate, collaborate, and work with each other on all issues and concerns relating to the safe and proper operation of the Collection System.
10. City of Mauldin will continue to be the point of contact for sewer service within the City of Mauldin Collection System, and is responsible for all retail sewer and private system connections to City of Mauldin collection system. Additionally, the City of Mauldin will be the interface with new customers and will coordinate with WCRSA on all needs for connections. WCRSA will be responsible for issuing and enforcing their Industrial Pretreatment Permits and will advise the City of Mauldin of any increases in wastewater flows to the City sewer system when new industrial permits or revisions to existing permits are requested.
11. WCRSA shall continue to make existing trunk line capacity and any additional capacity recovered under this work plan, available to Mauldin when Mauldin is operating in accordance with this Agreement, provided future capacity is available in a shared line, in accordance with Paragraphs 2g and 3 above. Within 30 days of the effective date of this Agreement, WCRSA will provide to the City the calculation methodology and the calculated volumes of remaining dry weather sewer capacity at WCRSA permanent flow monitors located in the City of Mauldin's serviced area as described in Paragraph 2b, i.e. FM 59, 70, and 71. Both parties reserve the right to use third party qualified professionals to verify capacity calculations made by either party. When a need for additional capacity in the WCRSA trunk lines or treatment is determined, so long as the City of Mauldin is operating in accordance with this agreement, it will be the responsibility of WCRSA to address such a need.
12. If a dispute arises out of or relates to this agreement or the breach thereof, and if the dispute cannot be settled through negotiation, the aggrieved party may implement the mediation process. The mediator must be generally knowledgeable in wastewater utility law, and the location for mediation shall be in Greenville County, South Carolina. If within fifteen (15) days the parties cannot agree upon a mediator, the administrative judge of the Greenville County Circuit Court shall name one, if the administrative judge consents to do so. Mediation will be held in Greenville County within twenty (20) days from the time the mediator is selected or named or as soon thereafter as the mediator is prepared to proceed.

No notice to mediate with respect to a specifically described claim, counterclaim, dispute or other matter in question will constitute notice or consent to mediate any other claim, counterclaim, dispute or other matter in question which is not specifically described in such notice.

To the extent permitted by law and within policy guidance of the respective governing body, when any claim, action or proceeding is made against either City of Mauldin or WCRSA or their individual commissioners, agents, or employees, for any conduct or services relating to this Agreement, the party against whom the claim is made shall not waive any defense and shall seek to assert all rights of immunity, whether absolute or qualified. Any party receiving notice of any such claim shall promptly notify its insurance carrier and the other party.

The parties agree that because of the unique nature of the agreement and the need for prompt remedies in the event of its breach, that this agreement may be enforced by specific performance and temporary or permanent injunctive relief as well as other appropriate remedies as are available at law, with such remedies as are available at law, with such remedies to be in accordance with the principles and defenses otherwise applicable to equitable actions under South Carolina law.

13. If WCRSA offers and executes an agreement with any other similarly situated entity allowing for more favorable terms, such as defined in paragraph; 2a-g, 3, 4, 5, 6 and 12. The agreement will be modified to reflect the more favorable parameters at the City of Mauldin's request.

14. The term of this agreement is as follows:

a. This Agreement shall become effective on the date first recited above. The City of Mauldin and WCRSA intend to abide by the provisions agreed upon by this Agreement for a period of fifteen years, before either is bound to renegotiate the objectives and implementation methods which have been agreed to. The parties acknowledge challenges presented by holdings that limit the length of terms that a governmental entity may enter into a contract related to the provision of its governmental services. Therefore to achieve the goal of their intent while adhering to applicable law, the initial term of this Agreement shall be for a period of three years, and thereafter the term shall renew automatically for four successive terms of three years each. Each party reserves for its successors in office the option to have the automatic renewal of successive terms reviewed by a court of competent jurisdiction for a determination of its continuing validity.

b. Any modification to this Agreement shall be reduced to writing and executed with the same formality as this Agreement.

c. This Agreement is an addition to, and does not supplant or modify the provisions or terms, between the parties, or other agreements, regulations, court, or administrative orders, including those court orders in civil action 88-CP-23-374 as amended.

IN WITNESS WHEREOF, this Agreement has been executed under seal and delivered in duplicate as approved and authorized by the Parties respectively this the 21 day of May, 2007.

WITNESSES:

WESTERN CAROLINA REGIONAL
SEWER AUTHORITY

Cathy D. Caldwell
Christina Van Slambrook

Ray D. J.

By:

Its:

Date: 2/10/07

CITY OF MAULDIN

Cindy Miller
John P. [unclear]

Russell A. Jagg

By:

Its: Interim City Administrator

Date: May 21, 07