RESOLUTION 2015-104       PASSED: AUGUST 24, 2015

AUTHORIZING THE MAYOR OF THE CITY OF DEKALB, ILLINOIS TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF CORTLAND REGARDING A SPRAY IRRIGATION TREATED EFFLUENT SYSTEM.

WHEREAS, the City of DeKalb is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs; and

WHEREAS, it is in the best interest of the City to enter into an Intergovernmental Agreement (IGA) with the Town of Cortland for the spray irrigation of DeKalb-Taylor Municipal Airport (DTMA) with treated effluent from the Cortland Waste Water Treatment Plant (CWWTP).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

Section 1: That the City Council hereby approves of the intergovernmental agreement substantially in the form attached hereto, and authorizes the Mayor to execute the same with such changes as shall be acceptable to him, without requiring further authorization or approval of City Council.

Section 2: That this Resolution shall become effective immediately upon its passage and recording by the City Clerk.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a regular meeting thereof held on the 24th day of August, 2015 and approved by me as Mayor on the same day. Passed by a roll call vote of 6-1-1. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Rey. Nay: Baker. Absent: O'Leary.

ATTEST:

JENNIFFER JEEP JOHNSON, City Clerk

JOHN A. REY, Mayor
Spray Irrigation Agreement

This is an Agreement of the Town of Cortland concerning the Cortland Wastewater Treatment Plant (CWWTP), and the City of DeKalb concerning DeKalb-Taylor Municipal Airport (DTMA).

between

Town of Cortland (CORTLAND)

and

City of DeKalb
at
DeKalb-Taylor Municipal Airport (DEKALB)

I. Purpose, Scope, and Term

The purpose of this Spray Irrigation Agreement ("Agreement") is to clearly identify the roles and responsibilities of each party as they relate to participating in the irrigation of DeKalb-Taylor Municipal Airport (DTMA) with treated effluent discharge from the Cortland Wastewater Treatment Plant (CWWTP).

The irrigation of DTMA grounds by CORTLAND is intended to provide a suitable mechanism for the discharge of the treated effluent generated by CWWTP in its servicing of the sanitation needs of CORTLAND.

Both DEKALB and CORTLAND agree that a key aspect of the feasibility of this arrangement is the coordination and cooperation of all entities involved as it pertains to the monitoring and mitigating of possible adverse impacts to airport operations caused by irrigation. Given this, the primary focus should be directed to assessment and response protocol concerning ground cover and water ponding, as beyond impacting the aesthetic and functional conditions of the property itself, the state of each has significant propensity to contribute to the alteration of the amount and type of wildlife attracted to the subject area(s).

Both DEKALB and CORTLAND shall ensure that program activities are conducted in compliance with all applicable Federal and State laws, rules, and regulations.

The term of this Agreement is retroactive to the effective date of the intergovernmental agreement allowing "Use of Airport Lands", April 2, 2009, and remains in effect for a period of 20 years.
II. Background

CORTLAND owns and operates a Wastewater Treatment Plant, which was placed into service in August of 2007. The plant consists of four lagoons and utilizes a land application system for the primary means of disposal of the reclaimed water. CORTLAND has, as a secondary disposal method, the permitted ability to discharge up to 850,000 gallons per day (gpd) into the Union Ditch. The CWWTP currently receives an average of 350,000 gpd. The plant design includes a nominal hydraulic retention time in the aerobic zones of at least thirty-six days. After treatment, the reclaimed water is land applied or, during the winter months of operation, stored or discharged until irrigation resumes. All necessary treatment measures meet the requirements of the IEPA for land application, and through the IEPA imposed testing and permitting process, Cortland maintains and ensures compliance with all regulations applicable to the treatment standards for treated effluent discharged through spray irrigation. Upon completion of filtration and disinfection, the reclaimed water is pumped through the network of underground irrigation piping to the desired irrigation areas. The system is automated and monitors atmospheric conditions such as precipitation and wind speed. Should these atmospheric conditions exceed permit limits, the control system will automatically shut down. CORTLAND has the pumping capacity to land apply up to 10,000 gallons per minute providing reclaimed water to the Town’s existing land application system, as well as to additional acreage.

CORTLAND, through an intergovernmental agreement with DEKALB, has been granted irrigation rights to approximately 45 acres at southeast corner of DTMA. The airport is located just west of CORTLAND and has a total land area of over 300 acres. The CWWTP is located southeast of DTMA on North Street between Somonauk and Airport Roads. CORTLAND is proposing to utilize a 45 acre area in the southeast corner of DTMA grounds on DEKALB property to assist CORTLAND in vacating the stored wastewater in a timely manner, and to allocate irrigation capability to benefit said land which is currently leased for agricultural purposes.

Per the April 2, 2009 agreement between DEKALB and CORTLAND, the area proposed is the maximum area that can be irrigated due to runway setback and other land use requirements. Should additional irrigation be needed in the future, it will be provided by CORTLAND as development occurs in other locations throughout CORTLAND. Further, CORTLAND acknowledges that should the area proposed for irrigation be needed for the development of airport related use, or should DEKALB for any reason direct the termination of irrigation activities, the irrigation will be terminated and the equipment removed.
III. CORTLAND Responsibilities

CORTLAND shall undertake the following activities during the duration of the AGREEMENT term:

1. Ensure adherence to applicable federal, state, and local laws and regulations, as well as the guidelines and/or recommendations of contributing agencies, including, but not limited to, Illinois EPA, FAA, USDA, Illinois Department Transportation – Division of Aeronautics, Illinois Department of Natural Resources, and DEKALB.

2. Ensure adherence to all IEPA regulations regarding Operator requirements.

3. Visually verify proper discharge at the subject area(s) within one (1) hour of initiation of the irrigation process.

4. Visually inspect condition of the subject area(s) within one (1) hour of termination of the irrigation process.

5. Verify daily, whether irrigation has occurred or not, and that the irrigation rig is secured in the storage position when not active.

6. On the first day of any 7-day period intended to utilize irrigation practices the Operator shall analyze subject area(s) ground water tables by examining the monitoring wells. At this time inspection of ground cover conditions shall be evaluated as well.

7. Coordinate wildlife assessment actions with appropriate FAA qualified wildlife biologist to be conducted monthly for the initial season of irrigation. Such assessments may be reduced in subsequent seasons to a minimum of quarterly, given the consent of DEKALB. Additionally, conditional, unplanned assessments may be required as a reaction to a sudden increase in wildlife presence.

8. Obtain and maintain all permits required for the lawful operation of its equipment and/or required for the discharge of treated effluent onto property owned by DEKALB. Such permits shall not identify any property owned by DEKALB as “permanent” treated effluent discharge or irrigation areas and such permits shall be required to expressly note that DEKALB has the ability to terminate this Agreement and to terminate the irrigation process. CORTLAND shall, at all times this Agreement is in place, maintain adequate other areas for irrigation or other forms of treated effluent discharge to maintain operations of its wastewater treatment system without the requirement of utilizing property owned by DEKALB. Should any property owned by DEKALB be permitted, classified or otherwise identified as a
"permanent" irrigation area, this agreement shall be subject to immediate termination.

9. Indemnify, defend, and hold harmless DEKALB from any and all claims arising out of or relating to this Agreement, the use of property owned by DEKALB, the operation, maintenance or failure to maintain or operate any equipment, the irrigation or failure to irrigate land with treated effluent, any impact upon the operation of private or commercial aircraft, aviation or avigation rights, or any violation of any applicable regulation, ordinance, standard, permit or other requirement whatsoever which may arise by virtue of this Agreement or CORTLAND’s access to property owned by DEKALB. This indemnification shall apply to DEKALB, including its elected or appointed officials, employees, attorneys and agents (collectively, the “City Indemnitees”) against any and all claims, loss damage, injury, liability, and court costs and attorney’s fees incident thereto, including any claims made by employees of CORTLAND or any of their contractors or subcontractors, as well as all other persons, resulting directly or indirectly from this Agreement or the equipment used in connection therewith. It is understood that this agreement shall apply to any and all such claims whether resulting from the negligence or the intentional acts of CORTLAND, CORTLAND’s employees, contractors or subcontractors, the City Indemnitees or otherwise, with the single exception of any claim, damage, loss, or expense arising solely out of the intentional misconduct of the City or City Indemnitees. CORTLAND is solely responsible for determining the accuracy and validity of any information provided by DEKALB or its representatives. This indemnification shall apply to the fullest extent of the law, and in the event that any provision hereof is determined to be unenforceable, the indemnification obligations shall be severable and the fullest extent of indemnification that may lawfully apply shall remain in full force and effect. This indemnification shall include any claims arising out of the erection, construction, placement or operation of any scaffold, hoist, crane, stay, ladders, support or other mechanical contrivance in connection with such work including but not limited to losses, claims, damages and expenses arising pursuant to claims asserted against DEKALB pursuant to theories premised upon Section 414 or Section 343 of the Restatement (Second) of Torts. This indemnification shall not be limited in any way by limitations on the amount or type of damages, compensation, or benefits payable by or for the Contractor under Workers’ Compensation Acts, disability benefit acts, or other employee benefit acts, and serves as an express agreement to waive the protection of Kotecki v. Cyclops Welding Corp, 146 Ill.2d 155 (1991) in Illinois.

10. Purchase, install and maintain all equipment required to deliver treated effluent to the property subject to this Agreement, and utilize such equipment in accordance with all legal requirements to irrigate effluent meeting all applicable discharge standards.
11. Comply with the Illinois Prevailing Wage Act and indemnify, defend and hold harmless DEKALB from any claims arising out of or relating to the payment or failure to pay any contractor or third party.

12. Otherwise supervise and manage the operation of the equipment contemplated herein and the irrigation process to comply with best management practices for spray irrigation and applicable laws.

13. Coordinate irrigation activities with any tenant or operator of the farmland to which irrigation shall be applied, and indemnify, defend and hold harmless DEKALB from any claim of crop damage, personal injury or other form of injury to such tenant, operator or their agents or assigns, relating to the use of the property subject to this Agreement or the irrigation thereof.

IV. DEKALB Responsibilities

DEKALB shall undertake the following activities during the duration of the AGREEMENT term:

1. Review and approve all documentation evidencing DEKALB’s performance of services as set forth in the Scope of Work and monitor DEKALB’s compliance with the AGREEMENT.

2. If DEKALB enacts shut-down measures, DEKALB shall notify CORTLAND immediately, and provide written explanation as to the cause of the shut down measures within 48 hours.

3. Monitor area for an increase in wildlife attracted to airport grounds, and evaluate the potential of the irrigation as a contributing cause.

V. DEKALB and CORTLAND Agree to the Following Provisions:

1. Ponding Response:
   Should ponding be observed at any time, irrigation shall be ceased until analysis is undertaken by either DEKALB OR CORTLAND to determine which mitigating measures should be employed. This required complete shut-down of irrigation at subject area to re-analyze ground conditions and/or irrigation discharge plan.

2. Wildlife Response:
   Should the FAA, USDA, IL Dept. of Aeronautics, or other agency with oversight responsibility at DTMA determine that an appreciable wildlife presence/impact has occurred, irrigation shall immediately cease and CORTLAND will coordinate with DEKALB as to the design and implementation of corrective measures to satisfy agency concerns.
3. Airport Discretion:
In response to condition(s) DEKALB perceives as adverse DEKALB may completely cease irrigation at any time without prior clearance via the on-site manual shut-off valve. Irrigation shall resume only upon DEKALB written verification of acceptance of the proposed measures to mitigate said condition(s) submitted by CORTLAND.

4. Fencing:
“Illinois Design Standards for Slow Rate Land Application of Treated Wastewater” requires irrigation areas to be enclosed by a fence of 40 inches minimum height. The current 4 foot fence surrounding DTMA property is deemed acceptable, however, should alterations to the fencing plan take place, the alteration shall meet the minimum requirements set forth in the above-referenced standards, subject to DEKALB approval, and the cost of any new or altered fencing shall be borne by CORTLAND.

VI. Details of Mutual Understandings

The irrigation of approximately 45 acres of DTMA property by effluent discharge from the CWWTP is proposed to have the following operational characteristics.

1. Irrigation Season and Operating Hours:
The seasonal horizon of the irrigation system is generally April through November, as long as crops are present. Within this horizon, irrigation is weather dependent and will not be performed if adverse conditions such as frozen ground or high seasonal water table exist. The system operation typically will take place during the period from 10 PM to 4 AM, occurring 3 to 4 nights per 7-day period. During a 7-day period the irrigation system is designed to dispense a total effluent discharge of 2 inches per acre per week, on average. Based on this allowable rate, between 1/4” to 1/2” per acre will be applied per irrigation event. The 2 inch per acre per week average is the maximum weekly irrigation discharge allowed regardless of CWWTP total effluent load. This maximum irrigation amount is established by the constraints of the IEPA discharge permit issued to CWWTP. Irrigation shall comply with all regulations applicable to windspeed and direction, rainfall and soil moisture content. Irrigation shall not be permitted to generate any hazard to aviation or any windblown spray or mist on or near airport areas in use such as runways, taxiways or ramps.

2. Irrigation Equipment:
The effluent discharge will be conveyed from the CWWTP through PVC piping installed and maintained exclusively by CORTLAND. At which point the piping enters the subject site, it will be routed to feed a single Center Pivot Irrigation Rig. The rig will be Valley Irrigation Model 5000 Series; this equipment has dimensions of approximately 15 feet in height and 20 feet in width, with the rig for this implementation spanning a length of approximately 1500 feet. The irrigation process will utilize drop down mist nozzles to
dispense the effluent discharge. The nozzles will be spaced approximately every 108 inches. No jets or spray guns shall be utilized, eliminating the potential for water to be sprayed vertically up into the air.

3. Operating Parameters:
Normal operational control and responsibility lies with the licensed CWWTP operator triggering and ceasing the irrigation in line with the schedule outlined previously. IEPA operating permit requires that a licensed operator oversee the irrigation process. This ensures that plant controls are monitored along with the intermittent observing of the dispensing process at the subject site. At no time shall the irrigation system be operated without a licensed wastewater operator overseeing the activities.

4. Shut Down Option:
Measures shall be in place to allow DEKALB personnel unconditional shut-off control. This shall be accomplished through a manual shut-off valve located on DTMA property at a point in the irrigation network prior to any dispersing components. Utilization of said valve is at the discretion of DEKALB, and shut-off will require no previous clearance from the CWWTP or prior notification by DEKALB. The said valve, when operated, shall cause the system to shut down within 30 seconds. DEKALB shall be held harmless for any costs associated with the shut down procedures or any resulting modifications to operations.

5. Land Use:
The land use proposed for the irrigation zone is consistent with current use. DEKALB retains the right to make the land available for the farming of row crops. The irrigation provided is intended to be advantageous for the continued agricultural purposes of the land. CORTLAND utilizes other off site Row crop areas for irrigation and agrees to cooperate with DEKALB in sequencing irrigation activities to allow the planting, spraying, harvesting, etc. of the row crop areas. During these times when irrigation is not occurring, CORTLAND shall utilize their secondary disposal method, discharging to the Union Ditch for vacating effluent.

6. Wildlife:
As the land use will remain consistent with current practices, a change in wildlife presence is not anticipated. However, the monitoring and mitigation of any wildlife impact is a paramount concern as an increase in wildlife presence could negatively impact aviation operations and safety. Should CORTLAND notice a substantial increase in wildlife activity, CORTLAND shall notify DTMA and DEKALB immediately.

7. Future Integration:
With the exception of the single PVC underground supply line, all irrigation equipment is above ground. This allows for flexibility in modifying the irrigation footprint, as necessary. By shortening the span, a smaller arc may
be utilized, thus allowing for expansion of DTMA development by DEKALB. The rig may also be completely removed with no residual presence of infrastructure should DEKALB deem expansion of airport use onto the irrigation zone necessary.

8. All improvements shall be subject to the review and approval of the DeKalb Public Works Director or designee, and shall obtain such permits and permissions as may be required under applicable laws.

VII. Modification, Termination, and Renewal

1. Any and all extensions, renewals, amendments, modifications, and/or termination must be made in writing and must be agreed to and executed by the parties before becoming effective.

2. This Agreement may be terminated by either party upon the provision of not less than ninety (90) days notice, in writing, to the other party. In the event that the termination is required by virtue of a superior governmental mandate (e.g. FAA requirement), the termination may be effected upon a shorter notice period, if required by the superior mandate. Upon termination of this agreement, all equipment installed by Cortland shall be removed, in its entirety, within thirty (30) days or such longer period as the parties may agree to.

VIII. Effective Date and Signature

This AGREEMENT shall be effective as outlined above. It shall be in force until ________________, unless earlier terminated. DEKALB and CORTLAND indicate agreement with this AGREEMENT by their signatures.

Signatures and dates

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<th>Town of Cortland (CORTLAND)</th>
<th>City of DeKalb (DEKALB)</th>
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<tbody>
<tr>
<td><em>Authorized Signature</em></td>
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<td>Russell Stokes, Mayor</td>
<td>John Rey, Mayor</td>
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8/27/2015
January 13, 2016

Per City Attorney Dean Frieders:

Subsequent to City Council approval of Resolution 2015-104, representatives from the City of Cortland indicated they would not be signing the corresponding agreement. Therefore, it did not take effect.