



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-1721

Telephone: (719) 597-5080 Fax: (719) 597-5145

January 12, 2022

Jeff Smith
Flying Horse North

Re: Cherokee Metro District – Water and Wastewater Service to Flying Horse North

Dear Mr. Smith:

As you know, Cherokee Metropolitan District (“Cherokee”) has participated in several meetings with representatives from the proposed development known as Flying Horse North (“FHN”) to discuss the terms and conditions upon which Cherokee would be willing to provide water and wastewater service to FHN. As we have discussed, Cherokee does not currently have the capacity to serve the full build-out demand for FHN with renewable water sources (i.e. sources that are not derived from ground water rights to the Denver Basin Aquifers), and therefore any commitment to serve FHN must be contingent upon the development of additional water resources and infrastructure capacity, as described below. Additionally, at the time of this letter the FHN development is not located within the boundaries of Cherokee Metropolitan District, and therefore Cherokee and FHN must determine whether FHN will be included into Cherokee’s District boundary, or alternatively whether the water and wastewater service will be provided by extraterritorial intergovernmental agreement.

The purpose of this letter of intent (“LOI”) is to outline the general terms upon which Cherokee would be willing to provide water and wastewater service to FHN:

1. FHN will petition Cherokee to include the FHN development area within the Cherokee Metropolitan District service area. Such petition will be given reasonable consideration by Cherokee in accordance with applicable law. Alternatively, Cherokee and FHN may agree that Cherokee will provide water and wastewater service to FHN as a bulk extraterritorial customer through an intergovernmental agreement.
2. FHN will plan, design, and construct, subject to Cherokee’s approval, the potable water distribution system within the FHN development.
3. FHN will fund the planning, design, and construction of the water infrastructure necessary for Cherokee to produce and deliver the raw water supplies that will meet the projected build-out demands at FHN, and to deliver potable water to FHN, including water quality treatment to the appropriate potable drinking water standards.
4. FHN will pay a water development charge for the cost of the water rights that will be used to provide the subject water supply to FHN.
5. FHN will plan, design, and construct, subject to Cherokee’s approval, the wastewater infrastructure necessary to connect to Cherokee’s wastewater system and to meet the projected build-out wastewater demand at FHN.

6. To the extent an expansion of wastewater treatment capacity at Cherokee's Water Reclamation Facility is necessary to provide wastewater service to FHN, FHN will fund FHN's proportionate costs associated with planning, design, and construction of an expansion of the wastewater treatment capacity at Cherokee's Water Reclamation Facility, as well as any necessary upsizing of any wastewater collection and/or delivery infrastructure.
7. Cherokee will not provide water service for golf course irrigation purposes.
8. The water rights used to provide water service to FHN must be approved for use in Cherokee's pending replacement plan case (Case No. 08GW71).
9. Cherokee shall retain all right, title and interest in and to all water provided for use at FHN, including the right of use and reuse to extinction and the right to reclaim, recapture, or otherwise dispose of all return flows, whether such return flows occur from outdoor uses or as wastewater, for augmentation and all other lawful purposes.
10. FHN will fund the cost of developing the infrastructure necessary to allow FHN to receive delivery of the water that is made available from the approved replacement plan.

This LOI is non-binding on both parties. Accordingly, this LOI does not constitute a binding obligation on the part of either party to enter into any binding contract, or any subsequent agreements whatsoever; and does not constitute a binding obligation on the part of either party to consummate any agreement. This LOI is not to be construed as an offer of services. Neither party shall be under any legal obligation with respect to the proposed services unless and until a contract has been mutually executed and delivered by the parties.

This LOI may be executed in counterparts. Scanned, photocopied, and DocuSign signatures delivered by e-mail will be treated as original signatures for all purposes hereunder.

Please indicate that you agree with these terms by signing below and returning a copy of this LOI at your earliest convenience. Cherokee requests signature or comments on or before 5:00 p.m. on Jan, 17, 2022. This proposed LOI shall have no force or affect unless signed by both parties.

Sincerely,



Amy Lathen, General Manager
Cherokee Metropolitan District
6250 Palmer Park Boulevard
Colorado Springs, Colorado 80915

I acknowledge and agree with the terms set forth above:

By: _____

Jeff Smith
Flying Horse North