

SOLDIER CANYON WATER TREATMENT AUTHORITY
Monthly Meeting Agenda
4424 Laporte Avenue
Fort Collins, CO 80521

Thursday March 9, 2023

Mission – The Authority delivers the highest quality treated water to its customers with financial responsibility, and following policies established by the Board in a professional, efficient, and ethical manner.

1. Call to Order 10:00 AM
2. Meeting Minutes for February 9, 2023 - **Action Item – Approve Minutes** “Motion to approve the minutes from the meeting on February 9, 2023”.
3. Financial Update – Brenda Griffith, **Action Item - Approve Financial Report** “Motion to approve the SCWTA January 2023 Financial Report”.
4. Treatment Capacity Expansion Feasibility Study – Final update by Stephanie Elliot with Stantec.
 - Filtration
 - Chemicals
 - Solids handling
5. Managers Update – Mark Kempton
6. Munroe System Loss Study – Change Order Request – Richard Raines - **Action Item - Approve Change Order request for the Ayres Associates Munroe Canal Loss Study** - “Motion to approve the Change Order request for the Ayres Associates Munroe Canal Loss Study.”
7. Information item – Mark Kempton – Sequence of upcoming PVP/PVP Sed Basin & Screen/Munroe Canal agreements.
8. Munroe Canal Lining Project – Mark Kempton - **Action Item - Approve MOU with North Poudre Irrigation Company** - “Motion to approve the Memorandum of Understanding with North Poudre Irrigation Company for the Munroe Canal Lining Project.”
9. Review of proposed Authority Creation Agreement additions to include new physical facilities – Mark Kempton – Include new 36” HT pipeline, PVP Sedimentation Basin and Screen, PVP Pipeline.
10. Other Business
 - a. Mark Kempton - Update on Tier 3 Violation from CDPHE
 - b. Mark Kempton - Letter to CSU re: Land Purchase

The next scheduled Authority Board Meeting is April 13, 2023, at 10:00 a.m.

Soldier Canyon Water Treatment Authority
Board Meeting
February 9, 2023

Present at the meeting:

Board Chairman, Eric Reckentine, NWCWD Manager
Board Vice Chairman, Chris Pletcher, FCLWD Manager
Board Treasurer, Mike Scheid, ELCO Manager
Board Director, Jim Borland, FCLWD Director
Board Director, Rod Rice, ELCO Director
Mark Kempton, SCWTA Manager
Brenda Griffith, SCWTA Office Administrator
Richard Raines, SCWTA Water Resources Manager
Bill Renz, Ditesco
Stephanie Elliott, Stantec

The meeting was called to order at 10:12 a.m. by Board Chairman Eric Reckentine.

Business Conducted

1. Minutes from January 12, 2023, Soldier Canyon Water Authority Board Meetings

Minutes from the January 12, 2023, meeting were presented.

Mike Scheid made a motion to approve the minutes. Chris Pletcher seconded the motion. The motion was unanimously approved.

2. Financial Update

Brenda Griffith presented and reviewed with the Authority Board monthly billing records, a review of the December 2022 O&M expenses and the financial dashboard. Rod Rice made a motion to approve the financial reports. Chris Pletcher seconded the motion. The motion was unanimously approved.

3. Managers Update

Mark Kempton updated the Board on plant flow, maintenance, staffing, and projects going on in the plant.

4. Treatment Capacity Expansion Feasibility Study – Partial update by Stantec

Stephanie Elliott with Stantec gave a partial update on the Feasibility Study. She discussed hydraulics, flash mix/floc/sed, disinfection and raw and finished water piping/storage. The second part of the study update will be at the March board meeting.

5. Discussion item – PVP Sed Basin/Screen IGA with the City of Ft. Collins

There was a discussion regarding making changes to the PVP Sed Basin/Screen IGA with the City of Ft. Collins to include the Munroe Turnout Screen and the Sed Basin.

6. Other Business

- a. Tier 3 Violation – We are disputing a violation with CDPHE that was due to a lab code error.

7. Adjournment

Chris Pletcher made a motion to adjourn the meeting. Rod Rice seconded the motion.

The motion was unanimously approved, and the meeting was adjourned at 11:11 a.m.

Respectfully submitted,

Mark Kempton – Board Secretary, Soldier Canyon Water Treatment Authority

Approved by Authority Board

Eric Reckentine - Board Chairman, Soldier Canyon Water Treatment Authority

Soldier Canyon Water Treatment Authority
Custom Transaction Detail Report

February 2023

Date	Num	Name	Memo	Amount
Feb 23				
02/09/2023	5843	A.R.C. Incorporated	Jan. A/P - Cleaning Services	-444.01
02/09/2023	5844	Airgas	Jan. A/P - Nitrogen/Breathing air	-380.78
02/09/2023	5845	American Equipment	Jan. A/P - Annual Hoist Inspections	-650.63
02/09/2023	Auto pay	American Heritage Life Ins. Co.	Jan. A/P - Voluntary Ins.	-210.65
02/09/2023	pd online	Baker Tilly US, LLP	Jan. A/P - 2022 Audit	-2,083.78
02/09/2023	5846	Capital Business Systems	Jan. A/P - Lab Copier, shop printer	-23.39
02/09/2023	5847	CEBT	Jan. A/P - Feb. Ins.	-23,860.25
02/09/2023	5848	CenturyLink2	Jan. A/P - Phones	-66.54
02/09/2023	5849	Continental Supply	Jan. A/P - shop supplies	-573.98
02/09/2023	5850	DPC Industries, Inc.	Chlorine	-17,147.20
02/09/2023	5851	Employers Council	Jan. A/P - 2023 Membership	-3,600.00
02/09/2023	5852	Employers Council Services, Inc.	Jan. A/P - Employment Posters	-51.92
02/09/2023	5853	Fort Collins Backflow Service	Jan. A/P - Backflow test/repair	-420.00
02/09/2023	5854	GE Digital LLC	Jan. A/P - iFix, Historian, iClient Annual Support	-6,852.65
02/09/2023	5855	Greystone Technology	Jan. A/P - IT Mgmt	-2,617.50
02/09/2023	5856	Harcros Chemicals Inc	Jan. A/P - Fluoride	-17,085.65
02/09/2023	pd online	Home Depot	Jan. A/P - maint. storage, supplies, pipe racks	-2,310.68
02/09/2023	5857	Jax Inc. Mercantile Company	Jan. A/P - Uniforms	-912.25
02/09/2023	5858	Kelly Supply Company	Jan. A/P - Maint. Sup.	-332.21
02/09/2023	5859	Larimer County Solid Waste Mgmt	Jan. A/P - Plant clean up	-64.75
02/09/2023	5860	Mathias - F & C	Jan. A/P - Rekey, padlocks	-1,398.00
02/09/2023	5861	McMaster-Carr	Maint. Sup.	-1,331.24
02/09/2023	5862	Nate Jordan	Reimburse for Distribution 1 & 2 exam fees	-300.00
02/09/2023	5863	National Business Furniture	Office Furniture	-6,174.80
02/09/2023	5864	ODP Business Solutions	Office Sup.	-316.89
02/09/2023	5865	ONEPOINTSINC	Jan. A/P - Phones	-220.55
02/09/2023	5866	Overhead Door Company of Ft. Collins	Jan. A/P - Repair	-219.90
02/09/2023	pd online	Phillips 66 CO/SYNCB	Jan. - Fuel	-140.99
02/09/2023	5867	Sam's Club	Jan. A/P - Misc Admin/Ops Sup.	-205.35
02/09/2023	5868	SGS North America, Inc.	Samples	-691.47

Soldier Canyon Water Treatment Authority Custom Transaction Detail Report

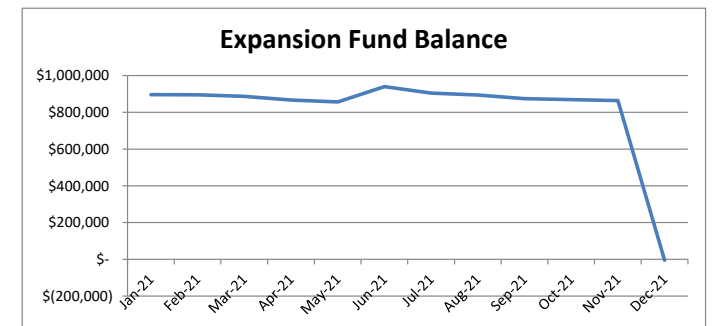
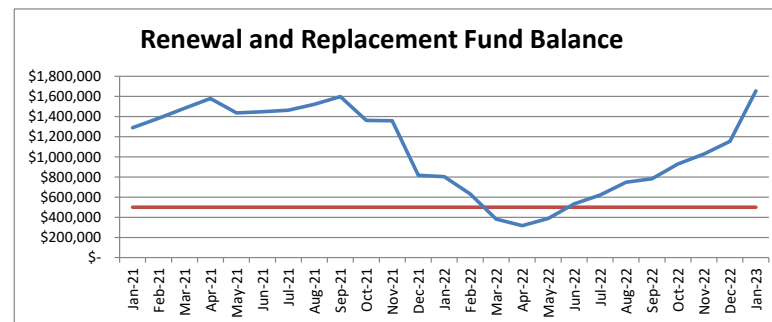
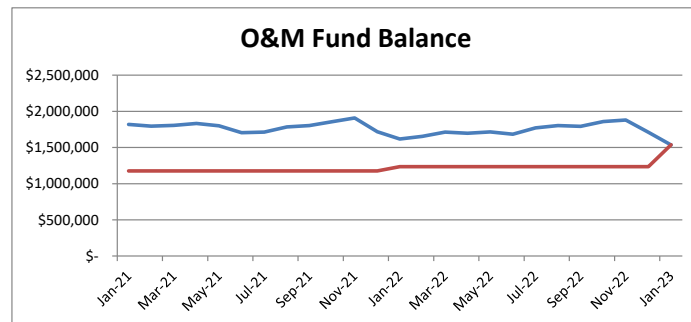
February 2023

Date	Num	Name	Memo	Amount
02/09/2023	pd online	Shell	Jan. A/P - Fuel	-241.11
02/09/2023	5869	Solenis LLC	Jan. A/P - Dewatering Chems	-24,673.37
02/09/2023	5870	Special District Association	Annual Membership	-1,462.50
02/09/2023	5871	SUEZ WTS Analytical Instruments, Inc.	Jan. A/P - TOC Analyer Support	-5,634.00
02/09/2023	5872	Ted D. Miller Associates Inc.	Jan. A/P - Lab Sup	-2,290.57
02/09/2023	5873	ULINE	Jan. A/P - Maint. Sup	-838.35
02/09/2023	5874	US Bank	Jan. A/P - Copier Lease	-538.25
02/09/2023	5875	USALCO	CC 2000	-43,446.30
02/09/2023	5876	Verizon Wireless	Jan. A/P - Cell phones	-366.79
02/09/2023	5877	VWR International, Inc.	Lab Supplies	-405.86
02/09/2023	pd online	Waste Management of No. Colo	Jan. A/P - Trash/Recycling	-669.24
02/09/2023	5878	Wiley, Austin	Jan. A/P - Reimburse for Exam fee	-150.00
02/09/2023	5879	Winlectric	Jan. A/P - Electrical Sup.	-117.83
02/09/2023	pd online	Xcel Energy	Jan. A/P - Electric	-4,921.82
02/09/2023	5881	Jackson Ditch Company	Jan. A/P - 2023 Assessments	-12,573.31
02/09/2023	5882	Lyons Gaddis Attorneys & Counselors	Jan. A/P - General	-1,365.52
02/09/2023	5883	Grainger	Maint. Sup.	-146.20
02/13/2023	5884	Employers Council Services, Inc.	Jan. A/P - new employee check	-126.75
02/13/2023	5885	First National Bank	Education, floor cleaner, off. Sup, safety	-8,349.97
02/13/2023	5886	First National Bank Omaha	Jan. A/P - Misc	-43.79
Feb 23				-199,049.54

- Plant expenses that aren't normal monthly expenses
- Chemicals
- Renewal & Replacement
- Water Resources

	Months												YTD Total	Budget	% To Budget	
	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23				
Revenue Total	968,282	-	-	-	-	-	-	-	-	-	-	-	-	968,282	8,153,954	11.87%
<i>Fixed O&M Revenue Total</i>	400,936													400,936	4,811,235	8.33%
<i>Variable O&M Revenue Total</i>	61,794													61,794	1,338,719	4.62%
<i>Renewal and Replacement Revenue Total</i>	500,999													500,999	2,004,000	25.00%
<i>Expansion Revenue Total</i>	-													-	-	#DIV/0!
<i>Misc./Interest Income</i>	4,553.00													4,553	250	18.212
Expenses Total	676,279	-	-	-	-	-	-	-	-	-	-	-	-	676,279	7,850,549	8.61%
<i>Fixed O&M Expenses</i>	556,678													556,678	4,811,235	11.57%
<i>Variable O&M Expenses</i>	119,601													119,601	1,035,314	11.55%
<i>Energy Expenses</i>	17,248													17,248	105,969	16.28%
<i>Chemical Expenses</i>	102,353													102,353	1,232,750	8.30%
<i>Renewal and Replacement Expenses</i>	-													-	2,004,000	0.00%
<i>Expansion Expenses</i>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	#DIV/0!

Reserves



Emergency Reserve Fund Balance end of Jan.
 Minimum Emergency Reserve Target
 +/- Target

1,535,187
1,537,489
(2,302)

1,654,447
500,000
1,154,447

(4,900)
-
(4,900)

Soldier Canyon Water Treatment Authority

Soldier Canyon Water Treatment Authority Board Meeting – Plant Manager’s Update

Thursday, March 9, 2023

- Engineering Consultant RFP for 20-Year Master Plan – Received 2 responses - HDR and Stantec. Selection Committee is evaluating.
- Construction Contractor - Filters 5 to 8 Rehabilitation & Standby Generator RFP – Received 3 responses. Selection Committee recommended further discussions with one Contractor.
- Staff Training :
 - Jacob, Nate, and Matt, the O&M Superintendent and the 2 Lead positions are attending the SDA Leadership Academy this year.
 - Jacob attended the Partnership for Safe Water Program quarterly meeting at the Binney Plant in Aurora. We will be working towards this program’s goals in the coming years.
- Completed the CDPHE required 5-year inspections of Tank 4 and Tank 2. Drained, inspected, and refilled both tanks. Eliminated the use of divers. Tank 4 needs new roof coating. Tank 2 looks good.
- Cybersecurity – Implemented “Phishing” email reporting procedures and installed Microsoft Defender to scan and analyze all emails for viruses, ransomware, trojans, and other malware.
- Mark K shared Manager Performance Review goals with staff so they understand what they will be working on this year. Workflow of goals from Board to Manager to Supervisors to Staff.
- Coordination with Water Resources, Northern Water, and Fort Collins to bring the PVP online April 3rd .
- Planning, and writing SOPs on how to bring the South(old) Plant online this Spring. The Plant was off for the Winter and has never been off before.
- Developing agreements related to the PVP.
- Safety – continue training on fall protection, confined space entry, and chlorine.

Tri-Districts Monthly Flows (MGD)

February 2023

HT 1st Reading	3/1/2023	15393642
HT 1st Reading	2/1/2023	15018137

Total 24-hour District Flows (MGD)

SCFP Influent Flows (MGD)

	ELC TOT	FCL TOT	NWC TOT	Dist Total Flow	SCFP Daily Peak Flow	HT Flow	PV Flow	Total Influent Flow
2/1/2023	1.826	3.874	7.513	13.213	17.420	13.776	0.000	13.776
2/2/2023	2.158	4.099	7.571	13.828	17.560	14.773	0.000	14.773
2/3/2023	2.224	4.248	7.334	13.806	19.860	13.996	0.000	13.996
2/4/2023	1.820	3.643	7.921	13.384	18.540	13.119	0.000	13.119
2/5/2023	2.198	4.064	8.064	14.326	17.630	14.969	0.000	14.969
2/6/2023	2.472	4.011	7.748	14.231	17.960	14.734	0.000	14.734
2/7/2023	1.325	3.712	8.981	14.018	17.550	14.900	0.000	14.900
2/8/2023	1.229	3.699	9.241	14.169	22.720	13.976	0.000	13.976
2/9/2023	2.667	2.971	6.947	12.585	18.010	12.319	0.000	12.319
2/10/2023	2.008	2.833	6.846	11.687	17.610	12.699	0.000	12.699
2/11/2023	2.856	3.177	6.782	12.815	17.820	13.215	0.000	13.215
2/12/2023	2.070	3.007	6.991	12.068	17.750	12.511	0.000	12.511
2/13/2023	2.079	2.685	7.175	11.939	17.270	13.023	0.000	13.023
2/14/2023	2.274	2.925	7.276	12.475	20.180	14.808	0.000	14.808
2/15/2023	2.490	2.262	6.293	11.045	18.130	14.878	0.000	14.878
2/16/2023	2.448	3.069	6.899	12.416	17.820	12.196	0.000	12.196
2/17/2023	2.024	3.425	7.017	12.466	17.530	12.510	0.000	12.510
2/18/2023	2.814	2.218	7.080	12.112	15.330	12.634	0.000	12.634
2/19/2023	2.116	2.960	7.023	12.099	17.100	13.638	0.000	13.638
2/20/2023	2.220	2.690	7.030	11.940	15.090	12.418	0.000	12.418
2/21/2023	2.416	3.279	6.830	12.525	17.650	13.488	0.000	13.488
2/22/2023	1.996	2.517	7.116	11.629	15.120	12.354	0.000	12.354
2/23/2023	2.376	3.154	7.139	12.669	15.200	13.081	0.000	13.081
2/24/2023	2.607	2.665	7.405	12.677	17.550	13.337	0.000	13.337
2/25/2023	1.956	3.164	7.334	12.454	17.110	12.941	0.000	12.941
2/26/2023	2.432	3.603	7.442	13.477	17.290	12.649	0.000	12.649
2/27/2023	2.145	2.662	7.365	12.172	17.920	13.973	0.000	13.973
2/28/2023	1.997	3.642	7.445	13.084	15.290	13.185	0.000	13.185
Minimum	1.229	2.218	6.293	11.045	15.090	12.196	0.000	12.196
Maximum	2.856	4.248	9.241	14.326	22.720	14.969	0.000	14.969
Average	2.187	3.224	7.350	12.761	17.572	13.432	0.000	13.432
Metered Usage	61.243	90.258	205.808	357.309		376.100	0.000	376.100
% Used	17.14	25.26	57.60	100.00				
MG Difference	3.221	4.747	10.824	18.791				
Total Usage	64.464	95.005	216.632	376.100				
						Influent-Effluent Difference (MG)		18.791
						Influent-Effluent Difference (%)		5.00

Soldier Canyon Water Treatment Authority - Treatment Capacity Share

District	Capacity Allocation (MGD)	Treatment Capacity Share (%)
ELCO	13.719	22.865 %
FCLWD	23.043	38.405 %
NWCWD	23.238	38.730 %
TOTAL	60.000	100.000 %

SOLDIER CANYON WATER TREATMENT AUTHORITY

To: Soldier Canyon Water Treatment Authority Board

From: Mark Kempton, P.E., CWP

Date: March 9, 2023

Re: Information Item - Summary of upcoming Pleasant Valley Pipeline agreements

There are currently four (4) Pleasant Valley Pipeline related agreements and modifications to existing agreements in process. The purpose of this Memorandum is to make the Board aware of the agreements and the proposed sequencing of their adoption. Three of the agreements will need to be adopted by the Authority (Items 2,3, & 4 below) and one will need to be adopted by each of the Districts (Item 1 below). The District-adopted agreement 1 will need to take place before the Authority can adopt Agreement 2 below. Listed below is an explanation of the agreements and listed in their proposed adoption sequence.

- 1. Soldier Canyon Water Treatment Authority Creation Agreement modifications** – This existing agreement is to be modified to include the new Horsetooth 36” pipeline, include reference the PVP Enterprise Agreement and the Authority’s part-ownership of the pipeline, and include the Authority’s part-ownership of the PVP Sed Basin and Screen. This “clean up” modification will allow the Districts to have ownership of these facilities through the Authority. It is assumed that Districts can approve in March/early April, and then Agreement 2 below can be an Authority Board Agenda Item in early April 2023.
- 2. PVP Basin IGA b/w Fort Collins and Soldier Canyon Water Treatment Authority** – This new Inter-Governmental Agreement (IGA) will finalize the ownership and future O&M and Capital project sharing costs for the PVP Sedimentation Basin and Screen. These future costs will be included in the Authority’s annual budgeting process. Authority Board Agenda Item in April 2023.
- 3. MOU b/w Soldier Canyon Water Treatment Authority and North Poudre Irrigation Company (NPIC) for the Munroe Canal lining project (75% of project costs)** – This new Memorandum of Understanding (MOU) will cover 75% of the costs for NPIC to line a section of the Munroe Canal upstream of the PVP Basin and Screen with bentonite clay. This project is designed to mitigate a 30% water loss through this section of the Canal. The City of Fort Collins is to pay the remaining 25% of the project costs. Authority Board Agenda Item in March 2023.
- 4. PVP Enterprise Agreement Minor Modifications** – This existing agreement with the City of Fort Collins and Northern Water will need minor modifications to reflect the City’s and the Authority’s new ability to operate the PVP Influent Gate using new PLCs and communication systems. Authority Board Agenda Item in April 2023.

MEMORANDUM OF UNDERSTANDING REGARDING THE LINING OF THE MUNROE CANAL

This Memorandum of Understanding (“MOU”) is entered into by and between the following parties:

- Soldier Canyon Water Treatment Authority, a political subdivision of the State of Colorado (“Soldier Canyon Authority”); and
- North Poudre Irrigation Company, a mutual ditch company (“North Poudre”).

1. **BACKGROUND.** The Munroe Canal, owned by Northern Water and operated and maintained by North Poudre, supplies raw water to the Pleasant Valley Pipeline (PVP). Northern Water is a regional water supply and management district that was created to jointly operate and maintain the federally owned Colorado-Big Thompson Project, which includes the Munroe Canal. The PVP is a pipeline owned by Northern Water’s Pleasant Valley Pipeline Water Activity Enterprise that the City of Fort Collins (Fort Collins) and the Soldier Canyon Authority use under allotment contracts, that provides untreated Cache la Poudre River water to the drinking water treatment plants for both Soldier Canyon Authority and Fort Collins. The intake for the PVP is located approximately 800 feet downstream of the Munroe Tunnel outlet, which is located approximately 1 mile west-northwest of the intersection of Highway 287 and Highway 14 in Bellvue, Larimer County, CO. In 2022, the Soldier Canyon Authority contracted with Ayres Associates to perform a water loss study on the reach of the Munroe Canal from the tunnel mouth to the intake at the PVP. The study showed water losses of up to 30% in the subject reach when the Munroe Canal was carrying mostly Soldier Canyon and Fort Collins flows along with a minimal amount of irrigation water. In order to mitigate these water losses in the subject reach of the Munroe Canal, the Soldier Canyon Authority is cooperating with North Poudre to line an 800-foot-long section of the Canal with bentonite clay. This MOU outlines the financial and operational processes by which these two entities will cooperate to complete and pay for the canal lining project.
2. **COSTS.** The project cost will be \$155,000. Project costs are based upon a construction cost estimate dated February 7, 2023, from Dirtscape Enterprises, Inc. A copy of the estimate is attached as Appendix A. Soldier Canyon Authority will pay North Poudre seventy-five percent (75%) of the project costs, not to exceed \$116,250. Soldier Canyon Authority will reimburse North Poudre within thirty (30) days of receipt of invoice(s) received for the work completed. (For informational purposes only: the City of Fort Collins will contribute the remaining twenty-five percent (25%) of the project costs, not to exceed \$38,750, under a separate agreement with North Poudre.) The parties agree to accept any necessary limitations of the scope work being held to within, but not more than \$155,000, without liability to any party. The parties shall accept the work “as is” so long as not negligently performed.
3. **CONTRACTING AND PROJECT MANAGEMENT.** North Poudre will contract directly with the selected construction contractor to perform the canal lining work. North Poudre staff will perform and be responsible for all project management, coordination, oversight, inspection, and invoicing of the work, as well as receiving any required authorizations and permits from

the owners of the Munroe Canal and adjacent landowners. North Poudre's staff time expended as part of this work will be considered an in-kind contribution to the project and will not be billed separately to the Soldier Canyon Authority. North Poudre makes no warranties as to the work performed by North Poudre and Dirtscape Enterprises, Inc. and North Poudre shall not be liable as to its performance of its services hereunder, nor as to the scope, quality and the results of the work performed pursuant to this MOU.

4. **SCHEDULE, TERM, WITHDRAWAL, AND TERMINATION.** The project will commence upon both parties approving and signing this MOU. The construction project is scheduled to be completed by April 1, 2023. Should the project be delayed, and project completion is not possible by the listed date, both parties shall reconvene to prepare a new project schedule and a new cost estimate. If the delayed project costs are greater than \$155,000, North Poudre shall be entitled to terminate this MOU, provided however, that both parties will work in good faith to amend this MOU to reflect the new construction costs and complete the project by December 31, 2024. This MOU will be in effect on the last date it is signed by the parties. This MOU shall terminate upon the earliest occurrence of any of the following: (1) final payment of all funds to North Poudre from Soldier Canyon Authority, and upon final inspection and written acceptance of the canal lining work by both parties, (2) upon mutual agreement of both parties; (3) upon North Poudre's termination of this MOU as described above; or (4) December 31, 2024. This MOU may be extended or modified only in a written amendment signed by each party. Any termination of this MOU, regardless of cause, shall fully release North Poudre and the Soldier Canyon Authority from its obligations hereunder.
5. **REMEDIES.** If a party fails to comply with the provisions of this MOU, the other party, after providing written notice to the noncomplying party, and upon the failure of the noncomplying party to achieve compliance within twenty-eight (28) days, may seek to recover all costs for which the noncomplying party is responsible and specific performance.
6. **FISCAL CONTINGENCY.** Notwithstanding any other provisions of this MOU to the contrary, the obligations of the Soldier Canyon Authority in fiscal years after the fiscal year of this MOU shall be subject to appropriation of funds sufficient and intended therefor, with the Soldier Canyon Authority having the sole discretion to determine whether the subject funds are sufficient and intended for use under this MOU.
7. **NO THIRD-PARTY BENEFICIARIES.** This MOU is intended to describe rights and responsibilities only as between the Parties. It is not intended to and shall not be deemed to confer rights to any persons or entities not named as parties herein.
8. **WAIVER.** A waiver of a breach of any of the provisions of this MOU shall not constitute a waiver of any subsequent breach of the same or another provision of this MOU.
9. **ASSIGNMENT.** No assignment of this MOU shall be made by any party without written approval by the remaining party or parties.

10. **CONSTRUCTION.** This MOU shall be construed according to its fair meaning as it was intended by the parties. Captions and headings in this MOU are for convenience and reference only and shall in no way define, limit, or prescribe the scope or intent of any provision of this MOU. The invalidity or unenforceability of any provision of the MOU shall not affect any other provision of this MOU, which shall thereafter be construed in all respects as if the invalid or unenforceable provision were omitted.
11. **ENTIRE AGREEMENT.** This MOU constitutes the entire agreement of the parties regarding the matters addressed herein.
12. **REPRESENTATIONS.** Each party represents to the other party that it has the power and authority to enter into this MOU and the individuals signing below on behalf of each party have the authority to execute this MOU on its behalf and legally bind that party.
13. **NOTICES.** All notices will be given to the following listed below. Each party may change its address or contact information for notices under this MOU upon seven (7) days written notice to the other party.

To: **Soldier Canyon Water Treatment Authority**

Attn: Mark Kempton
Manager
Soldier Canyon Water Treatment Authority
4424 Laporte Fort Collins, Co 80521
mkempton@soldiercanyon.com

To: **North Poudre Irrigation Company**

Attn: Tad Moen
Manager
North Poudre Irrigation Company
3729 Cleveland Ave
P.O. Box 100
Wellington, CO 80549
tmoen@npicwater.com

With a copy to: **City of Fort Collins**

Attn: Eric Potyondy
Fort Collins Assistant City Attorney
300 LaPorte Avenue
P.O. Box 580 Fort Collins, Colorado 80522-0580
epotyondy@fcgov.com

and a copy to **City of Fort Collins staff:**

Fort Collins Utilities
Attn: Gregg Stonecipher
Director of Plant Operations
4316 LaPorte Avenue
Fort Collins, Colorado 80521
gstonecipher@fcgov.com

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the parties have executed this MOU and agree to the terms and conditions on the date and year written below.

SOLDIER CANYON WATER TREATMENT AUTHORITY, a political subdivision of the State of Colorado

By: _____
Eric Reckentine, Chairman

Date: _____

NORTH Poudre IRRIGATION COMPANY, a Mutual Ditch Company

By: _____
Tad Moen, Manager

Date: _____

APPENDIX A – CONSTRUCTION COST ESTIMATE

Dirtscape Enterprises, Inc.

P.O Box 1491
Laporte, CO 80535

Estimate

Date	Estimate #
2/7/2023	199

Name / Address
North Poudre Irrigation Co. 3729 Cleveland Ave Wellington, Co. 80549

Description	Qty	Rate	Total
Munroe Canal Clay Lining project: Equipment mobilization and labor for removing sand silt, all willows/trees, and reshaping existing ditch banks to a 1:1-1.5:1 slope for approximately 800 ft. from tunnel entrance to concrete diversion structure. Bank slope up near the tunnel will be vertical. Ditch floor will be flat and smooth. Existing silt will be stock piled on-site. All Willows/trees will be hauled off to N.P.I.C dump site. Remove and replace existing Rip-Rap at the concrete structures. Over-excavate approximately two feet below ditch floor and one foot on ditch banks. Improve access road on the south side of canal.		35,000.00	35,000.00
De-watering budget if needed to complete ditch grading. This includes generator, 2-3 inch pumps, hoses, and labor. \$500.00/per day. This should be a minimal cost as we plan to start on the east end of the ditch and work west. The existing water is pooled at the tunnel entrance.		0.00	0.00
Purchase 400 tons of Semi-Crude Bentonite from Wyo-Ben, Inc. Pit location Thermopolis, WY,	400	65.00	26,000.00
Trucking budget for hauling 400 tons of Bentonite from Thermopolis WY to Park Creek Reservoir.	400	85.00	34,000.00
Trucking budget for hauling mixed Bentonite/native soil from Park Creek Reservoir to N. CR 29c Munroe Canal.		15,000.00	15,000.00
Mobilization and machine labor excavating and mixing approximately 1000 yards of native soil and imported Bentonite onsite for ditch lining.		20,000.00	20,000.00
Machine labor placing approximately 1000 yards of mixed Bentonite/native soil in Munroe Canal.		25,000.00	25,000.00
Thank you for the opportunity to be apart of your project. If you have any questions please call me.	Total		\$155,000.00

**SOLDIER CANYON WATER TREATMENT AUTHORITY
CREATION AGREEMENT**

between

East Larimer County Water District

and

Fort Collins-Loveland Water District

and

North Weld County Water District

DATED October 20, 2016

EFFECTIVE DATE February 1, 2017

REVISED AND RESTATED EFFECTIVE April 16, 2019

REVISED AND RESTATED EFFECTIVE ???? ???? , 2023

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SOLDIER CANYON WATER TREATMENT AUTHORITY CREATION AGREEMENT

THIS SOLDIER CANYON WATER TREATMENT AUTHORITY CREATION AGREEMENT is made and entered into this 20th day of October, 2016, by and among EAST LARIMER COUNTY WATER DISTRICT, FORT COLLINS-LOVELAND WATER DISTRICT, and NORTH WELD COUNTY WATER DISTRICT, each of which are quasi-municipal corporations and political subdivisions of the State of Colorado, operating pursuant to Article 1, Title 32, C.R.S.

RECITALS

A. The Parties are each water districts located collectively within Larimer and Weld Counties, and authorized to supply and supplying water as authorized by statute for domestic and other public and private purposes by means of reservoirs, treatment works and facilities, equipment, and appurtenances incident thereto, and as typically provided by a water district.

B. Article XIV, Section 18(2)(a) of the Constitution of the State of Colorado and Part 2, Article 1, Title 29, C.R.S., encourage and authorize intergovernmental agreements for the joint and cooperative provision of public services.

C. Section 29-1-204.2, C.R.S., authorizes the Parties to establish, by contract, a separate governmental entity, to be known as a water authority, to be used by the Parties to **affect** the development of water resources, systems, or facilities in whole or in part for the benefit of the inhabitants of the Parties or others.

D. The Parties have previously entered into numerous contractual agreements and cooperative arrangements to jointly provide for the construction, operation, maintenance, and expansion of the Treatment Facility as defined below, and the creation of a separate legal entity pursuant to Section 29-1-203, C.R.S., named the Soldier Canyon Filter Plant, to manage the Treatment Facility, such agreements including but not limited to the Intergovernmental Agreement, dated March 29, 1990, the Amended Intergovernmental Agreement, dated December 1995, the First Addendum To Amended Intergovernmental Agreement, dated April 21, 1998, and the Second Addendum To Amended Intergovernmental Agreement, dated September 20, 2005.

E. The Parties, because of their long standing, effective, and efficient cooperative arrangements to jointly provide for water treatment, and the success of the Soldier Canyon Filter Plant in managing the Treatment Facility, wish to achieve the additional public benefits associated with the creation of a water authority to succeed to the role of the Soldier Canyon Filter Plant.

F. Because of necessary revisions to the Creation Agreement Effective February 1, 2017 (“Original Creation Agreement”), the Parties have Amended and Restated the Original Creation Agreement effective April 16, 2019 and Month Day 2023.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

I. Definitions. As used in this Agreement, the following terms shall have the following meanings:

A. Act. Shall mean Article 45.1, Title 37, C.R.S.

B. Agreement. Shall mean this Soldier Canyon Water Treatment Authority Creation Agreement.

C. Amended IGA. Shall mean the Amended Intergovernmental Agreement, dated December 1995, between the Parties, as amended by the First Addendum to Amended Intergovernmental Agreement, dated April 21, 1998, and the Second Addendum to Amended Intergovernmental Agreement, dated September 20, 2005.

D. Authority. Shall mean the Soldier Canyon Water Treatment Authority created by this Agreement.

E. Authority Obligations. Shall mean revenue bonds, notes or other financial obligations issued by the Authority payable from its Net Revenues or from any other available funds of the Authority.

F. Board of Directors. Shall mean the Board of Directors of the Authority.

G. Debt Service Component. Shall mean that portion of rates and charges paid to the Authority by North Weld and ELCO for Treated Water necessary for payment of Authority Obligations. Revenues associated with the Debt Service Component are a portion of the Net Revenues of North Weld and ELCO, as such term is defined in resolutions of such parties relating to the issuance of revenue bonds. Any Debt Service Component shall not be an Operation and Maintenance Expense of North Weld or ELCO and such Debt Service Component shall be paid from the Net Revenues of North Weld and ELCO contemporaneously with their payment of Existing Party Debt.

H. Director. Shall mean a member of the Board of Directors of the Authority.

I. ELCO. Shall mean the East Larimer County Water District.

J. Existing Party Debt. Shall mean, with respect to ELCO, its Water Enterprise Revenue Bonds, Series 2009A and Water Revenue Refunding Bonds, Series 2009B, and with respect to North Weld, its Loan Agreement with the Colorado Water Resources and Power Development Authority, dated as of September 1, 2009, and its Water Enterprise Revenue Refunding Bonds, Series 2012, which obligations are existing at the time of the execution of this Agreement.

K. Fort Collins-Loveland. Shall mean the Fort Collins-Loveland Water District.

L. Governing Board. Shall mean the Board of Directors acting as the Governing Board of the Water Activity Enterprise.

M. Gross Revenues. Shall mean all fees (including, but not limited to, user fees and plant investment fees), charges, and revenues directly or indirectly derived by the Authority for the services furnished by, or use of, the Treatment Facility, or any part thereof, or from the sale or provision of Treated Water, including all income attributable to any future dispositions of property or rights related to contracts, settlements, or judgments held or obtained in connection with the System or its operations; provided however, that there shall be excluded from Gross Revenues: (i) moneys borrowed and used for providing Treatment Facility Capital Improvements; (ii) any money and securities, and investment income therefrom, in any refunding fund, escrow account, or similar account pledged to the payment of any bonds or other obligations for the purpose of defeasing the same; (iii) any moneys received as grants or appropriations from the United States, the State of Colorado, or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Treatment Facility Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the Treatment Facility, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom; and (iv) any revenue received from North Weld or ELCO which constitutes the Debt Service Component.

N. Gross Revenues Fund. Shall have the meaning given to it in Section V.D.1. of this Agreement.

O. Net Revenues. Shall mean the Gross Revenues remaining after the payment of the Operation and Maintenance Expenses.

P. North Weld. Shall mean the North Weld County Water District.

Q. Operation and Maintenance Expenses. Shall mean all reasonable and necessary current expenses of the Authority, paid or accrued, for operating maintaining, and repairing the Treatment Facility, including any Treatment Facility Improvements and any Treatment Facility Expansion, including without limitation legal and overhead expenses of the Authority directly related to the administration of the

Treatment Facility, any Treatment Facility Improvements or Treatment Facility Expansion; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance or transfers for depreciation, payments in lieu of taxes or franchise fees, legal liabilities not based on contract, expenses incurred in connection with Treatment Facility Capital Improvements, and charges for accumulation of reserves.

R. Operation and Maintenance Component. Shall mean that portion of rates and charges paid to the Authority by Parties for Treated Water necessary for payment of Operation and Maintenance Expenses. Revenues associated with the Operation and Maintenance Component are a portion of the Gross Revenues.

S. Operation and Maintenance Fund. Shall have the meaning given to it in Section V.D.2. of this Agreement.

T. Party or Parties. Shall mean ELCO, Fort Collins-Loveland, and North Weld, individually or collectively.

U. Soldier Canyon Filter Plant. Shall mean the separate legal entity established by the three (3) Parties pursuant to the provisions of C.R.S. §29-1-203 and the Amended IGA.

V. Steering Committee. Shall mean the governing body of the Soldier Canyon Filter Plant.

W. System. Shall mean the water distribution lines, improvements, facilities, and system of each Party. The System does not include the Treatment Facility, the Treatment Facility Expansion, or the Treatment Facility Improvements.

X. TABOR. Shall mean Article X Section 20 of the Colorado Constitution.

Y. Treated Water. Shall mean the potable water treated by the Treatment Facility or otherwise supplied by the Authority and intended primarily for domestic consumption.

Z. Treatment Capacity. Shall mean the total volume of water which may be treated by the Treatment Facility during a twenty-four (24) hour period of time for the benefit of all three (3) Parties during the usual and ordinary operation thereof. Treatment Capacity may vary, from time to time, based on a number of reasons including, but not limited to, changes in State or federal law, operational changes, and Treatment Facility Expansions.

AA. Treatment Capacity Share. Shall mean a Party's pro rata ownership of the Treatment Capacity based on its funding of the capital costs of the Treatment Facility, as provided in Sections VIII.B. and C.

BB. Treatment Facility. Shall mean the water filtration plant located at 4424 LaPorte Avenue, Fort Collins, Colorado 80521, together with the real property, easements, water distribution lines, master meters, improvements and other facilities, assets and property associated therewith, which are jointly owned and used by the Parties or the Soldier Canyon Filter Plant in the treatment and distribution of potable water to the respective Treated Water transmission and distribution systems of each Party, and which is being transferred to the Authority, pursuant to Section VII.A. of this Agreement. Existing assets include, but are not limited to, real property, personal property, improvements, buildings, furniture, appliances, supplies, plans, tools, vehicles, apparatus, mobile equipment, machinery, intangible personal property, cash, bank accounts, insurance policies, leases, accounts receivable, warranties, guarantees, indemnifications, licenses, permits, contracts, and agreements.

1. Raw Water Transmission Facilities. With respect to raw water transmission and intake facilities, the term “Treatment Facility” includes:

a. The 42-inch diameter raw water transmission line from the outlet at the Soldier Canyon Dam at Horsetooth Reservoir, up to the water filtration plant and including the meter thereon, such transmission line being located on real property owned by the United States Department of the Interior, Bureau of Reclamation, and licensed to the Parties by that certain “License for Installation of Raw Water Transmission Line Below Soldier Canyon Dam”, dated June 15, 1978; and

b. The 36-inch diameter raw water transmission line from Northern Water’s 54-inch pipeline from Horsetooth Reservoir, up to the water filtration plant, such transmission line being located on real property owned by the United States Department of the Interior, Bureau of Reclamation, and licensed to the Parties by that certain “Grant of a permanent easement to construct, operate, and maintain a domestic water system”, dated September 30, 2020.

c. The 42-inch diameter raw water transmission line that delivers raw water from the Pleasant Valley Pipeline from and including the valve located east of the Treatment Facility in the Pleasant Valley Pipeline right-of-way to the water filtration plant.

d. The Authority’s interest in the 67-inch Pleasant Valley Pipeline (PVP) Enterprise operated by Northern Water and contained in the agreement “Allotment Contract with the Northern Colorado Water Conservancy District acting by and through the Pleasant Valley Pipeline Water Activity Enterprise and the Soldier Canyon Filter Plant for capacity in the Pleasant Valley Pipeline” dated February 28, 2003, and amended on October 2, 2012, and on February 10, 2014.

e. The Authority’s ownership share in the PVP Sedimentation Basin and Screen identified in the agreement “Agreement between the

City of Fort Collins and the Soldier Canyon Water Treatment Authority regarding the Pleasant valley Pipeline Munroe Turnout Screen and Sedimentation Basin, dated ??? Month ???Day, 2023.

2. Treated Water Transmission Facilities. With respect to Treated Water discharge and transmission facilities, the term “Treatment Facility” includes all Treated Water transmission lines from the water filter plant to and including the first meters thereon, or the boundary of the water filter plant property, whichever comes first.

CC. Treatment Facility Expansion. Shall mean the improvement, enhancement or expansion of the Treatment Facility for the purpose of increasing the Treatment Capacity of the Treatment Facility, as determined by the Board of Directors.

DD. Treatment Facility Capital Improvements. Shall mean Treatment Facility Improvements and Treatment Facility Expansion, including the acquisition of land, easements, facilities, and equipment (other than ordinary repairs and replacements) which are incorporated into the Treatment Facility.

EE. Treatment Facility Improvements. Shall mean the improvement or enhancement of the Treatment Facility which does not increase Treatment Capacity but which is intended to improve the efficiency of the Treatment Facility and/or quality of Treated Water from the Treatment Facility, as determined by the Board of Directors.

FF. Valuation Date. Shall mean the 120th day following the day written notice is given, pursuant to Section X.C. of this Agreement, of a Party’s intent to withdraw from this Agreement.

GG. Water Activity or Water Activities. Shall have the meaning set forth in Section 37-45.1-102(3), C.R.S.

HH. Water Activity Enterprise. Shall mean the Water Activity Enterprise established by Article VI of this Agreement.

II. Water Treatment Services. Shall mean the services provided by the Authority, as set forth in Section II.C. of this Agreement.

II. Creation of the Authority. The Parties hereby create a separate legal entity known as the Soldier Canyon Water Treatment Authority.

A. Nature of the Authority. The Authority is a separate governmental entity, political subdivision and a public corporation of the state, separate from the Parties pursuant to Section 29-1-204.2(4), C.R.S. The Authority shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. Except as limited in this Agreement, the Authority shall have all the authorities of a water district, organized and operated pursuant to Article 1, Title 32, C.R.S., as restricted

herein. In carrying out its purposes, the Authority will observe and comply with statutes and laws applicable to a water district. To the fullest extent possible, the Authority shall be deemed a TABOR enterprise jointly established and owned by the Parties.

B. Principal Place of Business. The principal place of business of the Authority shall be 4424 La Porte Avenue, Fort Collins, Colorado 80521, unless otherwise established by the Authority Board of Directors.

C. Authority Purposes and Services. The purpose of the Authority is to provide Water Treatment Services consisting of providing Treated Water to the Parties to be delivered at the site of the Treatment Facility, or by exchange or other transmission agreement, including agreements with one or more of the Parties and with other suppliers and distributors of Treated Water, utilizing all powers associated with a water district operating pursuant to Article 1, Title 32, C.R.S., necessary to provide such Treated Water.

III. Powers of Authority. To enable the Authority to carry out its functions and provide the services described hereinabove, the Authority shall have the following powers:

A. Supply Treated Water. To operate, maintain, and manage the Treatment Facility and provide Treated Water from the Treatment Facility and other sources to the Parties as provided herein.

B. Treatment Facilities. To acquire, construct, expand, manage, maintain, or operate water treatment facilities, works or improvements, or any interest therein for purposes of providing Treated Water to the Parties.

C. Property. To acquire, hold, lease, sell, or otherwise dispose of any real or personal property utilized for the purposes of water treatment, except that the Authority may not sell, lease or dispose of the Treatment Facility without unanimous written consent of the Parties. The exception contained in this Section is not intended to require the written consent of the Parties prior to the sale or disposition of components of the Treatment Facility that are no longer needed to provide Treated Water to the Parties because of the improvement, expansion, or upgrade of the Treatment Facility.

D. Sue. To sue and be sued in its own name.

E. Seal. To have and use a corporate seal.

F. Adopt Bylaws, Rules and Regulations. To adopt and amend, by resolution, and enforce bylaws and rules and regulations respecting the exercise of its powers and the carrying out of its purpose.

G. Essential Powers. To exercise any other powers which are essential to the provision Treated Water by the Authority to the Parties.

H. Employees, Agents and Contractors. To do and perform any acts and things authorized by Section 29-1-204.2, C.R.S., under, through, or by means of employees, agents, or contractors.

I. Site Rehabilitation. To provide for the rehabilitation of any surfaces adversely affected by the construction of water pipelines, facilities, or systems through the rehabilitation of plant cover, soil stability, and other measures appropriate to the subsequent beneficial use of such lands.

J. Indemnification. To justly indemnify property owners or others affected for any losses or damages incurred, including reasonable attorney fees, or that may subsequently be caused by or which result from actions of the Authority.

K. Exercise Parties' Powers to Provide Treated Water. To exercise any power lawfully authorized to each of the Parties for the provision of Treated Water by the Authority to the Parties, including all powers and authorities authorized by Sections 32-1-1001 and 32-1-1006, C.R.S., except as otherwise limited by this Agreement.

L. Receive Contributions. To receive contributions, gifts, bequests or other grants of cash, equipment or services for the Authority, the Parties or other entities, individuals, or political subdivisions.

M. Cooperate. To own, operate, and maintain real and personal property and facilities in common with others, and to conduct joint, partnership, or cooperative operations with others.

N. Contracts. To enter into, make, and perform contracts of every kind, as authorized by law with other local governmental entities, the State of Colorado or any political subdivision thereof, the United States, or any political subdivision thereof, and any individual, firm, association, partnership, corporation or any other organization of any kind.

IV. Governance.

A. Board of Directors of the Authority. The governing body of the Authority shall be the Board of Directors, in which all administrative and legislative power of the Authority is vested.

1. Number. The Board of Directors shall be comprised of six (6) Directors. Each Director shall be entitled to cast one vote on any matter that comes before the Board.

2. Appointment. The governing body of each Party shall appoint two (2) Directors to the Board of Directors and one or more alternate Directors. The Party's Chief Executive Officer, whether designated by the title Manager or otherwise, shall at all times be one of the two Directors appointed by each Party. Except

for the Party's Chief Executive Officer, all Directors shall be a member of the governing body of that Party. An alternative Director appointed to serve in the absence of a Party's Chief Executive Officer may be another employee of the Party; otherwise, all alternative Directors shall be members of the governing body of the Party. Except for the Party's Chief Executive Officer, each Director and alternate Director appointed by a Party shall serve at the pleasure of the governing body of the Party by whom the Director or alternate Director is appointed, and need be a member of the governing body of the appointing Party. If the governing body of each Party fails to appoint either or both of its Directors or any alternate Directors, in order, the Chief Executive Officer, Chair, Vice-Chair, Secretary and Treasurer of the Party's governing body shall be deemed the appointed Directors and alternate Directors of that Party. Each Party shall provide to the Authority a written resolution designating the appointment of its Directors and alternates to the Authority Board of Directors.

3. Vacancies. A position of Director on the Board of Directors shall be deemed vacant upon the resignation, death, removal by the appointing governing body, or disability of any such Director. A vacancy on the Board of Directors shall be filled in the same manner as appointment of a Director, as hereinabove provided.

4. Compensation. Directors shall receive as compensation for the Director's service to the Authority, the amount set by Section 32-1-902, C.R.S., as such statute may be amended from time to time. The Board of Directors shall also provide for reimbursement to the Directors of their actual and reasonable expenses incurred on behalf of the Authority.

5. Decisions. Decisions of the Board may be made only at regular or special meetings, called upon notice as required herein, at which a quorum is present. Except as otherwise expressly provided herein or required by law, decisions of the Board of Directors shall be made by a majority of the Directors in attendance at the regular or special meeting.

B. Meetings.

1. Attendance. Directors may attend any regular or special meeting in person, by telephone, or by video conference so long as all Directors in attendance can hear and be heard by all persons in attendance at the meeting.

2. Regular Meetings. Regular meetings of the Board of Directors shall be set and revised, from time to time, by the Board of Directors, and shall be conducted not less than quarterly, at the principal place of business of the Authority, which shall be identified in any notice of such meetings.

3. Meeting Quorums. A quorum for the conduct of business at meetings of the Board of Directors shall require the presence of at least one Director from each Party, and not less than a simple majority of the Directors.

4. Special Meetings. Special meetings of the Board of Directors may be called by the Chair or any two (2) Directors, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given, as hereinafter provided. Special meetings of the Board of Directors shall be held at such time and place as shall be fixed by the Chair or Directors calling the meeting.

5. Notice of Special Meetings. Written notice of any special meeting of the Board of Directors shall be delivered to each Director not less than three (3) days before the date fixed for such meeting, either personally, by facsimile, by e-mail, or by mail, by or at the direction of the Secretary, or upon the Secretary's default, by the person calling the meeting. If mailed, such notice shall be deemed to be delivered three (3) days following deposit in the United States mail, addressed to the Director at the Director's address as it appears on the records of the Authority, with first-class postage thereon prepaid.

6. Waiver of Notice. Whenever any notice is required to be given to any Director under the provisions of law or this Agreement, a waiver thereof in writing by such Director, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a Director at any meeting of the Board of Directors shall constitute a waiver by such Director of notice of such meeting, except when such Director attends such meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly convened.

7. Annual Meeting. Not less than once each year, the Board of Directors shall call a meeting of the Board of Directors and the governing bodies of all Parties to jointly discuss current and future operation and maintenance, capital and financial planning, Treatment Capacity, Treatment Facility Capital Improvements, raw water management, Treated Water transmission, and any other matter related to the business affairs of the Authority.

C. Duties of the Board. The duties of the Board of Directors shall be:

1. Governance. To govern the business and affairs of the Authority.
2. Powers. To exercise all powers of the Authority.
3. Policy. To set policy related to planning and future direction and expansion of the Authority.
4. Funds. To invest the funds of the Authority.
5. Finances. To govern the financial transactions of the Authority, including the receipt, custody, and disbursement of its funds, securities, and other assets.

6. Records. To keep records of the Authority's proceedings.

7. Bylaws. To adopt such bylaws as appropriate for the conduct of its business not in conflict herewith.

8. Statutory Compliance. To comply with laws applicable to a water district including, but not limited to, Articles 10.5 and 47 of Title 11, C.R.S., regarding public deposit protection; Parts 1, 5, and 6 of Article 1, Title 29, C.R.S., regarding budget preparation, accounting, and auditing; Part 4 of Article 6 and Part 2 of Article 72, and Article 10, Title 24, C.R.S., regarding open meetings, open records and governmental immunity; and TABOR; and where necessary or appropriate, to engage the services of employees, agents, and contractors to provide the services necessary for such statutory compliance.

9. Authority Manager. To hire, supervise, and if determined necessary, discipline and terminate the Authority Manager, who may be designated by an alternate title, and who shall oversee and manage all business and affairs of the Authority, pursuant to the terms of this Agreement. The Authority Manager shall have such powers and responsibilities to manage the business and affairs of the Authority, as may be expressly delegated by the Board of Directors, including managing all personnel of the Authority, including all aspects of hiring, supervising, compensating, and terminating Authority employees, entering into contracts, and expending funds.

D. Officers. The officers of the Authority shall be a Chair, Vice-Chair, Secretary, Treasurer, and such other officers and assistant officers as may be authorized by the Board of Directors, from time to time, to perform such duties as may be approved by the Board of Directors. The Chair, Vice-Chair and Treasurer shall be members of the Board of Directors, but the Secretary of the Authority need not be a member of the Board.

1. Appointments and Term of Office. The members of the Board of Directors shall appoint the officers who shall serve at the pleasure of the Board of Directors. Officers shall be appointed by the Board of Directors, as set forth in the Authority's Bylaws. Vacancies or appointment of new officers may be filled at any meeting of the Board of Directors.

2. Removal. Any officer or agent appointed by the Board of Directors may be removed by the Board of Directors, with or without cause, whenever in its judgment the best interests of the Authority will be served thereby.

3. Duties of Officers. In addition to duties designated by the Board of Directors, the duties of the officers shall include the following:

a. Chair. The Chair shall be a member of the Board of Directors and preside at all meetings of the Board of Directors and, except as otherwise delegated by the Board of Directors, shall execute all legal instruments of the Authority.

b. Vice-Chair. The Vice-Chair shall be a member of the Board of Directors and, in the absence of the Chair or in the event of his or her inability or refusal to act, shall perform the duties of the Chair and, when so acting, shall have all the powers of and be subject to all restrictions upon the Chair.

c. Secretary. The Secretary need not be a member of the Board of Directors and shall maintain the official records of the Authority, including this Agreement, bylaws, rules and regulations established by the Board of Directors, minutes of the meetings of the Board of Directors, and a register of the names and addresses of the Directors, alternates and officers, and shall issue notice of meetings, attest and affix the corporate seal to all documents of the Authority. A separate recording secretary and records custodian may be appointed by the Board of Directors for taking or assisting with taking and preparing meeting minutes and keeping and maintaining the official records of the Authority.

d. Treasurer. The Treasurer shall be a member of the Board of Directors and shall keep or cause to be kept, strict and accurate accounts of all money received by and disbursed for and on behalf of the Authority. The accounting function shall be provided by Authority personnel, or an independent contractor under the supervision of the Manager and Treasurer, and shall be reviewed at least quarterly by the Board of Directors.

e. Miscellaneous. The duties and functions of the Secretary and the Treasurer may be performed by a single individual. If the person performing the duties of Secretary is not a member of the Board of Directors, such person shall receive such compensation as is deemed appropriate by the Board of Directors.

4. Bonds of Officers. The Treasurer and any other officer, employee, or agent of the Authority charged with the responsibility for the custody of any of its funds or property shall give a bond in such sum and with such surety, if any, as the Board of Directors shall determine. The Board of Directors, in its discretion, may also require any other officer, agent or employee of the Authority to give a bond in such amount and with such surety as shall be determined. The cost of such bond shall be an expense of the Authority.

E. Execution of Contracts. Except as otherwise provided by law, the Board of Directors may authorize any Director, officer, employee, or agent to enter into any contract, or execute and deliver any instrument in the name and on behalf of the Authority.

F. Indemnification. Without waiving the protections, limitations, and requirements of the Colorado Governmental Immunity Act, Article 10, Title 24, C.R.S.:

1. Defense Costs. Each Director, officer, agent, employee, and volunteer of the Authority, whether or not then in office, and his or her personal representatives shall be indemnified by the Authority against all costs and expenses actually and necessarily incurred by such person in connection with the defense of any allegation, action, suit, or proceeding arising out of an act or omission of such person during the performance of such person's duties and within the scope of such person's appointment or employment, unless:

a. Outside Scope of Duties. It is determined by a court that the act or omission in question did not arise during the performance of his or her duties and within the scope of his or her appointment or employment, or that the act or omission of such person was willful and wanton (and if it is so determined, such person will be required to reimburse the Authority for its reasonable costs and reasonable attorney fees incurred in the defense of such person); or

b. Settlement without Consent. The person in question compromises or settles the claim without the consent of the Authority.

2. Settlement with Consent. Such costs and expenses shall include amounts reasonably paid, with the consent of the Authority, in settlement for the purpose of curtailing the cost of litigation.

3. Non-Exclusive Rights. The foregoing right of indemnification shall not be exclusive of other rights to which such person may be entitled as a matter of law or by agreement.

V. Financial Powers and Obligations.

A. Negotiable Instruments. All checks, drafts or other orders for payment of money shall be issued in the name of the Authority, and in such manner as, from time to time, shall be determined by the Board of Directors, except that all notes, bonds, or other evidences of indebtedness shall be issued by resolution of the Board.

B. Fix Fees, Rates and Charges. The Authority is authorized to fix, maintain, and revise fees, rates, and charges for the provision of Treated Water to the Parties as set forth in Section VIII.E.

C. Financial Obligations.

1. Debts and Obligations. The Authority is authorized to incur debts, liabilities, or obligations payable solely from the revenues derived from the provision of Treated Water or from any other available funds of the Authority.

2. Authority to Issue Bonds. The Authority is authorized to issue Authority Obligations, subject to compliance by North Weld and ELCO with any requirements of Existing Party Debt for the issuance of additional parity obligations, as those requirements are set forth in the authorizing documents for the Existing Party Debt. The terms, conditions, and details of said Authority Obligations, which may be issued in the form of bonds, notes, and other obligations, the procedures related thereto, and the refunding thereof shall be set forth in the resolution authorizing said bonds, notes, or other obligations and, as nearly as may be practicable, shall be substantially the same as those provided in Part 4 of Article 35 of Title 31, C.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued shall not be so limited and except that said bonds, notes, and other obligations may be sold at public or private sale. Bonds, notes, or other obligations issued under this subsection shall not constitute an indebtedness of the Authority or the Parties within the meaning of any constitutional or statutory limitations or other provision. Each bond, note, or other obligation issued under this subsection shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable solely from the Net Revenues and other available funds of the Authority pledged for the payment thereof and that said bond, note, or other obligation does not constitute a debt of the Authority or the Parties within the meaning of any constitutional or statutory limitation or provision. Notwithstanding anything in this Section to the contrary, such bonds, notes, and other obligations may be issued to mature at such times not beyond forty years from their respective issue dates, shall bear interest at such rates, and shall be sold at, above, or below the principal amount thereof, all as shall be determined by the Board of Directors of the Authority.

Any Authority Obligations shall be payable from Net Revenues of the Authority. For so long as there remains outstanding any Existing Party Debt, the Authority shall distinguish within its fees and charges payable by North Weld and ELCO for Treated Water into separate components: the Operation and Maintenance Component, the Debt Service Component, and revenues to be attributed to any other funds. North Weld and ELCO shall pay its respective portions of the Operation and Maintenance Component from the gross revenues of each respective Party. North Weld and ELCO shall pay its respective Debt Service Component from Party revenue available after the payment of Operation and Maintenance Expenses of each respective Party, and on a parity with North Weld and ELCO's payment of its Existing Party Debt. So long as Existing Party Debt is outstanding, North Weld and ELCO may issue additional obligations of each respective Party on a parity with the Existing Party Debt, subject to the terms and conditions of resolutions of such Parties which have authorized such Existing Party Debt, as such resolutions have been and may be hereafter modified.

3. Contract with Holders. The resolution, trust indenture, or other security agreement, under which any bonds, notes, or other obligations are issued, shall constitute a contract with the holders thereof, and it may contain such provisions as shall be determined by the Board of Directors of the Authority to be appropriate and

necessary in connection with the issuance thereof and to provide security for the payment thereof, including, without limitation, any mortgage or other security interest in any revenues, funds, rights, or properties of the Authority. The bonds, notes, and other obligations of the Authority and the income therefrom shall be exempt from taxation by this state, except inheritance, estate, and transfer taxes.

4. Financial Obligations Not Obligations of the Parties. The bonds, notes, and other obligations of the Authority shall not be the debts, liabilities, or obligations of the Parties.

5. Party Authorization. The Authority shall enter into an intergovernmental agreement in advance with any Party who will be responsible for paying to the Authority in excess of \$1,000,000.00 that will be relied upon by the Authority to pay the following: (a) any debt, including any refunding or restructuring debts, financial liabilities, or financial obligations incurred by the Authority; (b) costs and expenses not associated with Operations and Maintenance Expenses; and (c) accumulation by the Authority of depreciation, contingency, or reserve funds that is not accumulated through reoccurring rates, fees or charges for delivery of Treated Water. The intergovernmental agreement shall set forth the Party's obligations for the payment to the Authority, the structure of the obligation being incurred by the Authority, and that the Party's payment obligation to the Authority is not a debt, liability, or obligation of the Party, unless otherwise agreed to by the Party.

D. Deposits. All funds of the Authority shall be deposited, from time to time, to the credit of the Authority, pursuant to law, in such bank or banks or other financial institutions as the Board of Directors may select. The Authority will maintain separate funds, as set forth below, into which all revenues shall be deposited. The Authority shall have the discretion to establish other funds in addition to the funds identified below, but shall at all times maintain the funds as set forth below.

1. Gross Revenues Fund. The Authority shall deposit all income and amounts received from the operation of its system into the Gross Revenues Fund.

2. Operation and Maintenance Fund. The Authority shall deposit, from time to time, into an Operation and Maintenance Fund, moneys from the Gross Revenues Fund in amounts sufficient to cover Operation and Maintenance Expenses of the Authority.

3. Debt Service Fund. After the Authority has deposited revenues from the Operation and Maintenance Component into the Operation and Maintenance Fund, it shall deposit the Debt Service Component into the Debt Service Fund.

4. Other Funds. After the Authority has deposited the Operation and Maintenance Component in the Operation and Maintenance Fund and the Debt Service Component in the Debt Service Fund, any remaining Net Revenues may be deposited in any other funds established by the Authority, from time to time.

E. Fiscal Years. The fiscal year of the Authority shall be January 1 through December 31.

F. Initial Payment. In exchange for the Authority assuming the responsibilities and obligations provided herein, each Party agrees to pay the Authority, upon February 1, 2017, an initial operating fee. The Parties' initial operating fees, together, shall be sufficient to cover the Authority's operations and maintenance costs for three (3) months, in the total amount of \$738,419. The amount of each Party's respective contribution shall be based upon its average monthly water usage over the last four (4) years. Each Party's initial operating fee shall be as follows: ELCO \$142,736 (19.33%); Fort Collins-Loveland \$300,854 (40.743%); and North Weld \$294,829 (39.927%).

VI. TABOR Enterprise.

A. Water Activity Enterprises Activities and Facilities. The Parties hereby establish the Authority as a Water Activity Enterprise, in conformance with the Act, in order to exclude the Water Activity Enterprise from the provisions of TABOR. All authorities and obligations of the Authority set forth in this Agreement shall be carried out through the Water Activity Enterprise. The Water Activity Enterprise itself shall be wholly owned by the Parties.

B. Multiple Enterprises. The Board of Directors may, from time to time, establish or restructure any Water Activity as a separate enterprise, or establish other water activity enterprises to carry out the purpose of this Agreement and the establishment of the Authority.

C. Governing Board. The Governing Board shall conduct the business of the Water Activity Enterprise in the same manner and follow the same procedures as the Board of Directors of the Authority. All public business of the Water Activity Enterprise shall be conducted only during regular or special meetings of the Board of Directors at which a quorum is present. The record of proceedings of the Governing Board may be incorporated into the minutes of the Board of Directors of the Authority. No additional oaths, bonds, or other qualifications shall be required of the Governing Board. All actions of the Board of Directors shall be considered as the actions and business of the Water Activity Enterprise undertaken by the Board of Directors acting as the Governing Board of the Water Activity Enterprise. All business of the Water Activity Enterprise and actions of the Governing Board shall be governed by and made subject to all requirements, privileges, immunities, protections, limitations, and other provisions of law.

D. Powers. The Governing Board of the Water Activity Enterprise may, without limitation, exercise the Authority's legal authority relating to Water Activities or otherwise available to any enterprise established pursuant to TABOR or to Sections 37-45.1-101, et seq., C.R.S., except as expressly provided herein. Such authority shall include all powers set forth in the Act, and those powers set forth in the Article 1, Title 32, C.R.S., which are consistent with the authorities of an enterprise under the provisions of TABOR and are necessary to operate the Water Activity Enterprise, including, but not limited to, the power to issue or reissue bonds, notes, or other obligations payable from revenues derived or to be derived from the provision of services, and to set rates, fees and charges for services provided by the Water Activity Enterprise. The powers and authorities specifically conferred by this Article VI shall not modify, limit, or restrict the powers conferred by this Agreement, except as expressly provided herein. The Water Activity Enterprise shall have no power which adversely affects the status of the Water Activity Enterprise for purposes of the application of TABOR.

E. Taxes. In no event shall the Water Activity Enterprise have the power to levy or assess any tax which is subject to TABOR or to direct the Authority or the Parties to exercise their taxing powers on behalf of the Water Activity Enterprise.

F. Grants. The Water Activity Enterprise shall not accept or receive any revenue in Grants (as defined in the Act) from the Parties, State or any local governments, unless expressly authorized by the Board of Directors of the Authority. The purpose of this provision is to prevent, without the Authority's knowledge and consent, any violation of the rules of TABOR applicable to enterprises.

G. Contracts. All contracts relating to Water Activities shall be with the Authority as the contracting party, and unless expressly delegated by the Governing Board to other persons, approved by the Governing Board and executed by the Authority officers. Any pre-existing contract relating to Water Activities shall be considered as having been approved by the Governing Board. All contracts relating to Water Activities shall be implemented and discharged by the Water Activity Enterprise, unless otherwise provided by the Board of Directors. For all purposes under the Act and TABOR, this Agreement shall, without further action, be considered as a contract for service between the Parties and the Water Activity Enterprise under which Water Activity services will be provided to the Parties by the Water Activity Enterprise, and the Parties will pay for such services in an amount not to exceed the costs of such services as determined, from time to time, by the Governing Board.

H. Revenue. All revenue for Water Activities provided by the Water Activity Enterprise, including rates, fees, tolls, charges, payments for services from the Authority, and all other income of the Water Activity Enterprise, shall be collected, used, and expended for Water Activity purposes, as determined by the Governing Board in accordance with and as set forth in the fiscal budget of the Water Activity Enterprise adopted pursuant to law. Rates for Water Activities provided by the Water Activity

Enterprise shall be established by the Governing Board, and collected and enforced in accordance with State law. No revenue or spending of the Water Activity Enterprise shall be subject to TABOR.

I. Enterprise Fund. A Water Activity Enterprise Fund shall be established to separately account for all revenue and expenditures of the Water Activity Enterprise. The Water Activity Enterprise shall prepare an annual budget and perform an annual audit which may be included in the budget or audit of the Authority. All budgets, reports, audits, and financial operations of the Water Activity Enterprise shall conform to and be prepared in accordance with generally accepted accounting principles applicable to governmental (enterprise) units and other requirements of State law.

J. Miscellaneous. Nothing set forth in this Agreement shall be construed to limit the authority of the Governing Board or the Water Activity Enterprise to utilize other policies or procedures for operating or continuing the Water Activity Enterprise in conformance with the Act and TABOR, except as otherwise expressly provided herein. It is the intent of the Parties to establish the Water Activity Enterprise in conformance with the provisions of the Act and TABOR according to the most reasonable interpretations thereof. If any term, section, or provision of this Article VI shall be determined to be invalid or in violation of the enterprise qualification provisions of TABOR or the Act, the invalidity or disqualification of such provision shall not affect any of the remaining provisions of this Article. This Agreement shall remain in effect, whether or not the Water Activity Enterprise currently qualifies as an enterprise pursuant to TABOR, until modified or repealed by the Parties.

VII. Successor to the Soldier Canyon Filter Plant. The Authority shall be the successor to the Soldier Canyon Filter Plant, and the Authority shall be entitled to all rights and privileges and shall assume all obligations and liabilities of the Soldier Canyon Filter Plant under existing contracts to which the Soldier Canyon Filter Plant is a party.

A. Transfer and Deed of Treatment Facility Property. Pursuant to the Amended IGA, each Party is the owner of an undivided one-third (1/3) interest in and to the Treatment Facility. In exchange for the mutual benefits provided by the terms of this Agreement, as of February 1, 2017, and without any additional consideration, the Parties and the Soldier Canyon Filter Plant have **HEREBY REMISED, RELEASED, SOLD AND QUITCLAIMED, AND BY THESE PRESENTS DO REMISE, RELEASE, SELL AND QUITCLAIM** unto the Authority, its successors and assigns, forever, all the right, title, interest, claim and demand which the Parties and the Soldier Canyon Filter Plant have in and to the Treatment Facility, situate, lying and being in the County of Larimer, State of Colorado, **TO HAVE AND TO HOLD** the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the Parties and the Soldier Canyon Filter Plant, either in law or equity, to the only proper use, benefit and behoof of the Authority and its successors and assigns forever. The Authority shall use the Treatment Facility for the provision of Treated Water to the Parties pursuant to

this Agreement. The Parties and Soldier Canyon Filter Plant further agree to execute any and all additional instruments or documents reasonably necessary to evidence such conveyance of their interests in the Treatment Facility to the Authority. The Parties acknowledge that the assets assigned to the Authority may be modernized, modified, replaced, or disposed of by the Authority, and that any new assets acquired by the Authority shall be titled in the name of the Authority.

B. Personnel. As of February 1, 2017, all personnel previously employed by the Soldier Canyon Filter Plant shall be terminated by the Soldier Canyon Filter Plant and shall become employed by the Authority. Such employees shall initially be employed pursuant to the Soldier Canyon Filter Plant Personnel Guidelines and Procedures, and at the same compensation rates and with the same benefits as they received as employees of the Soldier Canyon Filter Plant just prior to termination. Thereafter, all personnel decisions, including compensation and benefits, shall be made by the Authority. All such personnel shall be credited for previous time employed with the Soldier Canyon Filter Plant, such that they will be deemed to have had continuous employment for the entire period of their employment with Soldier Canyon Filter Plant and the Authority. The Authority shall provide all management, payroll, supervision and personnel and human resource related services and other services customarily provided by an employer to an employee.

C. Pension Funds. All pension funds and plans of the Soldier Canyon Filter Plant shall be transferred to the Authority, as successor to the Soldier Canyon Filter Plant, subject to the statutory requirements and the requirements, authorities, and obligations of the trust or pension agreements or other documents and agreements establishing and pertaining to such pension funds and plans.

VIII. Obligation to Serve the Parties. The Authority shall be obligated to meet the Parties' reasonable demands for Treated Water to be delivered at the location of the Treatment Facility. Except as may be allowed pursuant to Section VIII.G., following the 2019-2020 Treatment Facility Expansion completion no Party is entitled to receive Treated Water from the Authority in excess of their Treatment Capacity Share at the time of delivery.

A. Existing Treatment Facility Capacity. The Treatment Facility is currently capable of treating and delivering approximately 45 million gallons per day of Treated Water, and such amount is the current Treatment Capacity. In each calendar year, Treatment Capacity will be allocated to the Parties proportionately based upon their Treatment Capacity Share. The Treatment Capacity shall be decreased based on reductions in the ability of the Treatment Facility to deliver Treated Water or reductions resulting from State or federal law. Treatment Capacity shall be increased by the ability of the Treatment Facility to deliver additional Treated Water, including increases resulting from operational modifications and Treatment Facility Expansions.

B. Treatment Capacity Share. Notwithstanding the equal one-third (1/3) ownership of the Treatment Facility under the Amended IGA, or the transfer of the Treatment Facility to the Authority pursuant to Section VII.A. of this Agreement, based on previous capital funding of the Treatment Facility by the Parties, each Party's Treatment Capacity Share as of the date of this Agreement is as follows:

<u>Party</u>	<u>MGD</u>	<u>Treatment Capacity Share</u>
ELCO	12.719	28.264%
Fort Collins – Loveland	16.043	35.651%
<u>North Weld</u>	<u>16.238</u>	<u>36.084%</u>
TOTAL	45.000	99.999%

C. Expansion, Improvement, or Additional Treated Water Supply. The Authority will be obligated to expand or improve the Treatment Facility, or obtain additional Treated Water through contract with other Treated Water suppliers when reasonably necessary, to: (i) comply with applicable local, State and federal laws regarding water quality; and (ii) as necessary to maintain appropriate levels of Treated Water service to the customers of each Party, taking into account the requirements of all Parties. Circumstances that shall be deemed to create the necessity to expand or improve the Treatment Facility, or obtain additional Treated Water supplies to maintain appropriate levels of water service, include, but are not limited to, the Treatment Facility operating at eighty percent (80%) of maximum Treatment Capacity for ten (10) days during any forty-five (45) day period. The Board may by a simple majority approve Treatment Facility Improvements in an individual amount of not more than \$1,000,000.00. Any Treatment Plant Improvements in excess of \$1,000,000.00 must be approved by the Directors of all Parties to whom the costs of the Treatment Facility Improvements will be assessed. If the Authority is fined or penalized because of the failure of one or more Directors to approve Treatment Plant Improvements necessary to comply with applicable local, State and federal laws regarding water quality, the Party or Parties whose Director or Directors failed to approve the Treatment Plant Improvements shall be assessed the costs of such fines or penalties based on their Treatment Capacity Share compared to the cumulative Treatment Capacity Shares of all Parties whose Directors failed to approve the Treatment Plant Improvements.

D. Modification of Treatment Capacity Share. Unless otherwise approved by the Directors representing the Parties to be assessed the costs of Treatment Facility Improvements, each Party's share of the costs of Treatment Facility Improvements shall be based on its Treatment Capacity Share at the time the Treatment Facility Improvements are made. Any Party may choose to fund its share of the costs of Treatment Facility Improvements through a cash payment at the time the Treatment

Facility Improvements are made as an alternative to service fees or charges imposed by the Authority to repay Authority Obligations, in which case such Party shall not be subject to such fees or charges. Treatment Facility Expansions shall be funded based on each Party's allocation of the Treatment Facility Expansion, as approved by the Board of Directors, and will result in associated modifications of their respective Treatment Capacity Share. The 2019-2020 Treatment Facility Expansion completion will result in the following adjustments:

<u>Party</u>	<u>Expansion Allocation</u>	<u>Expansion Share</u>	<u>Total Capacity Allocation</u>	<u>Treatment Capacity Share</u>
ELCO	1 mgd	6.67%	13.719 mgd	22.865%
Fort Collins – Loveland	7 mgd	46.67%	23.043 mgd	38.405%
<u>North Weld</u>	<u>7 mgd</u>	<u>46.67%</u>	<u>23.238 mgd</u>	<u>38.730%</u>
TOTAL	15 mgd	100.01%	60.000 mgd	100%

E. Establishment of Rates, Fees, and Charges. The Board of Directors shall establish rates, fees, and charges for delivery of Treated Water to the Parties, so as to provide for all of the costs associated with owning, operating, maintaining and improving the Treatment Facility and providing reasonable contingency and reserve funds. Any charge for Treatment Facility Expansions or Treatment Facility Improvements, including, but not limited to, any Debt Service Component within the fees and charges for Treated Water, will be imposed only on, and in proportion to the benefit received by, the Party or Parties benefitting from the associated cost.

F. Delivery at the Treatment Facility. The Authority's obligation is to deliver Treated Water to the Parties at the location of the Treatment Facility. It will be the responsibility of each Party to provide transmission and distribution of Treated Water supplied by the Authority to such Party's customers. The Authority shall have no obligation to develop transmission or distribution systems to supply water to the Parties, nor to supply Treated Water to points other than at the Treatment Facility.

G. Treated Water Only to the Parties. The Authority shall sell and provide Treated Water only to the Parties. The Authority shall not enter into any agreements or arrangements to provide Treated Water to any person or entity other than a Party without the written consent of the Parties. Unless agreed to by written consent of all the Parties, any person or entity wishing to receive Treated Water from the Authority must enter into an appropriate service agreement or similar arrangement with one of the Parties, and the Authority shall have no direct relationship or obligation to such person or entity. Any Party may lease to any other Party all or a portion of their Treatment Capacity

Share that is in excess of its current needs. Such lease shall be a contractual arrangement between the lessor and lessee Parties only, and the Authority will have no direct responsibility to the lessee Party.

H. Large Customers. The Parties acknowledge that additional or expansion of a single customer or service area that, within a period of twelve (12) months, increases the demand for Treated Water in excess of five hundred thousand gallons (500,000) per day, may substantially impact the Treatment Facility and the ability of the Authority to provide Treated Water to Parties. Any Party wishing to increase Treated Water service to a single existing or new customer or service area in such amount within such time period shall, to the extent reasonably possible, first provide not less than one hundred eighty (180) days written notice to the Authority. The Authority shall only be obligated to provide such service to the Party to the extent it has such service capacity, however, if such Treated Water demand should create an obligation for the Authority to serve pursuant to Article VIII. of this Agreement, the Authority shall proceed to improve or expand the Treatment Facility or obtain additional Treated Water from another supplier to meet such demand.

I. Raw Water Management and Coordination. The obligations to manage raw water supplies remain with the Parties. The Authority will coordinate with each Party, or its designee, to maximize the efficiencies of raw water deliveries from Horsetooth Reservoir, the Pleasant Valley Pipeline, and future sources to the Treatment Facility. The Parties' current designee for coordinating raw water supplies is the Parties' joint water resource staff.

J. Limitation on Treated Water Supplies. The Authority's obligation to provide Treated Water to any Party is dependent upon that Party having sufficient Treatment Capacity Share and providing adequate raw water for treatment by the Authority at the Treatment Facility. In the event the amount of Treated Water available from the Treatment Facility is limited due to inadequate amounts of raw water inventory, each Party shall be entitled to receive only that percentage of Treated Water, based upon their respective percentages of inventories, of raw water supplied to or for the benefit of the Treatment Facility. Any Party receiving inadequate volumes of Treated Water from the Treatment Facility due to inadequate raw water inventory of such Party shall secure such additional raw water inventory prior to receiving additional Treated Water. It is expressly agreed that such Party may not utilize the raw water inventory of any of the other Parties without the prior written consent of such other Parties. Upon expansion of the Treatment Capacity to 60 mgd as contemplated in Section VIII. D. of this Agreement, if in any calendar year within any seven (7) day period a Party exceeds its Treatment Capacity Share on a daily basis for three (3) or more days, it shall pay an annual fee of \$14,750 multiplied by the average usage above its Treatment Capacity Share for the three (3) highest usage days within such seven (7) day period. If a Party has multiple seven (7) day periods within a calendar year where it exceeds its Treatment Capacity Share for three (3) or more days, the annual fee shall be based on the seven (7) day period having

the highest average usage for the three (3) highest usage days. Such payment shall be paid pro rata to the other Party or Parties with available Treatment Capacity Share, based on their pro rata unused Treatment Capacity Share on such day. Such payment shall be increased annually by the rate of inflation determined by the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder-Greeley, all urban consumers, or its successor index.

K. Water System Practices. No Party shall voluntarily operate its System in such a manner as shall adversely impact the Treatment Facility, including, but not limited to, activities which shall: (i) unreasonably increase the cost of Treated Water; (ii) unnecessarily interfere with the operation of the Treatment Facility; and (iii) adversely impact the Treatment Capacity of the Treatment Facility. Each Party hereby covenants and agrees with the others to operate its System in such a manner as shall maximize and optimize the efficiency of the Treatment Facility and its Treatment Capacity. In the event that water Treatment Capacity of the Treatment Facility is limited or interrupted due to unexpectedly high usage of Treated Water or drought conditions or in the event that Treatment Capacity is limited or interrupted due to unforeseen and unexpected situations, including pressure failures, water line breaks, power failures, temporary repairs, facility breakdowns, health reasons, safety reasons, floods, fires, earthquakes, natural catastrophes, acts of God or other emergencies, unless otherwise agreed to, each Party shall only utilize its pro rata share of the then existing total Treatment Capacity.

L. Water Quality. The Authority shall ensure that all Treated Water delivered to the Parties meets all applicable local, State, and federal laws regarding water quality. The Board of Directors may determine to provide Treated Water of higher quality than required by law. If any Party wishes to receive Treated Water of higher quality than determined by the Board of Directors, the Authority shall provide water of such higher quality, so long as such Party pays any direct and indirect costs associated with meeting such higher quality standard, as determined by the Board of Directors.

M. Agreements for Supply and Transmission. Notwithstanding the foregoing, to meet its obligations to provide Treated Water to the Parties and, when deemed appropriate by the Board of Directors, to assist with the delivery of Treated Water to the Parties, the Authority may enter into agreements with other suppliers and distributors of the Treated Water including, but not limited to, any of the Parties and the City of Fort Collins. To facilitate delivery of Treated Water to the Parties, the Authority may enter into exchange, transmission, or supply agreements. The Authority shall also honor any existing or future exchange, transmission, or supply agreements entered into by any of the Parties with other suppliers and distributors of Treated Water, so long as the role of the Authority is limited to providing Treated Water for the benefit of a Party at the location of the Treatment Facility.

N. Resolution of Dispute Regarding Obligation to Serve.

1. Negotiation. If any Party believes that the Authority is not meeting its obligation to serve Treated Water to that Party, such Party shall have the right to request a meeting with the Authority regarding whether such obligation is not being met and if not, methods of meeting it. Such Party shall give written notice to the Authority, requesting a meeting within thirty (30) days thereafter to discuss the matter. Such Party and the Authority shall meet within said thirty (30) day period and negotiate in good faith relative to the obligation of the Authority to serve such Party.

2. Mediation. If the Authority and the Party are not able to reach an agreement regarding the Authority's obligation to serve that Party or Treatment Plant Improvements necessary to comply with applicable local, State and federal laws regarding water quality, such Party may submit the matter to mediation between the Authority and such Party. Unless otherwise agreed to by the Authority and the Party, the American Arbitration Association shall appoint one (1) or more mediators, and its rules and procedures shall apply to the mediation. In the event such mediation results in a settlement, the result shall be reduced to writing and approved by the Authority and the Party.

3. Binding Arbitration. In the event the Authority and the Party are unable to arrive at an agreement regarding the Authority's obligation to serve the Party within forty-five (45) days after the appointment of a mediator, then the Party shall have the right to require that the matter be submitted to binding arbitration. The Authority and the Party shall have thirty (30) days after receipt of written demand for binding arbitration within which to select the arbitrators. In the event the parties are unable to mutually agree upon the arbitrators and the rules and procedures, then the Authority and the Party shall each appoint a disinterested and impartial arbitrator and give written notice thereof to the other. The two (2) arbitrators so selected shall name a third arbitrator within fifteen (15) days thereafter. In the event the two (2) arbitrators are not able to agree upon a third arbitrator, then such third arbitrator shall be appointed by the presiding judge of the Eighth Judicial District. All arbitrators shall serve as neutral, independent, and impartial arbitrators. Except as otherwise provided herein or agreed to by the Authority and the Party, arbitration shall be in accordance with the Colorado Uniform Arbitration Act of 1975, §13-22-201, et seq., C.R.S. Unless otherwise agreed to, any arbitration hearing shall be held as soon as reasonably possible in the City of Fort Collins, Colorado, at such time as shall be established by the arbitrators, upon giving reasonable notice thereof to the Parties concerned. The Authority and the Party shall each bear its own arbitration costs, attorneys' fees and expenses. The costs of arbitrators shall also be shared equally. The decision of the arbitrators shall be made within fifteen (15) days after the conclusion of the hearing, and shall be binding on the Parties to the arbitration.

IX. Prior Agreements. The Parties have previously entered into certain agreements, supplemental agreements, and documents relating to the use, ownership, construction, operation, maintenance, and expansion of the Treatment Facility.

A. Terminated Agreements. The Parties entered into an Intergovernmental Agreement, dated March 29, 1990, which terminated and cancelled a number of such documents previously entered into between the Parties.

B. Agreements Assigned to the Authority. Agreements, supplemental agreements, deeds, easements, and other documents that were entered into by one or more of the Parties with other entities have not been terminated, and shall continue for the benefit of the Authority. All rights, duties and obligations of the Parties or the Soldier Canyon Filter Plant with respect to these documents are hereby deeded, conveyed, or assigned to the Authority, unless expressly or impliedly prohibited by the terms of such documents. The Parties and the Soldier Canyon Filter Plant shall take such additional action and execute such additional documents as may be reasonably necessary to deed, convey, or assign all such interests under such documents to the Authority. Such agreements, supplemental agreements, deeds, easements, and other documents include, but are not limited to, the following:

1. Supplemental Agreement, dated February 15, 1962, entered into by and between the Colorado State Board of Agriculture and Fort Collins-Loveland

2. Memorandum of Agreement, dated April 26, 1962, entered into by and between the Colorado State Board of Agriculture and Fort Collins-Loveland;

3. Memorandum of Agreement, dated February 15, 1963, entered into by and between the Colorado State Board of Agriculture and Fort Collins-Loveland;

4. Bargain and Sale Deed, dated June 29, 1965, and recorded on June 30, 1965, in Book 1295 at Page 48 of the Larimer County, Colorado records;

5. Contract and Grant of Easement for Settling and Drawing Ponds near Horsetooth Reservoir, dated March 14, 1974, entered into by and between The United States of America, Fort Collins-Loveland, ELCO and North Weld;

6. Amendment to Operating Agreement of May 11, 1962, between the Northern Colorado Water Conservancy District and Fort Collins-Loveland;

7. Special Warranty Deed from Fort Collins-Loveland to Fort Collins-Loveland, ELCO and North Weld, dated January 16, 1985, and recorded March 26, 1985, at Reception No. 85013980 of the Larimer County, Colorado records; and

8. Assignment of Easement from Fort Collins-Loveland to Fort Collins-Loveland, ELCO and North Weld, dated January 16, 1985, and recorded March 26, 1985, at Reception No. 85013981 of the Larimer County, Colorado records.

X. Term, Termination and Withdrawal.

A. Term. This Agreement shall become effective February 1, 2017, following execution by all three (3) Parties. The term of this Agreement shall be unlimited, and shall extend until terminated as provided herein.

B. Termination. This Agreement may be terminated only by the unanimous consent of all Parties to the Agreement at the time of termination, except that if there are only two (2) member of the Authority, notice of withdrawal provided by either Party, pursuant to the following subsection, shall effect a termination as of the end of the fiscal year.

C. Withdrawal of Parties. A Party may withdraw from this Agreement as of the end of any fiscal year by written notice authorized by the governing body of such Party, provided to the Board of Directors and each Party no later than one hundred eighty (180) days prior to the end of the fiscal year. A withdrawing Party shall remain liable for any and all financial obligations incurred by such Party until the effective date of the withdrawal. Withdrawal by any Party shall not cause termination of this Agreement, so long as there remains at least two (2) Parties that have not withdrawn. Dissolution of a Party shall be treated as a withdrawal.

D. Distribution upon Termination or Withdrawal. Upon termination or withdrawal, unless otherwise agreed to by all Parties, each terminating or withdrawing Party shall be paid for their interest in the Authority based on its Treatment Capacity Share as follows:

1. Termination. Upon termination of this Agreement, all assets and property of the Authority shall be liquidated and distributed to the terminating Parties based on their Treatment Capacity Share. Disposal of the assets and property of the Authority shall be in consideration of fair market value, as determined by appraisal by a qualified appraiser selected by the Authority. If there are only two (2) members of the Authority and termination is brought about by notice of withdrawal provided by either Party, in case of dispute regarding selection of an appraiser, the appraiser shall be selected as set forth in the following paragraph, except that each of the two (2) remaining Parties shall select one (1) appraiser instead of the Authority selecting an appraiser.

2. Withdrawal. Upon a Party withdrawing from the Authority, the withdrawing Party's interest in the Authority will be determined and distributed to it as follows:

a. Distribution by Agreement. The Withdrawing Party and the Authority may agree for the Authority to reimburse the Withdrawing Party for its interest in the Authority upon such terms and conditions as they shall mutually agree.

b. Distribution by Appraisal. If the Authority and the withdrawing Party are unable to agree on reimbursement for the withdrawing Party's interest in the Authority, the withdrawing Party shall be paid its Treatment Capacity

Share of the fair market value of the Treatment Facility, less the same percentage of the amount of any unpaid financial obligation of the Authority associated with the Treatment facility times seventy-five percent (75%). The fair market value of the Treatment Facility shall be determined by a qualified appraiser selected by mutual agreement of the withdrawing Party and the Authority. The Treatment Facility shall be valued as of the Valuation Date. In the event the Parties are unable to mutually designate an acceptable appraiser, the withdrawing Party and the Authority shall each select one (1) MAI appraiser and the two (2) appraisers so selected shall determine the fair market value of the Treatment Facility. In the event that such appraisers are unable to mutually agree within one hundred twenty (120) days after their appointment upon the fair market value of the Treatment Facility, then the two (2) appraisers so selected shall agree upon a disinterested third MAI appraiser, and a decision of the majority of the three (3) appraisers shall be final. All fees and expenses of all appraisers and any experts, and expenses incurred for other information necessary for their analyses in determining the fair market value of the Treatment Facility, shall be borne fifty percent (50%) by the withdrawing Party and fifty percent (50%) by the Authority. Unless otherwise agreed to by the non-withdrawing Parties, reimbursement for the withdrawing Party's interest in the Treatment Facility shall be payable by the Authority from existing funds and revenues or revenue financing which, together with an increase in rates, fees, or charges for Treated Water delivered by the Authority in an amount and for a period of time of not more than twenty percent (20%) and ten (10) years, are sufficient to pay all projected expenses of the Authority, including anticipated capital improvement expenses and such reimbursement, as determined in the reasonable discretion of the Authority. The Authority shall establish and collect such rates, fees, and charges for Treated Water, up to such amount, for no more than such period, and the Withdrawing Party's right to reimbursement for its interest in the Treatment Facility shall be further limited to such revenues and such time period.

c. Distribution When Financial Obligation Outstanding. Notwithstanding the previous subparagraphs a. and b. of this paragraph 2, the Authority shall have no obligation to reimburse a withdrawing Party for its interest in the Authority if the Party seeks to withdraw when the Authority has outstanding any multiple fiscal year financial obligation, multi-year financing, or lease purchase which may be extended for more than one year.

E. Subject to Annual Appropriations. Any obligation to make payments upon withdrawal or termination which arises, in any year in which the Authority does not qualify as a TABOR enterprise, is subject to annual appropriations by the Authority.

F. No Termination if Outstanding Financial Obligations. This Agreement may not be rescinded or terminated so long as the Authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations.

G. Consolidation with a Non-Party. Consolidation by a Party with a non-party to form a single legal entity, unless agreed to by the non-consolidating Parties in their sole discretion, shall be deemed a withdrawal by the consolidating Party from this Agreement. Such withdrawal shall occur as of January 1 following any formal action to effect such consolidation or the date of such consolidation, whichever occurs first.

XI. Miscellaneous.

A. Additional Parties. Additional governmental or quasi-governmental entities authorized to provide Treated Water may be added to this Agreement as a party with unanimous written consent formally approved by the governing body of each Party. An entity added as a party shall be subject to such terms and conditions as the Board of Directors, in its sole discretion, may determine. A new party may be assessed a capital investment fee to cover its pro rata share of the costs of those capital assets previously purchased by the Authority or provided by the Parties for joint use by all Parties.

B. Notices. Any formal notice, demand, or request provided for in this Agreement shall be in writing and shall be deemed properly served, given, or made if delivered in person, by facsimile, or sent by registered or certified mail, postage prepaid, to the Parties at the addresses, as set forth on each signature page attached hereto, unless another address is certified to the Authority.

C. No Third-Party Beneficiaries. Nothing in this Agreement shall be deemed to create any third-party benefits or beneficiaries, or create a right or cause of action for the enforcement of its terms, in any entity or person not a party to this Agreement, including any employees, volunteers, officers, or agents of the Parties.

D. Existing Agreements. This Agreement shall not terminate any existing agreement between any Parties and any non-party, except as expressly noted in this Agreement.

E. Severability. In the event that any of the terms, covenants, or conditions of this Agreement, or their application, shall be held invalid as to any person, corporation, or circumstance by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and such determination shall not affect or impair the validity or enforceability of any other provision, and the remaining provisions shall be interpreted and applied so far as possible to reflect the original intent and purpose of this Agreement.

F. Amendments. This Agreement may be amended only by written document approved by formal authority of the governing bodies of all of the Parties; provided, however, that such amendment will not affect other obligations outstanding of the Authority unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to such obligations.

G. Duplicate Originals. This Agreement shall be executed in several counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

H. Termination of Amended IGA. This Agreement amends, supersedes, and replaces in its entirety the Amended IGA, however, the Steering Committee shall continue to exist for purposes of winding up the affairs of the Soldier Canyon Filter Plant and transferring its assets and its real and personal property to the Authority, until terminated by Resolution of the Board of Directors, or July 1, 2017, whichever occurs first.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as follows:

Executed this ___ day of _____, 2019, by the East Larimer County Water District.

East Larimer County Water District

By: _____
Loren R. Maxey, President/Chairman

Attest:

Mike Scheid, Secretary

Executed this ___ day of _____, 2019, by the Fort Collins-Loveland Water District.

Fort Collins-Loveland Water District

By: _____
James Borland, President/Chairman

Attest:

Chris Matkins, Secretary

Executed this ___ day of _____, 2019, by the North Weld County Water District.

North Weld County Water District

By: _____
Gene Stille, President/Chairman

Attest:

Scott Crockroft, Secretary

SOLDIER CANYON WATER TREATMENT AUTHORITY

February 21, 2023

Mr. Brian Hood
Senior Real Estate Specialist
CSU Strata
2537 Research Blvd, Suite 200
Fort Collins, CO 80526

Re: Potential purchase of CSU owned/CPW leased land north of the Soldier Canyon Filter Plant –
Request for a decision.

Dear Brian,

The Soldier Canyon Water Treatment Authority (Soldier Canyon), via the Soldier Canyon Filter Plant, currently provides drinking water for over 100,000 people throughout Northern Colorado. As the Northern Colorado area continues to grow in population over the coming years, the Filter Plant is anticipated to grow significantly in size to meet the water demands of this increased population. In order to accommodate this future growth in population and plant capacity, Soldier Canyon will likely require additional land to accommodate new water treatment buildings, ponds, and water storage tanks. As we have previously discussed, the only viable location for the Plant to expand is to the north into the land that is currently owned by Colorado State University (CSU) and leased by the Colorado Parks and Wildlife (CPW). Soldier Canyon would like to purchase some or all of this land from CSU to accommodate the long-term growth of the water treatment plant.

To assist in our current master planning process, Soldier Canyon is requesting a decision, or at a minimum, feedback from CSU on the Authority's request to purchase a portion or all of the subject land. Soldier Canyon is also open to purchasing the land prior to 2032 and assuming ownership of the CPW lease until such time as plant expansion is required. The reference properties are at 4451 and 4330 LaPorte Avenue, Fort Collins, CO 80521 with Larimer County parcel numbers [9707000911](#) and [9706000905](#).

If you have any questions about this request, please feel free to contact me at (970) 482-3143.

Sincerely,



Mark Kempton, P.E., CWP
Manager, Soldier Canyon Water Treatment Authority