

RESOLUTION No. 03-02-2012

A RESOLUTION TO MODIFY AN AGREEMENT WITH CENTRAL UTAH WATER CONSERVANCY DISTRICT (CUWCD) TO ACCEPT AN ADDITIONAL \$500,000 IN GRANT FUNDING FOR THE CONSTRUCTION OF THE SANTAQUIN CITY WASTEWATER RECLAMATION FACILITY (WRF)

WHEREAS, the governing body of the City of Santaquin, Utah, acknowledges a need to enhance the City's Sewer System to meet the current and future needs of the community; and

WHEREAS, the Membrane Bio-Reactor Treatment technology chosen to meet the City's sewer needs will produce Type I water that will be used in the City's Pressurized Irrigation System and for Aquifer Recharge; and

WHEREAS, reuse of this valuable resource will benefit the city for years to come by conserving water resources by reducing the city's water needs by up to an approximate 5300 acre feet of water per year at the city's build out; and

WHEREAS, CUWCD previously committed to financially support the construction of the WRF in the amount of \$500,000 in grant funding which was formalized in an agreement with Santaquin City in November of 2010 (See Santaquin City Resolution 11-01-2010); and

WHEREAS, at the request of Santaquin City, CUWCD has committed to modify the aforementioned agreement by increasing their grant funding support of the WRF project by an additional \$500,000 which brings their combined financial support to a total of \$1,000,000; and

WHEREAS, when grant proceeds are extended by a branch of the Federal government certain reporting requirements are required necessitating a written agreement between both parties, and

WHEREAS, the aforementioned agreement has already been enacted, thus necessitating a written modification to the original agreement to increase the grant amounts and modify the anticipated project schedules/dates between both parties,


NOW THEREFORE, BE IT RESOLVED by the City Council of Santaquin, Utah, enters into an agreement with the Central Utah Water Conservancy District to provide funding for the Santaquin City Water Reclamation Facility Project.

(See attached)


ADOPTED AND PASSED by the City Council of Santaquin City, Utah, this 7th day of March, 2012.

SANTAQUIN CITY




James E. DeGraffenried, Mayor

Attest


Susan B. Farnsworth, City Recorder

CENTRAL UTAH WATER CONSERVANCY DISTRICT
CENTRAL UTAH PROJECT COMPLETION ACT
WATER CONSERVATION CREDIT PROGRAM
Agreement No. 843

MODIFICATION NO. 1
TO THE

AGREEMENT BETWEEN THE CENTRAL UTAH WATER CONSERVANCY DISTRICT
AND
SANTAQUIN CITY CORPORATION
TO PROVIDE FUNDING FOR THE
SANTAQUIN CITY WATER RECLAMATION FACILITY PROJECT

This document shall serve as Modification No. 1 to the Agreement between the Central Utah Water Conservancy District and the Santaquin City Corporation dated November 3, 2010.

The following changes are hereby made:

Section 2. TERM OF AGREEMENT, shall be revised as follows:

This Agreement shall become effective upon the date of its execution. This Agreement shall remain in effect through July 1, 2037, unless sooner terminated as provided in this Agreement.

Section 4. MAINTENANCE OF PROJECT shall be revised as follows:

The Applicant shall monitor the proper operation of the Project for the life of the Project. The Applicant will confirm that the Project is providing water conservation in the following amounts:

Year	Annual Conservation (Acre-feet/year)
2014	700
2020	1,000
2030	1,000

The Applicant shall be required to measure the amount of water conservation achieved annually, utilizing the following method of assessment:

At the end of one year, the Applicant will submit an assessment report summarizing the progress and activities completed.

If the District, in its sole discretion, determines that the Project, as operated and maintained by the Applicant, consistently fails to achieve the stated amount of water conservation, the District may terminate this Agreement.

Section 7. ALLOCATION OF COSTS AND FUNDING, Paragraph (a)(1) shall be revised as follows:

(1) The District shall provide Credit Program Funds for payment of approximately 6 percent of invoiced Project Implementation costs. Such Credit Program Funds shall not exceed, in the aggregate, \$1,000,000. In no event shall all federal funds expended for the Project, including Credit Program Funds, exceed in the aggregate, 65 percent of the total Project Implementation cost.

Section 7. ALLOCATION OF COSTS AND FUNDING, Paragraph (a)(2) shall be revised as follows:

(2) Applicant shall pay all Project Implementation costs not covered by Credit Program Funds. The Local Cost Share is estimated to be \$15,810,000, approximately 94 percent of total Project Implementation costs. If Project Implementation costs exceed \$16,810,000, all costs greater than the maximum amount of Credit Program Funds to be provided under Section 7(a)(1), above, will be paid by the Applicant.

Section 8. SCHEDULE OF WORK, shall be revised as follows:

The schedule of Project Implementation shall be as follows, and, for multi-year projects, in accordance with the Project Annual Report.

Construction will begin in March 2012 and be completed by Fall 2013. The system will be operational by the 2014 irrigation season.

Section 9. SCHEDULE OF FUNDING, Paragraph (a) shall be revised as follows:

(a) The anticipated schedule is as follows:

FY 2012	\$ 1,000,000
---------	--------------

Section 15. DEFAULT AND REMEDIES, Paragraph (a) shall be revised as follows:

(a) Applicant shall be considered to be in default if (1) it has failed to complete the Project by September 30, 2014, or (2) after completion, has failed to attain the amount of water conservation specified in this Agreement through no fault of the District; and (3) after thirty (30) days' written notice from the District of such failure to perform, it has not commenced to cure the failure, or diligently completed the cure thereafter. In the event of Applicant's default, the District shall be entitled immediately to take any or all of the following actions:

- (1) Terminate this Agreement;
- (2) Obtain an injunction against Applicant or its assigns preventing it from interfering with the orderly and timely achievement or preservation of the Water Conservation Goal;
- (3) Recover the portion of Credit Program Funds that corresponds to any failure to attain the water conservation specified in Article 4. Such portion shall be calculated as the percentage difference between the amount of water conservation required under Article 4 and the amount of water conservation achieved, multiplied by the amount of Credit Program Funds provided under this Agreement, indexed to the Bureau of Reclamation Construction Cost Index. This amount is calculated to be approximately \$1,000 per acre-foot of water conservation not achieved (indexed as stated above). For example, if the Project achieves 80 percent of the water conservation stated in Article 4, the District may recover 20 percent of the Credit Program Funds provided (indexed as stated above); if the Project is not completed or otherwise fails to conserve any water, the District may recover 100 percent of the Credit Program Funds provided (indexed as stated above). In addition, all other reasonable costs and expenses incurred in enforcing this Agreement, including reasonable attorney fees may be recovered by the District.

The remedies set forth above are cumulative and are in addition to any other remedies available to the District under this Agreement, at law or in equity.

Section 26. AUTHORIZED REPRESENTATIVES, shall be revised as follows:

The parties respectively designate the following persons to act as their authorized representatives in matters and decisions pertaining to the timely performance of this Agreement:

For District:

Chris Hansen, P.E.
Program Support Manager
Central Utah Water Conservancy District
355 West University Parkway
Orem, Utah 84058

For Applicant:

Benjamin A. Reeves, City Manager
Santaquin City
275 West Main Street
Santaquin, Utah 84655

The authorized representatives shall have full power to bind the District and Applicant in decisions not requiring approval of their respective boards. All written notices required to be given under this Agreement shall be hand delivered, or sent via facsimile or United States mail, postage prepaid, to the parties' respective authorized representatives identified above. Notice shall be deemed to be received upon actual receipt or three (3) days after mailing, whichever occurs first.

All other provisions of the above referenced Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties execute this Agreement the 7th day of March, 2012.

CENTRAL UTAH WATER
CONSERVANCY DISTRICT

SANTAQUIN CITY

By: _____
Don A. Christiansen

By: James E. DeGraffenried
James E. DeGraffenried

Its: General Manager

Its: Mayor

ATTEST:

Betty Bolander
Assistant to the General Manager

ATTEST:

Susan B. Farnsworth
Susan B. Farnsworth
City Recorder

