

**AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT FOR THE ESTABLISHMENT
OF THE FALCON AREA WATER AND WASTEWATER AUTHORITY**

**(FORMERLY KNOWN AS THE
FALCON AREA WATER AUTHORITY)**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE ESTABLISHMENT OF THE FALCON AREA WATER AND WASTEWATER AUTHORITY (the “**Agreement**”) is made and entered into on December 17, 2021, by and among **STERLING RANCH METROPOLITAN DISTRICT NO. 1, STERLING RANCH METROPOLITAN DISTRICT NO. 2, STERLING RANCH METROPOLITAN DISTRICT NO. 3, THE RETREAT METROPOLITAN DISTRICT NO. 1,** and **THE RETREAT METROPOLITAN DISTRICT NO. 2,** all quasi-municipal corporations and political subdivisions of the State of Colorado located within El Paso County (collectively, the “**Members**”).

RECITALS

WHEREAS, the Members are parties to that certain Intergovernmental Agreement for the Establishment of The Falcon Area Water Authority, entered into on August 21, 2017 (the “**Establishment Agreement**”), which formed the Falcon Area Water Authority (the “**Authority**”) under C.R.S. § 29-1-204.2; and

WHEREAS, the Members of the Authority previously entered into a first amendment to the Establishment Agreement to clarify certain terms of the Establishment Agreement (“**First Amendment**”); and

WHEREAS, the Members desire that the Authority provide wastewater improvements and services in addition to the water improvements and services that the Authority currently is authorized to provide, and therefore desire to change the name of the Authority to the Falcon Area Water and Wastewater Authority; and

WHEREAS, the Members also wish to make other changes to the structure and undertakings of the Authority as further set forth herein; and

WHEREAS, the Members have determined that this Agreement shall supersede and replace in its entirety the Establishment Agreement and First Amendment; and

WHEREAS, the Members, individually and collectively, hereby find and declare that water and wastewater services are of primary importance to public health, safety, and welfare, and for the economic health and vitality of the areas the Members serve; and

WHEREAS, the Members desire to continue the existence of the Authority as set forth herein as a necessary step in the provision of water and wastewater services to the areas the Members serve; and

WHEREAS, the Members shall have rights in and obligations to the Authority as set forth herein; and

WHEREAS, the Members intend that the benefits and obligations set forth in this Agreement shall be perpetual, shall not be subject to annual appropriation, shall not be a "multiple-fiscal year direct or indirect debt or other financial obligation" subject to TABOR, and shall not be "general obligation" debt as defined in Article XI of the Colorado Constitution. The Members further intend that they shall each be bound by and subject to the provisions of this Agreement without the need for further or subsequent approval; and

WHEREAS, the Members enter into this Agreement on the belief that it is in the best interests of their respective constituents.

NOW THEREFORE, in consideration of the terms and conditions of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members agree as follows:

SECTION 1. CREATION OF AUTHORITY

- A. The effective date of this Agreement shall be December 17, 2021 (the "Effective Date"). As of the Effective Date, the Establishment Agreement and First Amendment are hereby superseded and replaced by this Agreement, and all actions of the Authority taken prior to the Effective Date are hereby ratified and affirmed, and any contracts or stipulations entered into or decrees obtained remain in full force and effect. The organization of the Authority pursuant to law and the obligations incurred by the Authority are hereby validated.
- B. By contract with each other as authorized by C.R.S. 29-1-204.2, the Members hereby ratify and affirm the establishment of the Authority on August 21, 2017. The Authority shall be a body corporate and politic and a political subdivision of the state, separate from the Members. The Authority is a water authority as defined in section 29-1-204.2, C.R.S. The Authority shall be an enterprise as defined in sections 24-77-102(3) and 37-45.1101 et seq., C.R.S. and the Executive Board shall take such actions as may be required to prevent disqualification as an enterprise.
- C. The Authority has all of the powers to act within its Service Area as authorized in Section 29-1-204.2, C.R.S. (specifically including subsections (3),(5) and (7) thereof) and granted to such authorities by Colorado law. A copy of Section 29-1-204.2, C.R.S. as it exists on the effective date of this Agreement is attached as **Exhibit A** hereto. Amendments to such section adopted after the effective date of this Agreement shall apply to the Authority only if the governing bodies of the Members approve an amendment to this Agreement allowing such application or if required by state law.
- D. Except as specifically provided herein, nothing in this Agreement shall preclude any Member from undertaking any other water or wastewater project.

SECTION 2. DEFINITIONS

- A. Authority shall mean the Falcon Area Water and Wastewater Authority, formerly known as the Falcon Area Water Authority.
- B. Infrastructure shall mean infrastructure that is necessary for one or more Members to receive water and wastewater services under this Agreement, which infrastructure was dedicated for the beneficial use of the Members to the Authority.
- C. Service Area shall mean the aggregate of the territory within any and all of the following: (a) the boundaries of a Member, (b) a defined area in which a Member or Members furnishes water service of any type by written agreement, and (c) a defined area of proposed future service in a Party's service plan, approved pursuant to C.R.S., Title 32. Without further action or approval of the Executive Board, the Service Area of the Authority shall include areas included into a Member after a Party's execution of this Establishing Agreement or added for proposed future service in a Party's amended service plan, and shall include the individual service areas of any special district created in the future that includes all or part of the property known as the "Jaynes" property adjacent to Sterling Ranch Nos. 1-3 or the property within the Ranch Metropolitan District Nos. 1- 4, located in El Paso County both of which shall become members upon petition of their respective board of directors.
- D. TABOR shall mean the Taxpayer Bill of Rights as set forth in Section 20, Article X of the Colorado Constitution.

SECTION 3. MEMBERSHIP- INCLUSION

- A. The initial Members of the Authority shall be those parties executing this Agreement.
- B. Additional Members may be included into the Authority upon satisfying the following requirements and procedures:
 - 1. To be considered for membership, a prospective member must be (i) a municipal or quasi-municipal water or wastewater provider or political subdivision of the state of Colorado; and (ii) any Member contributing funding directly to the Authority must be an enterprise as defined in TABOR.
 - 2. To be considered for membership, a political subdivision must file a written request, approved by the governing body of the political subdivision, with the authority to be included as a Member of the Authority.
 - 3. The Members of the Authority shall hold a hearing on the request at a duly noticed meeting of the Members.
 - 4. The Members of the Authority may approve, modify, or deny the request and may impose such terms and conditions as the Members deem

appropriate to further the Authority's purposes. The Members shall determine what, if any, financial or infrastructure contribution to the Authority will be required to become a Member as a condition to allowing membership and shall determine the Member's status in regard to Section 4 of this Agreement (Large or Small Member designation). Material modifications to the request made by the Members shall be subject to the approval of the requesting political subdivision.

5. To approve the request as filed or as modified, the Members must find that there exists or will exist in the foreseeable future an interrelationship between the Authority and the political subdivision requesting membership, that the inclusion of the political subdivision requesting membership will contribute to the fulfillment of the Authority's purposes, that the political subdivision is financially capable of providing resources to support the operation of the Authority and such other findings as the Members deem appropriate.
6. Decisions by the Members in this Section 3.B. shall be by the majority of Members present at a duly called meeting of the Members. If a new member is approved, that membership shall not be effective until the new member has fully acknowledged and executed this Agreement at which time the Member shall be bound by the terms hereof.
7. If a Member is dissolved or otherwise ceases to exist, then either (i) the plan for dissolution shall contain adequate provisions acceptable to the Authority for the performance of all such Member's obligations to the Authority, or (ii) all such obligations shall be fully paid prior to the effective date of dissolution.

SECTION 4. MANAGEMENT / VOTING / DECISION MAKING

- A. Meetings of the Members of the Authority. At least annually, but as often as necessary to address items required under this Agreement or as desired by the Members, there shall be a meeting of all Members. At meetings of the Members, each Member shall have one (1) vote for matters related to the election of representatives to the Executive Board. The annual meeting shall be called by the President of the Executive Board. Special meetings of the Members may be called by the President of the Executive Board, or four Members and shall be held following no less than 72 hour written notice to all Members. Two-thirds of the Members shall be a quorum for the Members to conduct business. Members shall appoint an individual and alternate to act as a representative of the Member at such meetings. Representatives of Members shall not be required to be employees of a Member. In the event that there is any question about who is an authorized representative or alternate of a Member; the President may require such designation to be in writing.

- B. Membership Designation. For purposes of this Agreement, the Members shall be divided into two categories, Large Members and Small Members. The determination between the two categories shall be based on the amount and value of infrastructure and financial contributions that such Member has made to the Authority, the services to be provided to each Member's constituents and the number of water and wastewater taps within that Member's service area to be served by the Authority. The designation and evaluation of the each Member's status shall be determined and conducted in the sole discretion of the Executive Board and a Member's categorization may be changed in the sole discretion of the Executive Board. The Large Members shall elect four (4) board members to the Executive Board of the Authority ("**Large Executive Board Members**"). The remaining three (3) members of the Executive Board ("**Small Executive Board Members**") shall be elected by vote of the Small Members of the Authority. As of the date of this Agreement, the current designation of Large Members and Small Members are set forth in **Exhibit B** of this Agreement.
- C. Executive Board. There shall be created an Executive Board for the Authority. The Executive Board shall be made up of up to seven (7) Executive Board Members who each serve two-year terms, except as noted below for initial terms of one-year for two of the Large Member Executive Board Members. Terms shall run from annual meeting date to annual meeting date. There shall be no limit on the number of terms that may be served by an individual. Candidates for the Executive Board shall be representatives of the Members and the Executive Board elections shall be personal to the representative, not the Member entity represented. Four (4) members of the Executive Board ("**Large Executive Board Members**") shall be appointed by the established Large Members voting for such positions.

At the first meeting of the Authority immediately following the execution of this Agreement, members of the Executive Board shall be elected as follows:

- Position 1 -Large Member Representative (Two-Year Term)
- Position 2 -Large Member Representative (Two-Year Term)
- Position 3 -Large Member Representative (One-Year Term)
- Position 4 – Large Member Representative(One-Year Term)
- Position 5 – Small Member Representative (2 year term)
- Position 6 – Small Member Representative (2 year term)
- Position 7 – Small Member Representative (1 year term)

Following the end of the foregoing first one-year terms of Large and Small Member Representatives, such positions shall thereafter be elected to two-year terms so that in even numbered years, two positions shall be subject to regular election and in odd numbered years, two (Large) or one (Small) positions shall be subject to regular election. Any vacancy created by resignation of an Executive Board member shall be filled by vote of the category of Members for the vacant seat.

Members of the Executive Board may, upon approval of the Executive Board, receive compensation subject to the limits set forth for Title 32, C.R.S. metropolitan districts as same may be amended from time to time and may be reimbursed for reasonable and necessary actual expenses incurred in the performance of their official duties as members of the Executive Board.

- D. Officers. The Executive Board shall elect a President, Vice President, and Secretary-Treasurer who shall have the duties set forth in the Bylaws, if any have been adopted. If Bylaws are not adopted, the positions shall have the duties and responsibilities as set forth for metropolitan district officers as described in Title 32, C.R.S.
- E. Administration.
1. Meetings. Meetings of the Executive Board may be called by any officer or any two members of the Executive Board and a regular schedule of meetings shall be established at the annual meeting.
 2. Quorum. A majority of the Executive Board shall be a quorum and will allow the Executive Board to take action or make decisions.
 3. Subcommittees. The Executive Board may appoint subcommittees made up of Members as appropriate for carrying out Authority objectives.
 4. Financial Records. The financial records of the Authority shall be kept by the Secretary-Treasurer or designated employee or representative of the Authority as determined by the Executive Board.
 5. Distribution of Information. Information sent or provided to one Member shall be provided to all Members and shall be subject to the Colorado Open Records Act.
- F. Approval of Each Member Required. The following actions shall require the approval of each Member:
1. Incurrence of any financial obligation for which a Member entity will be directly responsible, except for any annual assessment that may be imposed under Section 6; and
 2. Amendments to this Agreement.
- G. Executive Board Approval. Except for those actions set forth in Sections 4.F and 5.B, all other actions or decisions regarding the Authority shall be made by majority approval of a quorum of the Executive Board.
- H. Meeting Attendance. Members of the Authority and of the Executive Board may attend and participate in meetings in person, electronically, by videoconference,

telephonically and in any other manner permitted by Colorado law and authorized by the Executive Board.

SECTION 5. POWERS OF THE AUTHORITY

- A. In addition to the general and broad powers specifically granted to the Executive Board in this Agreement, including all of the powers set forth in Section 29-1-204.2, C.R.S. and Colorado law, the Authority, acting by and through its Executive Board, shall have the following authority, powers, and duties:
1. To borrow money and contract to borrow money for the purpose of issuing revenue Bonds, notes, Bond anticipation notes, or other obligations for any of the Authority's corporate purposes and to fund or refund such obligations as provided by statute;
 2. To impose water and wastewater service fees, water availability and water acquisition fees, tap fees and other charges, assessments, fines, penalties and interest for the provision of water distribution and supply, and wastewater collection and treatment;
 3. To enter into contracts and agreements affecting the affairs of the Authority including, but not limited to, contracts with the United States and the state of Colorado and any of their agencies or instrumentalities, political subdivisions of the state of Colorado, corporations, limited liability companies, partnerships, limited partnerships, associations, organizations, or other legal entities and individuals;
 4. To open and utilize banking and checking accounts;
 5. To provide for utilities and related services for the Authority, including but not limited to potable water, non-potable water and wastewater;
 6. To make and pass resolutions and rules and regulations which are necessary for the governance and management of the affairs of the Authority, for the execution of the powers vested in the Authority, and for carrying out the provisions of this Agreement;
 7. To prescribe a system of business administration, to create any and all necessary offices, to establish the powers, duties, and compensation of all employees, and to require and set the amount of all official bonds, if necessary, for the protection of the funds and property of the Authority and to pay for such bonds;
 8. The Authority may appoint and retain employees, agents, engineers, accountants, attorneys and consultants to make recommendations, coordinate Authority activities, conduct business of the Authority, and act on behalf of the Authority under such conditions and restrictions as shall be fixed by the Executive Board;

9. To adopt, implement and manage plans for the development of projects necessary to implement projects under this Agreement;
10. To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency;
11. To procure insurance against any loss in connection with its property and other assets including loans and loan notes in such amounts and from such insurers as it may determine;
12. To procure insurance or guarantees from any public or private entity, including any department, agency, or instrumentality of the United States, for payment of any Bonds issued by the Authority, including the power to pay premiums on any such insurance;
13. To procure, receive and accept from any source gifts or contributions of money, property, improvements, water rights, labor, or other things of value to be held, used, and applied to carry out the purposes of this Agreement, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States for any purpose consistent with the provisions of this Agreement;
14. To operate its water systems, utilities, and other services related to the purposes of the Authority as are necessary to serve customers of the Authority and promote water conservation, reuse, and development.
15. To adopt, enforce and revise rules, regulations, policies and procedures relating to the operation and business of the Authority;
16. To develop funding mechanisms that provide for meeting the costs of constructing projects and other financial obligations related to projects under this Agreement and allow for individual Members to determine how they meet their portion of those obligations, including participation in common funding. Any funding mechanism that obligates the Authority shall be approved by majority action of the Executive Board;
17. To prepare an annual budget substantially in the form required by the Local Government Budget Law of Colorado;
18. To make surveys and conduct investigations to determine the best manner of utilizing water within and without the Authority and to determine the amount of such water supply, and to locate ditches, works, and reservoirs to store or utilize water for municipal, domestic, irrigation, manufacturing, and all other lawful purposes, and to make filings upon water and initiate appropriations for the use and benefit of the Authority, and to perform all acts and things necessary or advisable to adjudicate water rights or to secure an adequate supply of water, present and future, for municipal, domestic, irrigation, manufacturing, and other lawful purposes;

19. To generate and dispose of electric energy for water works purposes or any other purpose of the Authority, and to lease water facilities or the flow of water for generation of electric energy and may sell surplus energy, provided that nothing herein shall be construed as permitting the Authority to distribute electric energy to the general public;
 20. To undertake methane, thermal or other wastewater re-capture improvements and processes and the transfer, sale or other utilization of such methods and by-products;
 21. To establish and disband, from time to time, standing committees and ad hoc committees as the Executive Board deems appropriate;
 22. To take positions on and advocate regarding the activities of other governmental agencies and private entities as such activities may be related to the purposes of the Authority;
 23. To plan, organize, coordinate, and hold public meetings, forums, surveys, and conferences for the purpose of education, providing information, and gathering data and input as such may be related to the purposes of the Authority;
 24. To have and exercise all rights and powers necessary to carry out the purposes and intent of this Agreement, including any rights and powers incidental to or implied from the specific powers granted to the Authority by this Agreement and state law.
- B. Issuance of bonds or other debt by the Authority shall require approval of a majority of a quorum of the Executive Board.
- C. The Authority has no power to levy a general ad valorem tax.
- D. The Executive Board shall comply with the provisions of Parts (1), (5), and (6) of Section 29-1-204.2, C.R.S.
- E. The Members acknowledge that each Member enjoys the protections offered by the Colorado Governmental Immunity Act. The Members understand and agree that each is relying on and does not waive or intend to waive by this Agreement or any provision hereof, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. Section 24-10-101, et seq., as from time to time amended, or otherwise available to the Members.

SECTION 6. ANNUAL ASSESSMENTS.

The Executive Board may by majority vote require Members to pay an annual assessment to the Authority for operations and maintenance expenses incurred by the Authority under this Agreement (the "O&M Expenses"). The Executive Board shall make the determination regarding whether to charge an annual assessment and the amount of any such annual assessment prior to the Authority beginning any activities relating to the operations and maintenance of the Improvements and billing. O&M Expenses shall include the actual operational costs associated with the operation of the Infrastructure, including, but not limited to, electricity, maintenance, personnel, chemicals, etc. as determined by the Executive Board.

SECTION 7. OPERATIONS AND MAINTENANCE

- A. The Executive Board shall operate and maintain Infrastructure in the manner that it decides is in the best interests of the Members and the public health, safety and welfare.
- B. The Executive Board shall maintain all Infrastructure in a manner that will protect the investment of the Members and in accordance with the generally accepted practices within the industry.

SECTION 8. WITHDRAWAL BY A MEMBER

Any Member may withdraw from this Agreement by act of its governing body at such time as adequate provision has been made for retiring the Authority's Bonds in full and meeting the administrative and overhead expenses of the Authority.

SECTION 9. DEADLOCK

- A. Except as applied to any Member(s) in breach of this Agreement, it is the intention of the Members and the Authority that the provisions of this Agreement shall not be interpreted in such a way to limit or interrupt the use of the Infrastructure for its intended purposes.
- B. A "deadlock" of the Members, for purposes of this Section, is hereby defined as being a situation in which the Members are so divided respecting decision making under and the management of the Infrastructure that the votes required for action by the Members cannot be obtained for a continuous period equal to or exceeding ninety (90) days ("Deadlock Period"). A Deadlock shall be deemed a breach of this Agreement.
- C. Upon a Deadlock of the Members, as defined in this Section 9, each Member shall have the right to file an action with the El Paso County District Court to (i) ensure that the Infrastructure can be used for its intended purposes; (ii) to resolve the issue(s) that have caused the deadlock; and (iii) to seek such other relief as is deemed appropriate by the Court, which may include the appointment of a receiver to manage the affairs of the Authority until a Deadlock is resolved.

SECTION 10. MISCELLANEOUS

- A. Term: The term of this Agreement shall be perpetual.
- B. Enterprise. By executing this Agreement, each Member advancing funds directly to the Authority represents and warrants that it is acting in its capacity as an enterprise, as defined in TABOR. Each Member further affirms and agrees to maintain its enterprise status for the term of this Agreement.
- C. Prevailing Party. In the event of any judicial or non-judicial action or proceeding between Members and/or the Authority to enforce any provision of this Agreement, the losing party, shall pay to the prevailing party all costs and expenses, including without limitations, reasonable attorneys' fees and expenses, incurred in such action or proceeding and in any appeal in connection by such prevailing party. The "prevailing party" shall mean the party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement or judgment. This Section is intended to be severable from the other provisions of this Agreement, and the prevailing party's rights under this Section shall not merge into any judgment and any judgment shall survive until all such fees and costs have been paid.
- D. Notices: All notices, correspondence and other communications required or permitted by this Agreement shall be in writing and may be delivered by one of the following means:
 - 1. In person (by hand delivery or professional messenger service).
 - 2. By first class mail. Any such notice sent by mail shall be deemed to have been duly given and received five (5) business days after the same is mailed within the continental United States.
 - 3. By Express Mail of the U.S. Postal Service or Federal Express or any other courier service guaranteeing overnight delivery. Notices delivered by overnight service shall be deemed to have been given one (1) business day after delivery of the same to the U.S. Postal Service or private courier.
 - 4. By facsimile transmission. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed given upon confirmation of transmission thereof.
 - 5. By e-mail. If any notice is transmitted by e-mail, the same shall be deemed given upon confirmation of receipt thereof.

All notices shall be addressed as set forth in **Exhibit B** or at other such addresses as the Members/Authority may hereafter or from time to time designate by written notice to the other Members/Authority.

- E. Not Subject to Annual Appropriation: This Agreement shall not be subject to annual appropriation.
- F. Relationship of Members. This Agreement does not and shall not be construed as creating a relationship of joint venturers, agency, partners, or employer-employee between the Members.
- G. Liability of Members. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon each Member nor the breach thereof, nor the issuance and sale of any bonds by a Member, shall constitute or create an indebtedness of the other Members within the meaning of any Colorado constitutional or statutory provision. Unless otherwise agreed in writing between any of the Members, no Member shall have any obligation whatsoever to repay any debt or liability of the other Member.
- H. Assignment. Neither this Agreement, nor any of a Member's rights, obligations, duties or authority hereunder may be assigned in whole or in part by such Member without the prior written consent of a majority of all Members. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- I. Modification. This Agreement may be modified, amended, changed or terminated, in whole or in part, only by an agreement in writing duly authorized by the Authority and all of the Members. No consent of any third party shall be required for the negotiation and execution of any such agreement.
- J. Waiver. The waiver of a breach of any of the provisions of this Agreement by a Member or the Authority shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or another provision of this Agreement.
- K. Integration. This Agreement contains the entire agreement between and among the Members and the Authority and no statement, promise or inducement made by a Member, the Authority or their employees or agents that are not contained in this Agreement shall be valid or binding.
- L. Severability. Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Agreement.
- M. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue for all action as arising under this Agreement shall be exclusive to the District Court in and for El Paso County.
- N. Headings for Convenience Only. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to

define, limit or describe the scope or intent of any of the provisions of this Agreement.

- O. No Third Party Beneficiaries. There are no express or implied third party beneficiaries of this Agreement. No third party has any right to enforce this Agreement.
- P. Amounts Remain Due. In the event that this Agreement is terminated for any reason, all amounts due by Members pursuant to this Agreement shall remain due and payable and shall survive the termination of this Agreement.
- Q. Counterparts. This Agreement may be executed in counterparts, each of which, when combined, shall be deemed to be an original. Facsimile or scanned signatures shall be an acceptable form of execution of this Agreement.

EXHIBITS

A -Section 29-1-204.2, C.R.S.

B – Designation of Member and Name, address, and contact information for each Member

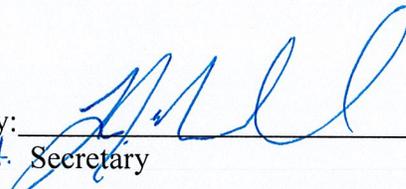
[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Agreement has been entered into as of the day and year first written above by duly authorized representatives of the Members.

STERLING RANCH METROPOLITAN
DISTRICT NO. 1

By: 
~~President~~ SECRETARY
[Print Name] Charles Collins

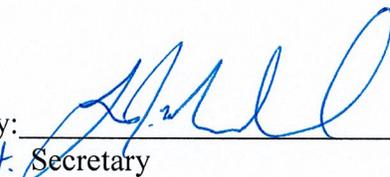
ATTEST

By: 
Asst. Secretary
[Print Name] LAUREN J. MOREZAND

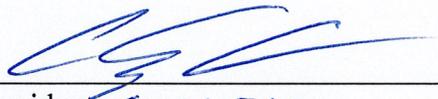
STERLING RANCH METROPOLITAN
DISTRICT NO. 2

By: 
~~President~~ SECRETARY
[Print Name] Charles Collins

ATTEST

By: 
Asst. Secretary
[Print Name] LAUREN J. MOREZAND

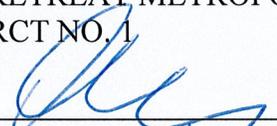
STERLING RANCH METROPOLITAN
DISTRICT NO. 3

By: 
~~President~~ SECRETARY
[Print Name] Charles Collins

ATTEST

By: 
Asst. Secretary
[Print Name] LOREN J. MAZZANO

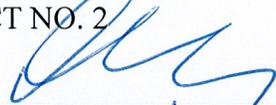
THE RETREAT METROPOLITAN
DISTRICT NO. 1

By: 
Vice President / Secretary
[Print Name] Douglas Striker

ATTEST

By: 
Asst. Secretary
[Print Name] LOREN J. MAZZANO

THE RETREAT METROPOLITAN
DISTRICT NO. 2

By: 
Vice President / Secretary

[Print Name] Douglas Stimpke

ATTEST

By: 
Asst. Secretary

[Print Name] LOREN J. MAREZANA

EXHIBIT A

Section 29-1-204.2, C.R.S

As it exists on the effective date of this Agreement

West's Colorado Revised Statutes Annotated
Title 29. Government—Local
General Provisions
Article 1. Budget and Services
Part 2. Intergovernmental Relationships (Refs & Annos)

C.R.S.A. § 29-1-204.2

§ 29-1-204.2. Establishment of separate governmental entity to
develop water resources, systems, facilities, and drainage facilities

Currentness

(1) Any combination of municipalities, special districts, or other political subdivisions of this state that are authorized to own and operate water systems or facilities or drainage facilities may establish, by contract with each other, a separate governmental entity, to be known as a water or drainage authority, to be used by such contracting parties to effect the development of water resources, systems, or facilities or of drainage facilities in whole or in part for the benefit of the inhabitants of such contracting parties or others at the discretion of the board of directors of the water or drainage authority.

(2) Any contract establishing such separate governmental entity shall specify:

(a) The name and purpose of such entity and the functions or services to be provided by such entity;

(b) The establishment and organization of a governing body of the entity, which shall be a board of directors in which all legislative power of the entity is vested, including:

(I) The number of directors, their manner of appointment, their terms of office, their compensation, if any, and the procedure for filling vacancies on the board;

(II) The officers of the entity, the manner of their selection, and their duties;

(III) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the board;

(IV) The duties of the board, which shall include the obligation to comply with the provisions of parts 1, 5, and 6 of this article;

(c) Provisions for the disposition, division, or distribution of any property or assets of the entity;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that such contract may not be rescinded or terminated so long as the

§ 29-1-204.2. Establishment of separate governmental entity to..., CO ST § 29-1-204.2

entity 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;

(e) The conditions or requirements to be fulfilled for adding or deleting parties to the contract in the future or for providing water services and drainage facilities to others outside the boundaries of the contracting parties.

(3) The general powers of such entity shall include the following powers:

(a) To develop water resources, systems, or facilities or drainage facilities in whole or in part for the benefit of the inhabitants of the contracting parties or others, at the discretion of the board of directors, subject to fulfilling any conditions or requirements set forth in the contract establishing the entity;

(b) To make and enter into contracts;

(c) To employ agents and employees;

(d) To acquire, construct, manage, maintain, or operate water systems, facilities, works, or improvements, or drainage facilities, or any interest therein;

(e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property utilized only for the purposes of water treatment, distribution, and wastewater disposal, or of drainage;

(f) To condemn property for use as rights-of-way only if such property is not owned by any public utility and devoted to such public use pursuant to state authority;

(g) To incur debts, liabilities, or obligations;

(h) To sue and be sued in its own name;

(i) To have and use a corporate seal;

(j) To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the entity;

(k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purpose;

(l) To exercise any other powers which are essential to the provision of functions, services, or facilities by the entity and which are specified in the contract;

(m) To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) To permit other municipalities, special districts, or political subdivisions of this state that are authorized to supply water or to provide drainage facilities to enter the contract at the discretion of the board of directors, subject to fulfilling any and all conditions or requirements of the contract establishing the entity; except that rates need not be uniform between the authority and the contracting parties;

(o) To provide for the rehabilitation of any surfaces adversely affected by the construction of water pipelines, facilities, or systems or of drainage facilities through the rehabilitation of plant cover, soil stability, and other measures appropriate to the subsequent beneficial use of such lands;

(p) 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 such corporations.

(4) The separate governmental entity established by such contracting parties shall be a political subdivision and a public corporation of the state, separate from the parties to the contract. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The provisions of articles 10.5 and 47 of title 11, C.R.S., shall apply to moneys of the entity.

(5) The bonds, notes, and other obligations of a water or drainage authority formed under the provisions of this section shall not be the debts, liabilities, or obligations of the original contracting parties or parties that may enter the establishing contract in the future.

(6) The contracting parties may provide in the contract for payment to the separate governmental entity of funds from proprietary revenues for services rendered by the entity, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the entity.

(7)(a) To carry out the purposes for which the separate governmental entity was established, the entity is authorized to issue bonds, notes, or other obligations payable solely from the revenues derived from the function, service, system, or facility or the combined functions, services, systems, or facilities of the entity or from any other available funds of the entity. The terms, conditions, and details of said 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 (7) shall not constitute an indebtedness of the entity or the cooperating or contracting parties within the meaning of any constitutional or statutory limitations or other provision. Each bond, note, or other obligation issued under this subsection (7) shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable solely from the revenues and other available funds of the entity pledged for the payment thereof and that said bond, note, or other obligation does not constitute a debt of the entity or the cooperating or contracting 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

§ 29-1-204.2. Establishment of separate governmental entity to..., CO ST § 29-1-204.2

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 entity.

(b) 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 entity 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 entity. The bonds, notes, and other obligations of the entity and the income therefrom shall be exempt from taxation by this state, except inheritance, estate, and transfer taxes.

(8) A separate governmental entity established by contract, if the contract so provides, shall be the successor to any nonprofit corporation, agency, or other entity theretofore organized by the contracting parties to provide the same function, service, system, or facility, and such separate governmental entity shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

(9) The authority granted pursuant to this section shall in no manner limit the powers of governments to enter into intergovernmental cooperation or contracts or to establish separate legal entities pursuant to the provisions of section 29-1-203 or any other applicable law or otherwise to carry out their powers under applicable statutory or charter provisions, nor shall such authority limit the powers reserved to cities and towns by section 2 of article XI of the state constitution. Nothing in this part 2 constitutes a legislative declaration of preference for water systems or facilities or for drainage facilities owned by separate governmental entities over water systems or facilities or over drainage facilities owned by other or different entities.

Credits

Formerly § 29-1-203.2. Added by Laws 1977, H.B.1211, § 1, eff. June 21, 1977. Renumbered § 29-1-204.2. Amended by Laws 1982, H.B.1148, § 2, eff. March 17, 1982; Laws 2001, Ch. 30, § 1, eff. Aug. 8, 2001.

C. R. S. A. § 29-1-204.2, CO ST § 29-1-204.2

Current through the end of the First Regular Session of the 73rd General Assembly (2021).

End of Document

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EXHIBIT B

Designation of Membership and Addresses for Notices

Large Members:

Sterling Ranch Metropolitan District No. 3
c/o White Bear Ankele Tanaka & Waldron
2154 E. Commons Avenue, Suite 2000
Attn: K. Sean Allen
Phone: (303) 858-1800

Small Members:

Sterling Ranch Metropolitan District No. 1
c/o White Bear Ankele Tanaka & Waldron
2154 E. Commons Avenue, Suite 2000
Attn: K. Sean Allen
Phone: (303) 858-1800

Sterling Ranch Metropolitan District No. 2
c/o White Bear Ankele Tanaka & Waldron
2154 E. Commons Avenue, Suite 2000
Attn: K. Sean Allen
Phone: (303) 858-1800

The Retreat Metropolitan District No. 1
c/o Spencer Fane, LLP
1700 Lincoln St., Suite 2000
Denver, CO 80203
Attn: Russ Dykstra
Phone: (303) 839-3845

The Retreat Metropolitan District No. 2
c/o Spencer Fane, LLP
1700 Lincoln St., Suite 2000
Denver, CO 80203
Attn: Russ Dykstra
Phone: (303) 839-3845

