



City of Littleton

Littleton Center
2255 West Berry Avenue
Littleton, CO 80120

Meeting Agenda

City Council

Tuesday, June 7, 2016

6:30 PM

Council Chamber

Regular Meeting

1. Roll Call

2. Pledge of Allegiance

3. Approval of Agenda

4. Public Comment

Public Comment on Consent Agenda and General Business items

5. Consent Agenda Items

Consent agenda items can be adopted by simple motion. All ordinances must be read by title prior to a vote on the motion. Any consent agenda item may be removed at the request of a Council Member.

- a) [Resolution 29-2016](#)
- A resolution approving an amendment to an agreement with the Urban Drainage and Flood Control District, Arapahoe County, and South Suburban Park and Recreation District regarding conceptual design of drainage and flood control improvements for the South Platte River in South Platte Park

Attachments:

[Resolution No. 29-2016](#)
[Agreement 10-09.02G South Platte Park](#)
[Agreement 10-09.02 South Platte Park](#)
[Agreement 10-09.02A South Platte Park](#)
[Agreement 10-09.02B South Platte Park](#)
[Agreement 10-09.02C South Platte Park](#)
[Agreement 10-09.02D South Platte Park](#)
[Agreement 10-09.02E South Platte Park](#)
[Agreement 10-09.02F South Platte Park.pdf](#)
[Arapahoe County Joint River Repair Proposal 2-2-2016 Final](#)

- b) [Resolution 31-2016](#) A resolution approving the Amended and Restated Intergovernmental Agreement Establishing the Chatfield Watershed Authority
Attachments: [Resolution No. 31-2016](#)
[2016 Chatfield Watershed IGA with Bylaws Exhibit](#)
[Res 1997-24 Chatfield Watershed IGA](#)
[2016 Chatfield Watershed IGA 5CCR 1002-73](#)
- c) [Ordinance 07-2016](#) An ordinance amending chapter 3 of title 4 and chapter 20 of title 3 of the city code concerning the regulation of signs
Attachments: [Ordinance No. 07-2016](#)
- d) [Resolution 28-2016](#) A resolution authorizing an agreement regarding funding of a conceptual plan to repurpose a portion of the High Line Canal for stormwater collection, treatment and conveyance of treated stormwater to vegetation adjacent to the canal.
Attachments: [Resolution No. 28-2016](#)
[2016 UDFCD IGA High Line Canal](#)
- e) [ID# 16-111](#) Certification of the May 17, 2016 regular meeting minutes
Attachments: [05-17-2016 Minutes](#)

6. Ordinances for Second Reading and Public Hearing

7. General Business

- a) [ID# 16-114](#) Council Member Clark moved and Council Member Valdes seconded that (we) Council instruct staff to withdraw the site development plan and the currently issued building permits for the Grove.

8. Public Comment

9. Comments / Reports

- a) City Manager
- b) Council Members
- c) Mayor

10. Adjournment

The public is invited to attend all regular meetings or study sessions of the City Council or any City Board or Commission. Please call 303-795-3780 at least forty-eight (48) hours prior to the meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting. For any additional information concerning City meetings, please call the above referenced number.



Staff Communication

File #: Resolution 29-2016, **Version:** 1

Agenda Date: 06/07/2016

Subject:

A resolution approving an amendment to an agreement with the Urban Drainage and Flood Control District, Arapahoe County, and South Suburban Park and Recreation District regarding conceptual design of drainage and flood control improvements for the South Platte River in South Platte Park

Presented By: Mike Braaten, Deputy City Manager

POLICY QUESTION:

Does city council support approving the amendment to the intergovernmental agreement to account for additional funding to address improvements to the South Platte River corridor in South Platte Park?

BACKGROUND:

The city has been involved in projects to address river channel, drainage and various other flood control improvements to the South Platte River within South Platte Park in recent years. This agreement addresses additional funding from all project partners to reconstruct improvements that were damaged or lost due to the extraordinarily high spring run-off/high flows in the South Platte River in 2015.

STAFF ANALYSIS:

This project and the city's allocation of \$500,000 was discussed and approved by city council in the 2016 budget. The intergovernmental agreement recognizes this contribution, as well as additional contributions by the Urban Drainage and Flood Control District (\$100,000), South Suburban Parks and Recreation (\$50,000), and Arapahoe County Open Space (\$480,000) for a total project cost of \$1,130,000.

Construction will be done outside of the spring run-off cycle and is tentatively scheduled to start in mid-July (once discharges from Chatfield Reservoir drop below 200 cubic feet per second) and is estimated to be completed in September. Revegetation (tree and bush planting and grass reseeding) will be completed in the spring of 2017 to take advantage of spring moisture and ensure better root establishment.

FISCAL IMPACTS:

The city council reviewed and approved this project in the 2016 open space budget. The total contribution from the city is \$500,000.

STAFF RECOMMENDATION:

Staff recommends approval of the resolution.

PROPOSED MOTION:

I move to approve the resolution approving an amendment to an agreement with the Urban Drainage and Flood Control District, Arapahoe County, and South Suburban Park and Recreation District regarding conceptual

design of drainage and flood control improvements for the South Platte River in South Platte Park.

1 APPROVED AS TO FORM:

2

3

4 _____
5 Kristin Schledorn

6 CITY ATTORNEY

AMENDMENT TO
AGREEMENT REGARDING CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02G

THIS AGREEMENT, made this _____ day of _____, 2016, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTH SUBURBAN PARK AND RECREATION DISTRICT (hereinafter called "SSPR"), and CITY OF LITTLETON (hereinafter called "CITY") and ARAPAHOE COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, SSPR, and CITY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" (Agreement No. 10-09.02) dated November 11, 2010, as amended by "Amendments to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" dated December 27, 2011 (Agreement No. 10-09.02A) and December 19, 2012 (Agreement No. 10-09.02B) and December 30, 2013 (Agreement No. 10-09.02C); and

WHEREAS, DISTRICT, SSPR, CITY, and COUNTY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park (Agreement No. 10-09.02D) dated May 6, 2014, August 5, 2014 (Agreement No. 10-09.02E) and February 17, 2015 (Agreement No. 10-09.02F); and

WHEREAS, PARTIES now desire to complete repairs from the continuous high water level from May to July 2015; and

WHEREAS, PARTIES desire to increase the level of funding by \$1,130,000; and

WHEREAS, the County Commissioners of COUNTY, the City Council of CITY, and the Boards of Directors of SSPR and DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Conceptual design services;
2. Final design services
3. Construction of improvements;
4. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$5,010,763 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$ 66,175
2. Final Design	200,000
3. Construction	4,714,588
4. Contingency	30,000
Grand Total	\$5,010,763

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
**DISTRICT	18.50%	\$ 827,065	\$ 100,000	\$ 927,065
*SSPR	7.72%	\$ 336,698	\$ 50,000	\$ 386,698
CITY	24.71%	\$ 738,000	\$ 500,000	\$ 1,238,000
COUNTY	49.07%	\$1,979,000	\$ 480,000	\$ 2,459,000
TOTAL	100.00%	\$3,880,763	\$ 1,130,000	\$ 5,010,763

*The previous contribution from SSPR was short eight dollars and has been corrected in this amendment.

**DISTRICT directly paid for re-vegetation of Phase I, \$80,000, through the South Platte River Maintenance fund and is not reflected in this IGA.

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$386,698; CITY - \$1,238,000; COUNTY - \$2,459,000; and DISTRICT - \$927,065) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a

periodic accounting of PROJECT funds as well as a periodic notification to SSPR, CITY and COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 11).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

3. All other terms and conditions of Agreement No. 10-09.02 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By_____

ATTEST:

Title Executive Director

Date_____

SOUTH SUBURBAN PARK AND
RECREATION DISTRICT

(SEAL)

By_____

ATTEST:

Title_____

Date_____

CITY OF LITTLETON

(SEAL)

By_____

ATTEST:

Title_____

Date_____

APPROVED AS TO FORM:

City Attorney

For the Board of County Commissioners
ARAPAHOE COUNTY

By _____
Authorization pursuant to Resolution 130152

Title Director, Open Space and Intergovernmental Relations

Date _____

AGREEMENT REGARDING
CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02

THIS AGREEMENT, made this 11TH day of NOVEMBER, 2010, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and SOUTH SUBURBAN PARK ~~AND~~ RECREATION DISTRICT (hereinafter called "SSPR"), CITY OF LITTLETON (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, in a policy statement previously adopted, (Resolution No. 14, Series of 1970 and Resolution No. 11, Series of 1973) expressed an intent to assist public bodies which have heretofore enacted floodplain regulation measures; and

WHEREAS, PARTIES participated in a joint planning study titled "Major Drainageway Planning South Platte River, Chatfield to Baseline Road" by Wright Water Engineers, dated November 1985 (hereinafter called "PLAN"); and

WHEREAS, PARTIES now desire to proceed with conceptual design of drainage and flood control improvements for the South Platte River in South Platte Park (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT's Board of Directors has authorized DISTRICT financial participation for PROJECT (Resolution No. 74 Series of 2009); and

WHEREAS, the Board of Directors of SSPR, the City Council of CITY, and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. SCOPE OF AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. SCOPE OF PROJECT

Conceptual Design. PROJECT shall include the conceptual design of improvements in accordance with the recommendations defined in PLAN. Specifically, the conceptual design of facilities shall extend from approximately Fairway Lane to C-470, as shown on Exhibit A.

3. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of DISTRICT and the property therein.

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Conceptual design services;
2. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$86,088 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$66,175
2. Contingency	19,913
Grand Total	\$86,088

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Maximum Contribution</u>
DISTRICT	58%	\$50,000
SSPR	42%	36,088
CITY	0%	-0-
TOTAL	100%	\$86,088

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$36,088; CITY - \$-0-; DISTRICT - \$50,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to SSPR and CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 11).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

6. CONCEPTUAL DESIGN

The contracting officers for PARTIES, as defined under Paragraph 11 of this Agreement, shall select an engineer mutually agreeable to both PARTIES. DISTRICT shall contract with selected engineer and shall supervise and coordinate the conceptual design including right-of-way delineation subject to approval of the contracting officers for SSPR. Payment for conceptual design shall be made by DISTRICT as the work progresses from the PROJECT fund established as set forth above.

Conceptual design services shall consist of, but not be limited to, the following:

- A. Preparation of a work plan schedule identifying the timing of major elements in the design;
- B. Preparation of an estimate of probable construction costs of the work covered by the plans and specifications.

DISTRICT shall provide any written work product by the engineer to SSPR and CITY.

7. OWNERSHIP OF PROPERTY AND LIMITATION OF USE

CITY shall own the property either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties upon which PROJECT is constructed shall not be used for any purpose that shall diminish or preclude its use for drainage and flood control purposes. CITY may not dispose of or change the use of the properties without approval of DISTRICT. If, in the future, CITY disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement; changes the use of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement; or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed pursuant to this Agreement; and CITY has not obtained the written approval of DISTRICT prior to such action, CITY shall take any and all action necessary to reverse said unauthorized activity and return the properties and improvements thereon, acquired and constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at CITY's sole expense. In the event CITY breaches the terms and provisions of this Paragraph 7 and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against CITY for specific performance of this portion of the Agreement.

8. FLOODPLAIN REGULATION

CITY agrees to regulate and control the floodplain of the South Platte River within CITY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum.

PARTIES understand and agree, however, that CITY cannot obligate itself by contract to exercise its police powers. If CITY fails to regulate the floodplain of the South Platte River within CITY in

the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum, DISTRICT may exercise its power to do so and CITY shall cooperate fully.

9. TERM OF AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate three (3) years after the final payment is made to the construction contractor and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 5 herein, except for Paragraph 8. FLOODPLAIN REGULATION and Paragraph 7. OWNERSHIP OF PROPERTY AND LIMITATION OF USE, which shall run in perpetuity.

10. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

11. CONTRACTING OFFICERS AND NOTICES

- A. The contracting officer for SSPR shall be the Executive Director, 6631 South University Boulevard, Littleton, Colorado 80121.
- B. The contracting officer for CITY is the Public Services Director, 2255 West Berry Avenue, Littleton, Colorado 80165.
- C. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.
- D. Any notices, demands or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to PARTIES at the addresses set forth above or at such other address as either party may hereafter or from time to time designate by written notice to the other party given when personally delivered or mailed, and shall be considered received in the earlier of either the day on which such notice is actually received by the party to whom it is addressed or the third day after such notice is mailed.
- E. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT, SSPR, or CITY. Said representatives shall have the authority for all approvals, authorizations, notices or concurrences required under this Agreement or any amendments or addenda to this Agreement.

12. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments or modifications to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

13. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

14. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any and all legal actions regarding the transaction covered herein shall lie in District Court in and for the County of Denver, State of Colorado.

15. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

16. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

17. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

18. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) day's written notice by any of PARTIES, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon mutual agreement of all PARTIES and only upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions and subject to the maximum amount of each party's contribution as set forth herein.

19. EMPLOYMENT STATUS

This Agreement shall not change the employment status of any employees of PARTIES. No party shall have the right to control or direct the activities of any employees of another related to this Agreement.

20. PUBLIC RELATIONS

It shall be at SSPR and CITY's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical and conceptual design recommendations shall be presented to the public by the selected design engineer. In any event, DISTRICT shall have no responsibility for a public relations program, but shall assist SSPR and CITY as needed and appropriate.

21. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

22. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of SSPR, CITY, and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of SSPR, CITY, and/or DISTRICT.

23. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than any one of PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

24. ILLEGAL ALIENS

PARTIES agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 C.R.S. et seq. The following language shall be included in any contract for public services: "The Consultant or Contractor shall not and by signing this Agreement certifies that it does not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant or Contractor shall not enter into a subcontract with a subcontractor that fails to certify to the Consultant or Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services. Consultant or Contractor affirms that they have verified through participation in the Colorado Employment Verification program established pursuant to 8-17.5-102 (5)(c) C.R.S. or the Electronic Employment Verification Program administered jointly by the United States Department of Homeland Security and the Social Security Administration that Consultant or Contractor does not employ illegal aliens. Consultant or Contractor is prohibited from using these procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed. In the event that the Consultant or Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant or Contractor shall be required to:

- A. Notify the subcontractor and PARTIES within three days that the Consultant or Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- B. Terminate the subcontract with the subcontractor if within three days of receiving the notice required the Subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant or Contractor shall not terminate the contract with the Subcontractor if during such three days the Subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Consultant or Contractor is required under this Agreement to comply with any reasonable request by the Colorado Department of Labor and Employment (DEPARTMENT) made in the course of an investigation the DEPARTMENT is undertaking pursuant to its legal authority.

Violation of this section of this Agreement shall constitute a breach of this Agreement and may result in termination by PARTIES. Consultant or Contractor shall be liable to PARTIES for actual and consequential damages to PARTIES resulting from such breach pursuant to §8-17.5-101(3) C.R.S. PARTIES shall also report any such breach to the Office of the Secretary of State. Consultant or Contractor acknowledges that the DEPARTMENT may investigate whether Consultant or Contractor is complying with the provision of the Agreement. This may include on-site inspections and the review of documentation that proves the citizenship of any person performing work under this Agreement and any other reasonable steps necessary to determine compliance with the provisions of this section."

25. EXECUTION IN COUNTERPARTS

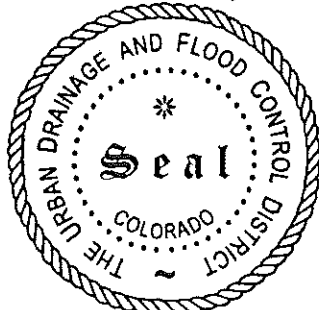
This Agreement shall be executed by PARTIES in counterparts and only upon execution of the responsible counterparts by everyone listed herein shall this Agreement be treated as executed by PARTIES.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

(SEAL)

ATTEST:

David B. Burt



URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

By Paul A. Hershman

Title Executive Director

Date 11/11/10

SOUTH SUBURBAN PARK AND
RECREATION DISTRICT

(SEAL)

ATTEST:

Pamela M. Eller
Pamela M. Eller, Secretary

By Katherine C. Geitner

Title Katherine C. Geitner, Chair

Date October 13, 2010

CITY OF LITTLETON

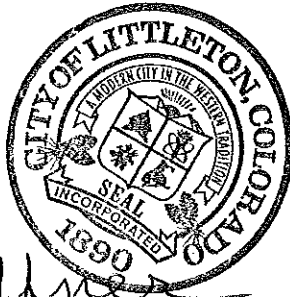
(SEAL)

ATTEST:

Wendy Heffner

APPROVED AS TO FORM:

[Signature]
City Attorney



By Don Clark

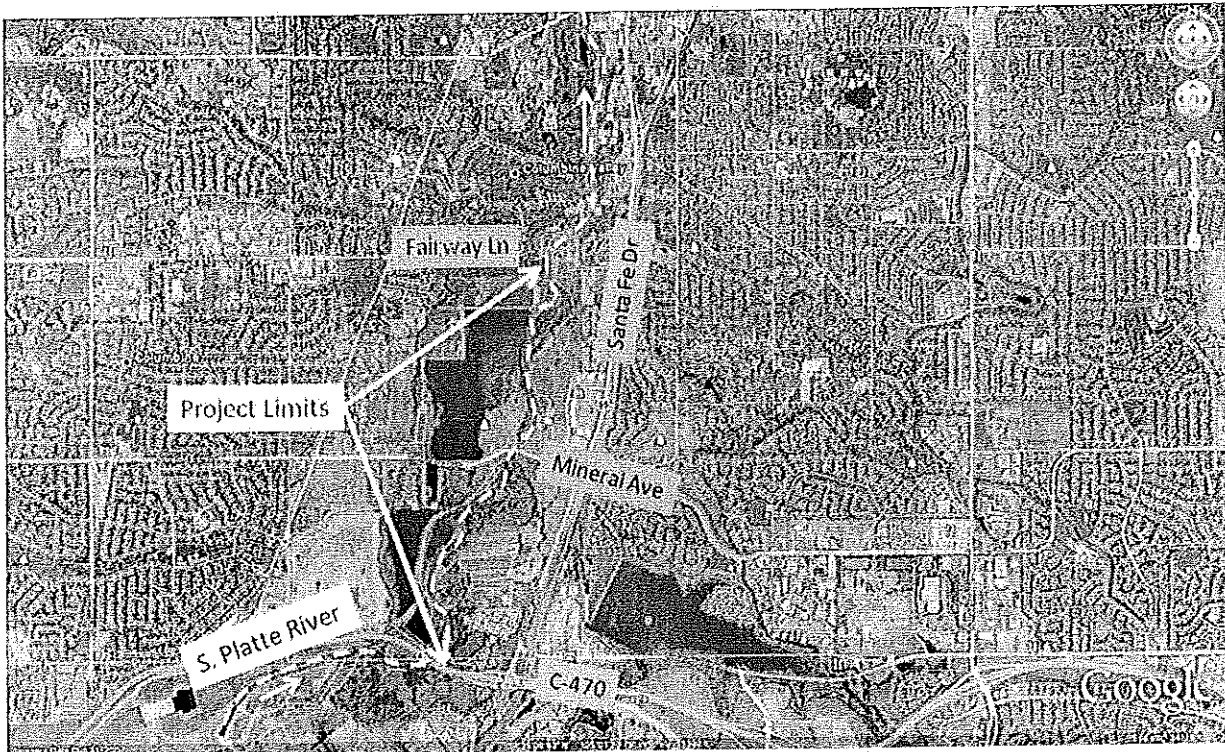
Title Mayor

Date 11/3/2010

AGREEMENT REGARDING
CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02

Exhibit A



AMENDMENT TO
AGREEMENT REGARDING CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02A

THIS AGREEMENT, made this 27 day of DECEMBER, 2011, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTH SUBURBAN PARKS AND RECREATION DISTRICT (hereinafter called "SSPR"), and CITY OF LITTLETON (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" (Agreement No. 10-09.02) dated November 9, 2010; and

WHEREAS, PARTIES now desire to construct bank repairs, in-stream aquatic habitat, river connection to Red Tail Lake, and wetland between Red Tail Lake and the South Platte River; and

WHEREAS, PARTIES desire to increase the level of funding by \$361,030; and

WHEREAS, DISTRICT's Board of Directors reviewed and authorized expenditures for the 2011 Maintenance Work Program for the South Platte River (Resolution No. 71, Series of 2010); and

WHEREAS, the Board of Directors of SSPR, the City Council of CITY, and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Conceptual design services;
2. Construction of improvements;
3. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$447,110 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$ 66,175
2. Construction	346,935
3. Contingency	34,000
Grand Total	\$447,110

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	56.00%	\$50,000	\$200,000	\$250,000
SSPR	24.00%	\$36,080	\$ 73,030	\$109,110
CITY	20.00%	\$ 0-	\$ 88,000	\$ 88,000
TOTAL	100.00%	\$86,080	\$361,030	\$447,110

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$109,110; CITY - \$88,000-; DISTRICT - \$250,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to SSPR and CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

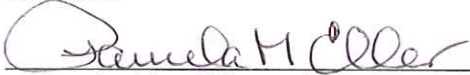
3. All other terms and conditions of Agreement No. 10-09.02 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.



(SEAL)

ATTEST:


Pamela M. Eller, Secretary


URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

By 

Title Executive Director

Date 12/27/11

SOUTH SUBURBAN PARKS AND
RECREATION DISTRICT

By 

Title Katherine C. Geitner, Chair

Date December 14, 2011



(SEAL)

ATTEST:

Richell Nove

APPROVED AS TO FORM:

Kirsten D. Crawford
City Attorney

CITY OF LITTLETON

By

Willie Brail

Title

MAYOR

Date

12-9-11

CITY OF LITTLETON, COLORADO

RESOLUTION NO. 33

Series of 2011

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LITTLETON, COLORADO, AUTHORIZING AN
AMENDMENT TO AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY, URBAN DRAINAGE
AND FLOOD CONTROL DISTRICT AND SOUTH
SUBURBAN PARKS AND RECREATION REGARDING
DESIGN OF ENHANCEMENTS FOR THE SOUTH PLATTE
RIVER IN SOUTH PLATTE PARK**

WHEREAS, the Council may, by resolution, enter into contracts with other governmental bodies to furnish or receive governmental services, to make or pay charges for such services, and to enter into cooperative or joint activities with other governmental bodies; and

WHEREAS, the City of Littleton entered into an Intergovernmental Agreement with the Urban Drainage and Flood Control District and South Suburban Parks and Recreation (hereinafter called "The Three Parties") on November 2, 2010 regarding conceptual design of improvements for the South Platte River in South Platte Park; and

WHEREAS, the City of Littleton desires to amend said Intergovernmental Agreement with The Three Parties to move the project forward past the conceptual design phase; and

WHEREAS, The Three parties now desire to construct bank repairs, an in-stream aquatic habitat, river connection to Redtail Lake and wetlands between Redtail Lake and the South Platte River; and

WHEREAS, The Three Parties desire to increase the level of funding by \$361,030;
and

WHEREAS, Intergovernmental Agreements are authorized by Article XIV, Section 18 of the Colorado Constitution and Colo. Rev. Stat. § 29-1-203.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF LITTLETON,
COLORADO, THAT:**

The Amendment to an Intergovernmental Agreement between the City of Littleton, Urban Drainage and Flood Control District and South Suburban Parks and Recreation, for the purpose of construction of improvements of the South Platte River improvements within South Platte Park, is hereby approved and the Council President is authorized to affix her signature thereto.

Resolution No. _____
Series of 2011 _____
Page 2

INTRODUCED, READ AND ADOPTED at a regularly scheduled meeting of the
City Council of the City of Littleton on the 17 day of December, 2011, at 7:00 p.m. at the
Littleton Center, 2255 West Berry Avenue, Littleton, Colorado.



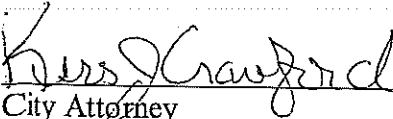
President of City Council

ATTEST:



City Clerk Deputy

APPROVED AS TO FORM:



City Attorney

AMENDMENT TO
AGREEMENT REGARDING CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02B

THIS AGREEMENT, made this 19TH day of DECEMBER, 2012, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTH SUBURBAN PARK AND RECREATION DISTRICT (hereinafter called "SSPR"), and CITY OF LITTLETON (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" (Agreement No. 10-09.02) dated November 9, 2010, as amended; and

WHEREAS, PARTIES now desire to construct in stream river improvements in front of Carson Nature Center; and

WHEREAS, PARTIES desire to increase the level of funding by \$354,065; and

WHEREAS, DISTRICT's Board of Directors reviewed and authorized expenditures for the 2012 Maintenance Work Program for the South Platte River (Resolution No. 60, Series of 2011); and

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4, PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:
 4. PROJECT COSTS AND ALLOCATION OF COSTS
 - A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:
 1. Conceptual design services;
 2. Final design services
 3. Construction of improvements;
 4. Contingencies mutually agreeable to PARTIES.
 - B. It is understood that PROJECT costs as defined above are not to exceed \$801,175 without amendment to this Agreement.
PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$ 66,175
2. Final Design	75,000
3. Construction	600,000
4. Contingency	60,000
Grand Total	\$801,175

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	75.00%	\$250,000	\$354,065	\$604,065
SSPR	14.00%	\$109,110	\$ -0-	\$109,110
CITY	11.00%	\$ 88,000	\$ -0-	\$ 88,000
TOTAL	100.00%	\$447,110	\$354,065	\$801,175

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$109,110; CITY - \$88,000-; DISTRICT - \$604,065) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to SSPR and CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

3. All other terms and conditions of Agreement No. 10-09.02 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

(SEAL)

ATTEST:



David B. [Signature]

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

By

Paul A. [Signature]

Title Executive Director

Date 12/19/12

(SEAL)

ATTEST:

Pamela M. [Signature]

Pamela M. Eller, Secretary

SOUTH SUBURBAN PARK AND
RECREATION DISTRICT

By

John K. [Signature]

Title John K. Ostermiller, Chairman/President

Date September 12, 2012

CITY OF LITTLETON

(SEAL)

ATTEST:

Wendy Neffner

APPROVED AS TO FORM:

B. J.
City Attorney

By

Title

Date

Dan Reel

Mayor

12/7/2012

AMENDMENT TO
AGREEMENT REGARDING CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02C

THIS AGREEMENT, made this 30 day of DECEMBER, 2013, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTH SUBURBAN PARK AND RECREATION DISTRICT (hereinafter called "SSPR"), and CITY OF LITTLETON (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, SSPR, and CITY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" (Agreement No. 10-09.02) dated November 11, 2010, as amended by Amendments to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park dated December 27, 2011 (Agreement No. 10-09.02A) and December 19, 2012 (Agreement No. 10-09.02B); and

WHEREAS, PARTIES now desire to construct in stream river improvements for Phase II, from Columbine Valley Golf Course upstream to Phase I; and

WHEREAS, PARTIES desire to increase the level of funding by \$587,580; and

WHEREAS, DISTRICT's Board of Directors reviewed and authorized expenditures for the 2013 Maintenance Work Program for the South Platte River (Resolution No. 60, Series of 2012); and

WHEREAS, the Board of Directors of SSPR, the City Council of CITY, the Board of Commissioners of COUNTY, and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Conceptual design services;
2. Final design services
3. Construction of improvements;
4. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$1,388,755 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$ 66,175
2. Final Design	130,000
3. Construction	1,162,580
4. Contingency	30,000
Grand Total	\$1,388,755

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	54.30%	\$604,065	\$ 150,000	\$ 754,065
SSPR	21.36%	\$109,110	\$ 187,580	\$ 296,690
CITY	24.34%	\$ 88,000	\$ 250,000	\$ 338,000
TOTAL	100.00%	\$801,175	\$587,580	\$1,388,755

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

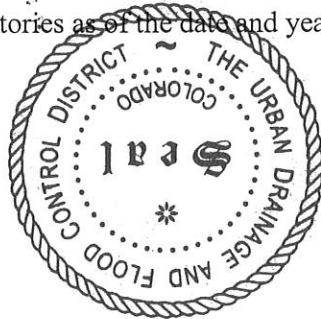
As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$296,690; CITY - \$338,000; and DISTRICT - \$754,065) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to SSPR, CITY and COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 11).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.


3. All other terms and conditions of Agreement No. 10-09.02 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.




(SEAL)

ATTEST:



(SEAL)

ATTEST:



Pamela M. Eller, Secretary

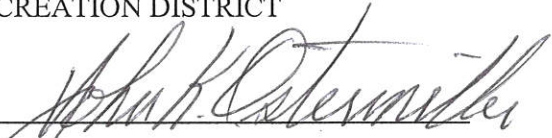
URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

By 

Title Executive Director

Date 12/30/13

SOUTH SUBURBAN PARK AND
RECREATION DISTRICT

By 

Title John K. Ostermiller, Chairman

Date December 11, 2013

CITY OF LITTLETON

(SEAL)

By

Debbie Brinkman

Title

President of City Council

Date

November 19, 2013

ATTEST:

Wendy Heffner

APPROVED AS TO FORM:

Deputy

[Signature]
City Attorney

CITY OF LITTLETON, COLORADO

RESOLUTION NO. 33

Series of 2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LITTLETON, COLORADO, AUTHORIZING A FOURTH AMENDMENT TO THE AGREEMENT BETWEEN THE CITY, SOUTH SUBURBAN PARK AND RECREATION DISTRICT, ARAPAHOE COUNTY AND THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT REGARDING CONCEPTUAL DESIGN OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK FOR STREAM ENHANCEMENT IMPROVEMENTS

WHEREAS, the council may, by resolution, enter into contracts with other governmental bodies to furnish or receive governmental services, to make or pay charges for such services and to enter into cooperative or joint activities with other governmental bodies;

WHEREAS, the City of Littleton previously has entered into an Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park, and three amendments, with the Urban Drainage and Flood Control District and South Suburban Park and Recreation District, for design and construction of stream improvements in the South Platte River;

WHEREAS, the City of Littleton desires to enter into a fourth Amendment to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park, contributing additional funds from Arapahoe County for enhancement of the stream and wildlife habitat on the South Platte River in South Platte Park; and

WHEREAS, the city's share of the costs of the project, as set forth in the fourth Amendment to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park, shall be a contribution of 16.33% of the actual project costs, plus indirect costs;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF LITTLETON, COLORADO, THAT:

The Amendment to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park (Agreement No. 10-09.02D) is hereby approved.

Resolution No.
Series of 2014
Page 2

INTRODUCED, READ AND ADOPTED at a regularly scheduled meeting of the city council of the City of Littleton on the 6th day of May, 2014, at 6:30 p.m. at the Littleton Center, 2255 West Berry Avenue, Littleton, Colorado.

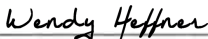
DocuSigned by:



Phil Cernance
B432418D3EEB403...
President of City Council

ATTEST:

DocuSigned by:



Wendy Heffner
267419...
City Clerk

APPROVED AS TO FORM:

DocuSigned by:



Kristin Schledorn
1E8345A4384FE...
Deputy City Attorney



AMENDMENT TO
AGREEMENT REGARDING CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02D

THIS AGREEMENT, made this 6th day of May, 2014, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTH SUBURBAN PARK AND RECREATION DISTRICT (hereinafter called "SSPR"), and CITY OF LITTLETON (hereinafter called "CITY") and ARAPAHOE COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, SSPR, and CITY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" (Agreement No. 10-09.02) dated November 11, 2010, as amended by Amendments to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park dated December 27, 2011 (Agreement No. 10-09.02A) and December 19, 2012 (Agreement No. 10-09.02B) and December 30, 2013 (Agreement No. 10-09.02C); and

WHEREAS, DISTRICT, SSPR, and CITY desire to add COUNTY to this Agreement; and

WHEREAS, PARTIES now desire to construct in stream river improvements for Phase II, from Columbine Valley Golf Course upstream to Phase I; and

WHEREAS, PARTIES desire to increase the level of funding by \$681,600; and

WHEREAS, the Board of Directors of the Board of Commissioners of COUNTY, and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Conceptual design services;
 2. Final design services
 3. Construction of improvements;
 4. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$2,070,355 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$ 66,175
2. Final Design	130,000
3. Construction	1,844,180
4. Contingency	30,000
Grand Total	\$2,070,355

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	36.42%	\$754,065	\$ -0-	\$ 754,065
SSPR	14.33%	\$296,690	\$ -0-	\$ 296,690
CITY	16.33%	\$338,000	\$ -0-	\$ 338,000
COUNTY	32.92%	\$ -0-	\$ 681,600	\$ 681,600
TOTAL	100.00%	\$1,388,755	\$681,600	\$2,070,355

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$296,690; CITY - \$338,000; COUNTY - \$681,600; and DISTRICT - \$754,065) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to SSPR, CITY and COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 11).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.


3. All other terms and conditions of Agreement No. 10-09.02 shall remain in full force and effect.


WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

ATTEST:


DocuSigned by:

Laura Kroeger C4239472...

DocuSigned by:
By 
Paul Hindman C72714014F78468...
Title Executive Director
Date 5/21/2014

SOUTH SUBURBAN PARK AND
RECREATION DISTRICT

(SEAL)

ATTEST:

DocuSigned by:
By 
David Lorenz 02406A969A6B483...
Title Executive Director
Date 5/22/2014

CITY OF LITTLETON

(SEAL)

ATTEST:

DocuSigned by:

Wendy Heffner

Wendy Heffner

APPROVED AS TO FORM:

DocuSigned by:

Kristin Schledorn

City Attorney

Kristin Schledorn

DocuSigned by:

By

Phil Cernanec

Title

President of City Council

Date

5/15/2014

For the Board of County Commissioners
ARAPAHOE COUNTY

DocuSigned by:

By 5 [Signature]
Authorization pursuant to Resolution 130152 Shannon Carter

Title Director, Open Space and Intergovernmental Relations

Date 6/12/2014

AMENDMENT TO
AGREEMENT REGARDING CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02E

THIS AGREEMENT, made this 5th day of August, 2014, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTH SUBURBAN PARK AND RECREATION DISTRICT (hereinafter called "SSPR"), and CITY OF LITTLETON (hereinafter called "CITY") and ARAPAHOE COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, SSPR, and CITY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" (Agreement No. 10-09.02) dated November 11, 2010, as amended by "Amendments to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" dated December 27, 2011 (Agreement No. 10-09.02A) and December 19, 2012 (Agreement No. 10-09.02B) and December 30, 2013 (Agreement No. 10-09.02C); and

WHEREAS, DISTRICT, SSPR, CITY, and COUNTY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park (Agreement No. 10-09.02D) dated May 6, 2014; and

WHEREAS, PARTIES now desire to construct in stream river improvements for Phase III, from Mineral Avenue upstream to C-470; and

WHEREAS, PARTIES desire to increase the level of funding by \$1,378,400; and

WHEREAS, the County Commissioners of COUNTY, the City Council of CITY, and the Boards of Directors of SSPR and DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Conceptual design services;
 2. Final design services
 3. Construction of improvements;
 4. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$3,448,755 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$ 66,175
2. Final Design	200,000
3. Construction	3,152,580
4. Contingency	30,000
Grand Total	\$3,448,755

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	23.02%	\$ 754,065	\$ 40,000	\$ 794,065
SSPR	8.60%	\$ 296,690	\$ -0-	\$ 296,690
CITY	17.05%	\$ 338,000	\$ 250,000	\$ 588,000
COUNTY	51.33%	\$ 681,600	\$1,088,400	\$1,770,000
TOTAL	100.00%	\$2,070,355	\$1,378,400	\$3,448,755

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$296,690; CITY - \$588,000; COUNTY - \$1,770,000; and DISTRICT - \$794,065) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to SSPR, CITY and COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and

such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 11).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

3. All other terms and conditions of Agreement No. 10-09.02 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

(SEAL)

ATTEST:

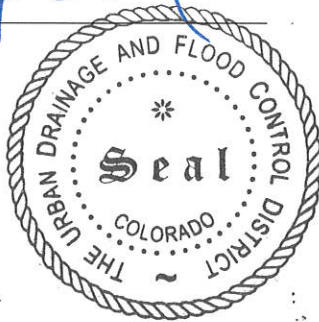

Laura Kroeger

(SEAL)

ATTEST:

DocuSigned by:

123BD5B74BF842B
Donna Shepherd



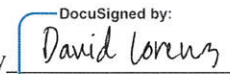
URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

By 

Title Executive Director

Date August 7, 2014

SOUTH SUBURBAN PARK AND
RECREATION DISTRICT

DocuSigned by:
By 
02406A969A6B483...

Title _____

Date August 7, 2014

CITY OF LITTLETON

(SEAL)

ATTEST:

DocuSigned by:

Wendy Heffner

7FEE432A8267419...

APPROVED AS TO FORM:

DocuSigned by:

Wendy Heffner

2003782644EE6497...
City Attorney

DocuSigned by:

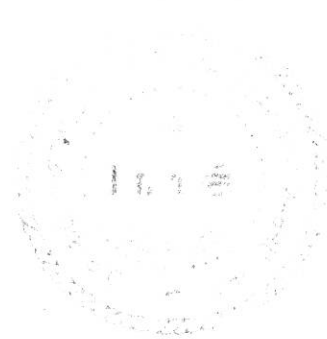
By

Bill Carrone

B432418D3EEB403...

Title Mayor / President of Council

Date August 6, 2014



For the Board of County Commissioners

ARAPAHOE COUNTY

DocuSigned by:

By



Authorization pursuant to Resolution 130152

Title Director, Open Space and Intergovernmental Relations

Date _____

AMENDMENT TO
AGREEMENT REGARDING CONCEPTUAL DESIGN
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE SOUTH PLATTE RIVER IN SOUTH PLATTE PARK

Agreement No. 10-09.02F

THIS AGREEMENT, made this 17th day of February, 2015, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTH SUBURBAN PARK AND RECREATION DISTRICT (hereinafter called "SSPR"), and CITY OF LITTLETON (hereinafter called "CITY") and ARAPAHOE COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, SSPR, and CITY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" (Agreement No. 10-09.02) dated November 11, 2010, as amended by "Amendments to Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park" dated December 27, 2011 (Agreement No. 10-09.02A) and December 19, 2012 (Agreement No. 10-09.02B) and December 30, 2013 (Agreement No. 10-09.02C); and

WHEREAS, DISTRICT, SSPR, CITY, and COUNTY have entered into "Agreement Regarding Conceptual Design of Drainage and Flood Control Improvements for the South Platte River in South Platte Park (Agreement No. 10-09.02D) dated May 6, 2014 and August 5, 2014 (Agreement No. 10-09.02E); and

WHEREAS, PARTIES now desire to complete construct of stream river improvements for Phase III, from Mineral Avenue upstream to C-470; and

WHEREAS, PARTIES desire to increase the level of funding by \$432,000; and

WHEREAS, the County Commissioners of COUNTY, the City Council of CITY, and the Boards of Directors of SSPR and DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Conceptual design services;
 2. Final design services
 3. Construction of improvements;
 4. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$3,880,763 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Conceptual Design	\$ 66,175
2. Final Design	200,000
3. Construction	3,584,588
4. Contingency	30,000
Grand Total	\$3,880,763

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
**DISTRICT	21.31%	\$ 794,065	\$ 33,000	\$ 827,065
*SSPR	8.68%	\$ 296,698	\$ 40,000	\$ 336,698
CITY	19.02%	\$ 588,000	\$ 150,000	\$ 738,000
COUNTY	51.00%	\$1,770,000	\$ 209,000	\$1,979,000
TOTAL	100.00%	\$3,448,763	\$ 432,000	\$3,880,763

*The previous contribution from SSPR was short eight dollars and has been corrected in this amendment.

**DISTRICT directly paid for re-vegetation of Phase I, \$80,000, through the South Platte River Maintenance fund and is not reflected in this IGA. If the \$80,000 was added to the total the COUNTY percentage share would be 49.97%.

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (SSPR - \$336,698; CITY - \$738,000; COUNTY - \$1,979,000; and DISTRICT - \$827,065) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments

of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to SSPR, CITY and COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 11).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

3. All other terms and conditions of Agreement No. 10-09.02 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

ATTEST:
DocuSigned by:
Laura Krueger
Laura Krueger

DocuSigned by:
By P. H. H.
C72714014F78488
Title Executive Director
Date _____

SOUTH SUBURBAN PARK AND
RECREATION DISTRICT

(SEAL)

ATTEST:
DocuSigned by:
Donna Sheppard
123BD58748E642E
Donna Sheppard

DocuSigned by:
By David Lorenz
02408A968A6B483
Title _____
Date _____

ARAPAHOE COUNTY

(SEAL)

ATTEST:
Bethany Collins
Bethany Collins

By [Signature]
Title 3-30-15 Open Space Director
Date 3-30-15

CITY OF LITTLETON

(SEAL)

ATTEST:

DocuSigned by:

Colleen Norton

CF35EE7F11B64D4

APPROVED AS TO FORM:

DocuSigned by:



City Attorney

DocuSigned by:

By



B432418D3EEB403

Title Mayor

Date 02/19/2015

For the Board of County Commissioners
ARAPAHOE COUNTY

By 

Authorization pursuant to Resolution ~~130152~~

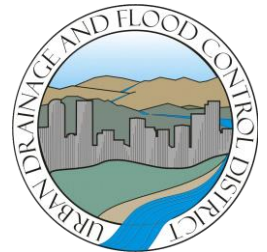
Title Director, Open Space and Intergovernmental Relations

Date 1-5-15

South Suburban Park and Recreation District

South Platte Park Low-Flood Channel Repair Project

Joint Project Proposal to Arapahoe County Open Spaces



February 2016



**South Suburban
PARKS AND RECREATION**



**South Suburban
PARKS AND RECREATION**

November 23, 2015

Arapahoe County Open Space and Trails Advisory Board
6934 S Lima St, Unit A
Centennial, CO 80112

RE: South Platte River Low-Flow Channel Repair Request

Ladies and Gentlemen:

Please accept this application from the South Suburban Park and Recreation District, City of Littleton, and Urban Drainage and Flood Control District to the Arapahoe County Open Spaces Joint Project Proposal Fund for the South Platte River Low-Flow Channel Repair. An initial River Enhancement Project was funded with significant support from Arapahoe County and our named partners, and unfortunately received significant damage during the unprecedented, sustained high river flows in summer 2015. The County applied for FEMA funding to enact repairs, but was not deemed eligible, leaving the river channel scoured and the project short of its potential.

This project, once repaired, will complete a significant improvement on a section of river that suffers dramatically from appropriations of water from upstream reservoirs and ditches. This request will repair a channel design that concentrates this drastically reduced flow to improve recreation access for anglers and wildlife observers, increases the number of days the river is floatable, improves aquatic habitat and water quality, and restores connection between the river and its surrounding riparian vegetation.

Without Arapahoe County's support and financial backing, the partners will fall short of funds to properly repair the river channel in a single effort. Less than full funding would potentially reduce river and riparian habitat function and introduce future stability issues and loss of sediment. Additionally, working each section as funding becomes available would be an inefficient use of funds with multiple mobilizations and restoration of access points and staging areas. We strongly urge Arapahoe County help repair the South Platte River in South Platte Park with the funding available today.

I certify that I am authorized to sign on behalf of the applicant and that if awarded Joint Project funding for this project, the applicant will comply with Arapahoe County's requirements for the Joint Project administration, including matching, due diligence, and reporting requirements.

Sincerely,

Rob Hanna
Executive Director

RH SL/ds

Administrative Office
6631 S. University Blvd.
Centennial, CO 80121-2913

phone 303.798.5131

fax 303.798.3030

www.sspr.org

Board of Directors

John K. Ostermiller, Chair

Susan M. Rosser

Pamela M. Eller

Michael T. Anderson

Scott A. LaBrash

Executive Director

Rob Hanna

Part 3: Project Summary

- **Abstract**

A newly completed South Platte River enhancement project, funded in part by Arapahoe County Open Spaces, received severe damage from historically-high flows in the summer of 2015 during the restoration establishment period drowning vegetation and stripping away soil. The grant would help match funding to restore the river to its initial design to return the function and aesthetics of the natural river system and its recreational uses.

- **Scope of Project**

The river enhancement project was nearly complete, with all that remained being the establishment and grow-in period of restoration plantings to stabilize the design. However, flows exceeded the previous 30-year maximum, drowned that vegetation and prevented access to the river channel for three months, eventually causing damage to the river design. This proposed project would start near C470 and work downstream for 2.4 miles to repair sections of erosion and bank instability, return the low-flow channel design, dredge and return sands and gravels to the scoured upland banks, and install native vegetation throughout the reach to stabilize soils.

- **Location**

South Platte Park, a natural floodplain park, is located in the City of Littleton in western Arapahoe County, Colorado. The 878-acre park spans from C-470 north to Reynolds Landing Park with the South Platte River and the Mary Carter Greenway Trail running through it. The main entrance is near the northwest corner of S. Santa Fe Drive and W. Mineral Ave, behind the Aspen Grove Lifestyle Center.

- **Expected Results**

This project will have several results. The first is to restore the function of the low-flow channel which is to concentrate year-round minimum flow levels. It will also restore functionality of the riffle-pool-run sequence that provides for fish passage survival in low-flow or high-temperature conditions. Recreational usability will be returned to several miles of river bank that have become impassable to visitors due to loose rock and missing gravel materials. Finally, the establishment of vegetation will create long term stability of the overall design, as well as restore riparian habitat for insects, birds, and small mammals on what is currently barren, scoured rock banks.

- **Public Benefits**

The public will benefit by regaining walkable banks along 2.4 miles of the South Platte River, for access for boating, tubing, angling, and nature exploration that are now very difficult with loose and displaced riprap. This effort will significantly improve the aesthetics of the natural area park by restoring soil and vegetation on the riparian edges to cover scoured river banks. Angling opportunities would improve as channel depth is restored to the low-flow channel and pools by removing sediment moved by flooding. The number of river recreation days would increase as shallowed areas are restored to their pre-flood depth, allowing the passage of boats and tubes again at moderate to low flow levels. Public investment in the previous project would be brought finally realized, as that investment is currently a detriment that was responsible for destabilizing the channel banks immediately before unprecedented river flows.

- **Partner Contributions**

South Suburban Park and Recreation District	\$50,000
City of Littleton	\$500,000
Urban Drainage and Flood Control District	\$425,000
Arapahoe County Open Space	\$480,000
Total	\$1, 455,000

None of the funds shown above come from South Platte Working Group pledged funds. All funding provided by partners are from operation, contingency or postponed projects for this priority repair.

- **Expected Time of Completion**

Construction (rock and soil work) is anticipated to last approximately two months from mobilization, with restoration planting completed approximately one month after that time. The establishment period may be up to a year with additional planting and plant care possible, or to stagger timing of various plant installations to occur at the prime time of year for each technique. We are anticipating a mobilization period in late summer of 2016 to maximize timing for work before the next high water period.

Part 4: Relevance to Existing Plans

- **County Comprehensive Plan**

The proposed project meets the intent of the Comprehensive Plan through the conservation of wildlife habitat, creation of wildlife observation opportunities, and creation of passive and active recreation activities. As related to Strategy OS 1.1(e), the project maintains open space areas and improves park facilities; and Strategy OS 1.4 (a) allows resource-based recreation such as fishing.

- **County Open Space Resolution**

Specifically relating to the resolution, the project protects lands that preserve water quality in rivers, lakes and streams; maintains and improves open space; and protects wildlife habitat and the critical river corridors.

- **County Open Space Master Plan**

The project meets the goal for incorporated Arapahoe County of creating cooperative partnerships to conserve, design and improve open space, parks, and trails for the that return maximum benefit to county residents. It also meets the goal of leveraging funds for open space, parks, and trails.

- **County Joint Project Criteria**

The project is a high priority, it is regional in nature, and it is timely and non-controversial. The project costs and timing exceed the limit for an open space grant. Adequate pre-planning, public input and support have been demonstrated by support for the initial construction of the project, strong public support and a lack of complaints during the construction of the initial funding, and public requests to repair the river banks following the flooding. The proposing agencies have committed a significant level of matching funds covering over 70% of the total cost. The entire project is within the borders of Arapahoe County and services a large number of Arapahoe County residents.

- **Agency Plans and/or other Strategic Plans**

In December 2011, the South Suburban Park and Recreation District Board of Directors and the Littleton City Council approved the *South Platte Park, South Platte River Enhancement Plan*. Urban Drainage and Flood Control District adopted the plan. This plan outlined the need for the project and the concepts for enhancement of the river. This is also addressed in the future project

work section of the 2009 South Platte Park Management Plan indicating aquatic health and river function are the most threatened natural systems in the Park.

Part 5: Detailed Discussion

Need and urgency:

This request is for repair to a previously completed project designed to resize 2.4 miles of the South Platte River for new flow conditions created by upstream reservoirs. An analysis of the river showed the river was a fraction of the size appropriate for the existing channel width. The intent was to concentrate extremely low flows into a functional stream system usable by wildlife and recreationists, without affecting overall capacity of the flood channel.

Project construction was complete and the intended impact were observed to be successfully functioning according to design through April of 2015. Water managers in the state are calling May of 2015 “the Miracle May” where snowpack rose from below-average levels to double the average in a very short time, while rain storms inundated the lowlands of the Front Range with storms daily. Flows in South Platte Park increased to 3,000 cubic feet per second, more than six times the 30-year average, and were sustained at that level for nearly three months. This level of flow was unprecedented since the installation of Chatfield Reservoir. The disturbance caused by construction was in the process of being stabilized through standard restoration practices with erosion blanket, seed, and plantings. Those items held up for a short time, but were unable to withstand the length of inundation or the strength of the currents at such high flows.



Photo example on the left shows installation of erosion blanket over topsoil and seed prior to high water events; on the right shows the loss of material and drowned willow stakes following flooding.

As a result, most of the restoration cover (topsoil and seed) was stripped from the project. Without this cover layer, the finer river sediments of sand and gravel were scoured from the river banks and carried into the newly-deepened channel, filling sections of it in. This left upland bars consisting of difficult-to-cross cobbles and loose riprap without finer fill materials to lock them in place. The pools and low-flow channel that had been functioning as designed are now clogged and filled in places. Some areas of hardened channel improvements received minor scour and short-cutting, however, overall the design of the low-flow channel survived flooding as designed.



Photo example on the left shows the narrowed channel and desired bank materials prior to the flood, and some of the scour and loss of sediment this project request will repair.

The need for this request comes from the fact that the upland banks now consist of loose and scoured rock without soil, fine aggregates, or vegetation. This creates hazardous situations for park users trying to walk across the unstable surface, it is unsightly in what is intended to be a natural aesthetic river system, and it is lacking the river-side habitats and cover needed by many wildlife species. The lack of vegetation leaves this channel unstable and susceptible to future scour and sediment removal during even moderate flows, and new vegetation will be unable to establish itself naturally on the rock banks without minimal topsoil or sand materials to germinate in. Loose sediments and filled pools limit survivability for fish at this popular angling destination, and the reduced channel depth makes recreational boating passage possible only at higher flow levels. The overall purpose of river channel efforts initially were to make the best use of extremely low water levels for much of the year. Since flooding stopped and the Front Range experienced the hottest September on record, the river has now been at 1% of its 30 year average, and seeing 0.3 cfs concentrated into what remains of that low-flow channel shows the value of the initial project in maintaining a functional river given the future of water availability in this river system.



Photo example on the left shows restoration materials in place before high flows, on the right shows successful restoration above the high-water mark, and the scoured bank and planting pockets in areas that had been inundated.

The urgency for this request is primarily based on continued instability of the river channel small sediments, as well as timing of the funding from partner agencies. Without soils and finer river sediments, vegetation will be very slow in establishing on the scoured rocky shores, which means

future higher-water events will continue to move and remove sediments until they are secured by plant roots or completely washed away from the site. As this Park is downstream from a reservoir, there is no opportunity for sediments to wash in from upstream to fill in displaced sediments. Willow stakes to establish willow groves, and sand-bar shrub plantings are necessary to reduce the velocity and energy of water in future flood events as it flows over constructed bars and stabilized banks. Urban Drainage, the City of Littleton, and South Suburban Parks and Recreation have been able to direct some remaining 2015, and some contingency 2016 funds towards more immediate repairs. Delays in finding our full funding match could mean a loss of existing funding sources, and mobilization costs for this type of work make the most economic efficiency to conduct at one time, rather than piecemealing it as funding becomes available.

Goals:

The goal of the project is restore the South Platte River channel in South Platte Park back to its pre-flood river enhancement design and condition. This will be accomplished as follows: 1) redistribute sediments in key locations from where they have been deposited in the flow channel back onto scoured point-bars to create a base for restoration and restore recreational usability 2) install topsoil, erosion control blanket, and native seed on large exposed banks to create a diverse and stable riverside vegetation zone within a one- to two-year grow-in period 3) stabilize eroded banks through willow stake establishment and small design changes with riprap installation, and 4) establish trees and shrubs to provide structurally diverse habitat, restore the aesthetics of the riparian area, and to reduce velocity for future flow events.

A listing of project repairs was created by inspection and agreement between site managers, project managers, and the construction firms. The budget in Part 10 shows the repairs organized in order from upstream to downstream location along with the quantity of work needed and the priority of each repair looking at the value of the repair for project stability, recreational improvement, and accessibility. Managers have considered each repair and are balancing the value of each repair for functionality, versus the cost for each. Not every piece of the project damaged will get repaired as the value of the repair is not worth the damage to surrounding areas to access them.

Expected User Groups:

The Mary Carter Greenway Trail, which parallels the project area, has a current use estimate of 550,000 user visits per year, with hourly rates of non-organized users recorded as high as 500 people per hour during peak times. The Nature Center adjacent to the river has visitation of 14,000 people, and program participation around 5,000 people annually. These numbers do not include the high number of natural-surface trail users, river users, and anglers that do not currently have a formal count system in place. Visitors throughout the metro area come to the Park for a variety of reasons. Some come to walk, bike, or run the Mary Carter Greenway trail. Others come to kayak, canoe, or fish the South Platte River. Observing wildlife such as herons, ducks, beavers, snakes, raptors, and song birds is a popular outing in the Park. Individuals of all ages, school groups, and scouts attend nature programs held at the edge of the South Platte River. These education programs include classes such as Gold Panning, Wildlife Detectives, Ecosystem Adventures, Crazy About Crawdads, River Treasure Hunt, etc. Many come to simply enjoy the unique natural setting.

Process Used to Evaluate Project:

The *South Platte Park Final Master Plan*, 1983, revised 1988, originally identified a need for improved fishing habitat in the river, and the 2009 *South Platte Park Management Plan* identified the aquatic and riparian habitat the most threatened in the Park, in need of numerous management functions. South Suburban, Littleton, Trout Unlimited (Denver and Cutthroat Chapters) hired Ecological Resources Consulting Inc. (ERC) to perform an assessment of the river corridor. In July 2009, the *Stream Assessment & Conceptual Restoration* study was completed. The study

found that beyond basic fishing habitat improvement, the river had become degraded and was in need of more significant enhancements to improve the ecological health of the system. Based upon this study, ERC moved forward to through a year of study, stake holders' meetings, and a public hearing, to submit the *South Platte Park, South Platte River Enhancement Plan* in January 2012. This plan provided detail concepts to meet the project goal of enhancing the river to mimic a more natural condition. After work was completed and flood damage occurred, ERC returned to the site to inspect conditions with Naranjo Construction, Arrowhead Landscaping, and all the project partners to evaluate the design, functionality, and damage. From that, the repair plan that is attached in Parts 6 and 10 was developed.

Planning efforts to date:

With the extensive studies performed to date, construction and contract managers having inspected the project on site, and Urban Drainage and Littleton as project sponsors, the planning efforts are essentially complete and ready to implement. The plan included costs and engineering analysis.

Environmental Considerations:

The proposed project is consistent with the principles of the *South Platte Park Management Plan*, updated 2009. The Management Plan sets procedure for the management of the natural area with controlled public access. The goal of the plan is to manage the natural resources so that a balance is created that allows visitors use of the area while preserving the natural resources. The plan addresses policies on land management, land use, vegetation management, water resource management, fisheries management, wildlife management, visitor management, and education through interpretation. The proposed project is consistence with these established policies and protocols for water, wildlife, vegetation, fisheries, and land use will be followed. This repair project should have positive outcomes on water quality by stabilizing sediments, and by improving the rate of flow through the better defined channel, and will improve wildlife habitat up to the waters edge. Establishment of restoration grasses, shrubs, and willows will create competition for invasive pioneer weeds.

Inclusivity:

ADA access to the river was accomplished through the construction of 2 ADA fishing platforms with an accessible route located near the Carson Nature Center. Enhancement of the river in this location was completed with Phase I of the project. A riffle/pool was constructed at the platform to improve fishing opportunities.

Access points to the river were established in the initial river enhancement project have been scoured to inaccessible cobbles and riprap. This request for the repair project will re-establish walkable fine sediment materials for the greatest extent of access possible. Because of the existing steep terrain and Army Corps limitations on construction in the floodway, compacted surfaces and accessible slopes will be provided to the greatest extent possible where full and complete accessibility may not be.



Photo example on left shows the potentially accessible slope and materials for typical access trails prior to flooding; on the right is what many of those access points currently look like – loose rock will be covered by soils and compacted to re-establish accessible trails during the restoration process where possible.

Connectivity:

The existing Mary Carter Greenway Trail, a regional trail, starts in South Platte Park at C-470 and continues 8.3 miles north to W. Dartmouth Ave., and then continues into Denver and eventually Adams County. The trail connects into other regional trails including: Centennial Trail (C-470 Trail), Lee Gulch Trail, Little's Creek Trail, Big Dry Creek Trail and Bear Creek Trail. Parks and recreation facilities located along the trail include Chatfield State Park, South Platte Park, Reynolds Landing, Lee Gulch Overlook, Hudson Gardens, Watson Lake, Littleton Golf Course, Oxbow Point and Creekside Experience.

Within the park there are 3.5 miles of interpretive trails that provide access to specific experiences within the park. Further there are access trails from the Mary Carter Greenway Trail and interpretive trails to the South Platte River. Many of these access trails will be repaired as part of this project. Locations and quantities will be determined through the design process.

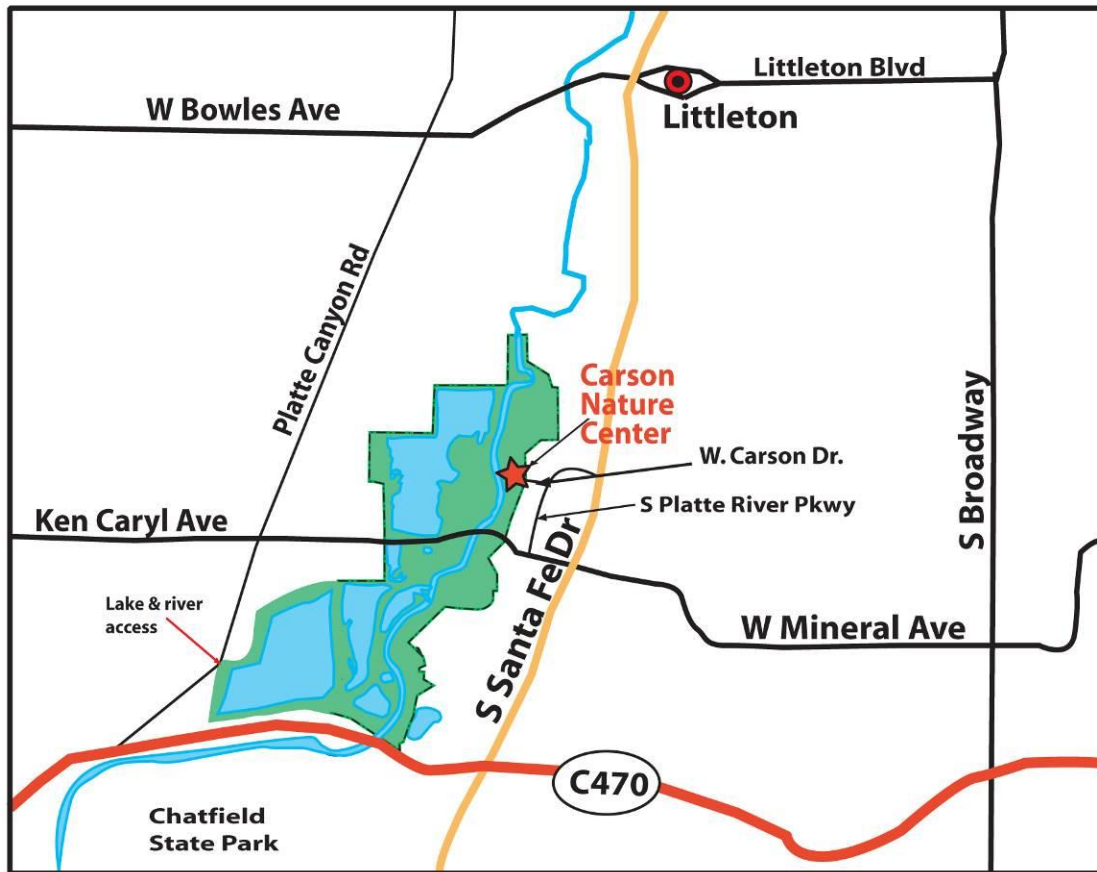
Long-term sustainability and maintenance:

The project is designed to withstand the impacts of a 100-year flood through the continued use of existing grade control structures (drop structures) and rock sizing that will be designed to be stable in a 100-year event. The key to the damage that occurred in this recent flood event is that the flows came up before restoration plantings could establish themselves on Phases II and III. Phase I, where plantings had been established for two years, showed very little alteration or damage, demonstrating the stability of this project in the long run, provided restoration can be successfully completed. Just as a natural river system evolves with variation in flows and sediment transport, the enhancement project has been designed to evolve. The intent of the project is not to "lock" the river in place, and some response to higher flow is both predicted and encouraged as the stream is intended to function as a natural system within the constraints of the sites. Urban Drainage, South Suburban and Littleton are committed to the long term sustainability of the project and will collaboratively work together should future maintenance needs arise, and this has been demonstrated by all three agencies find the bulk of funds for repairs after this initial event.

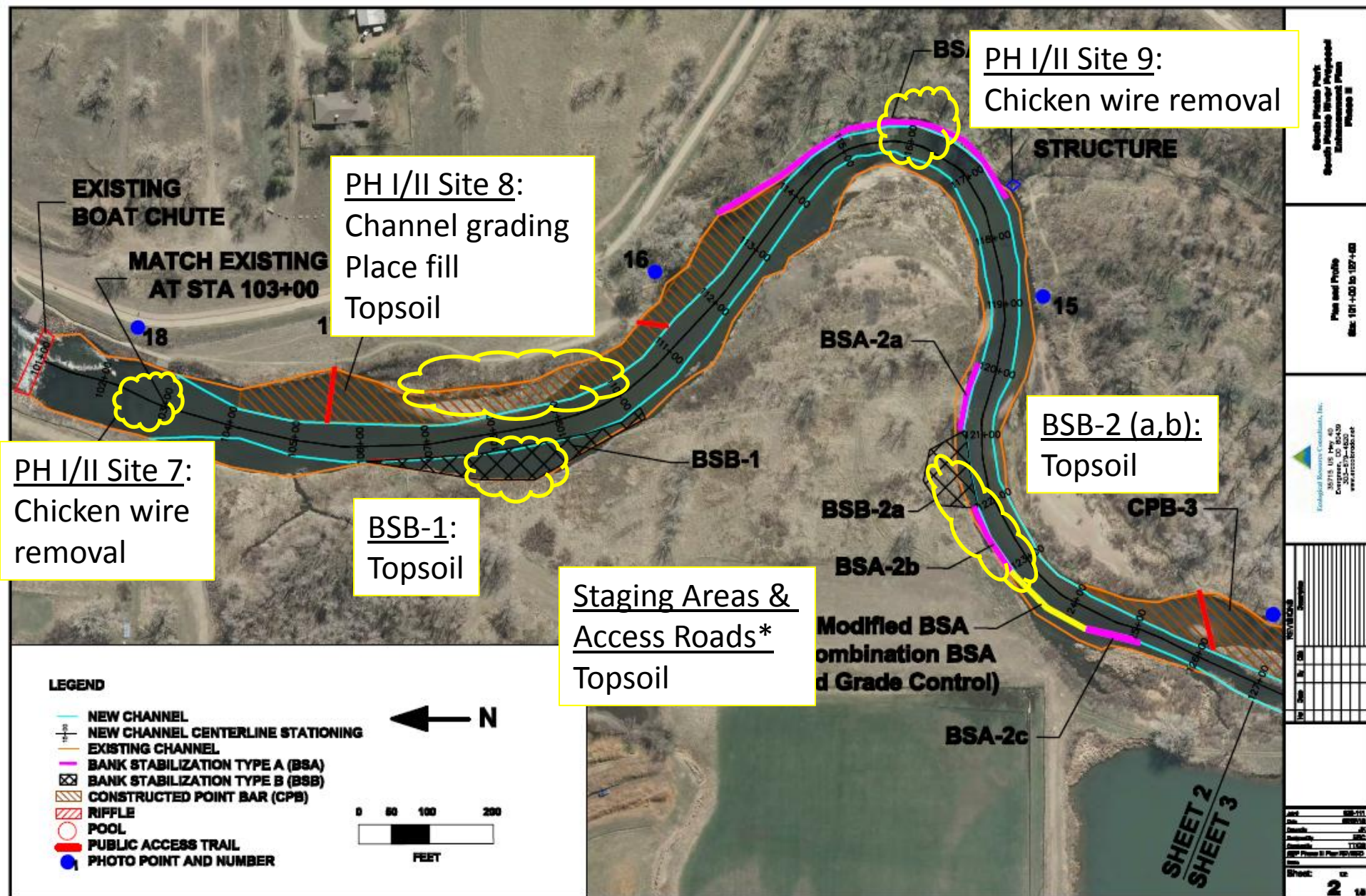
South Platte Park

3000 West Carson Drive

303-730-1022 www.sspr.org



South Suburban PARKS AND RECREATION



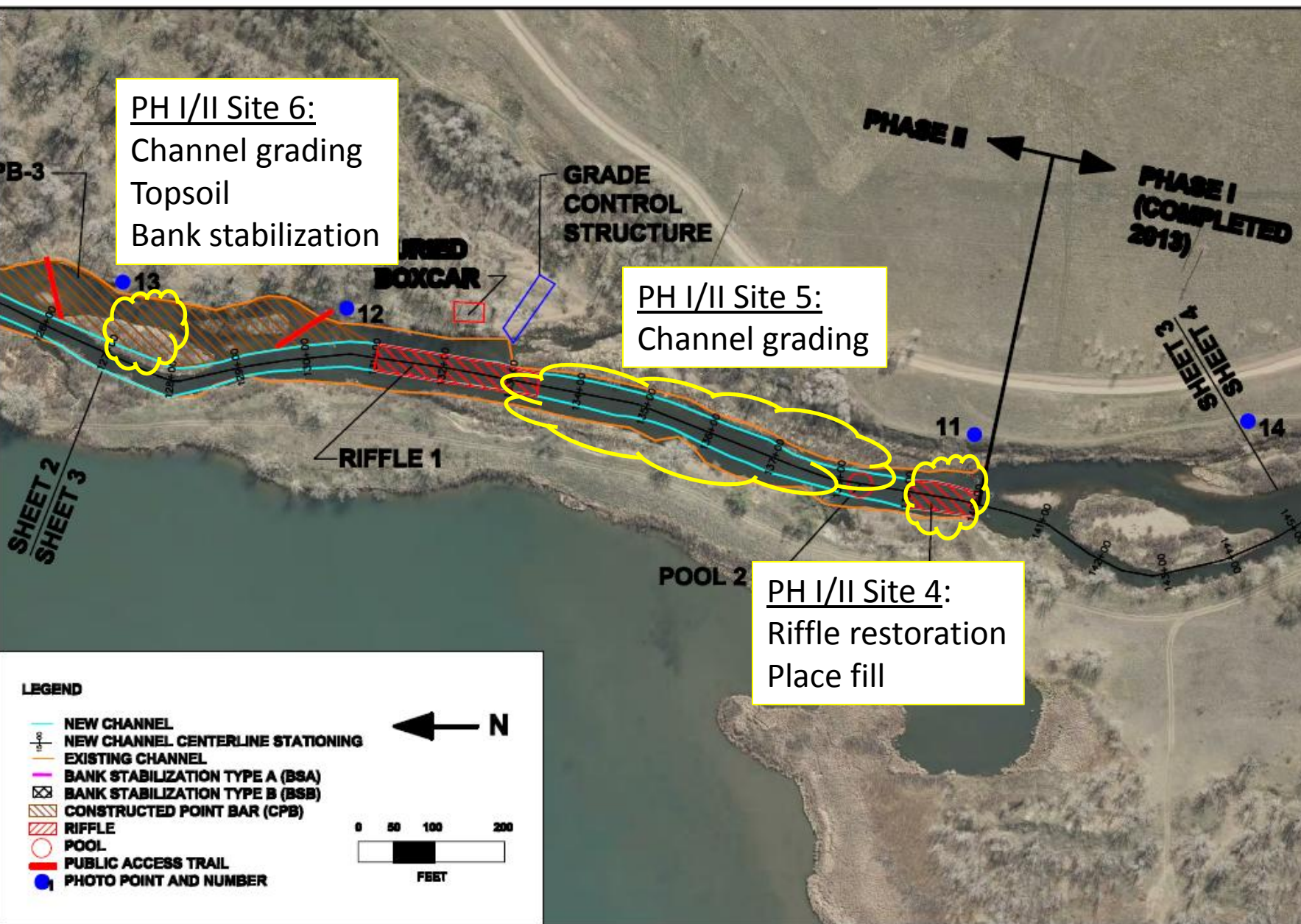
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Channel									
Bank									
Structure									
Pool									
Riffle									
CPB									
BSA									
BSB									

Job No.	2008-111
Date	08/08/14
Client	AT
Project	2008
Location	11100
Project Phase II Plan 10/10/2013	
Sheet	3

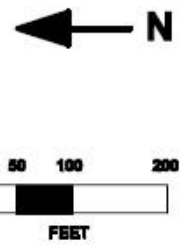
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Topsoil
Bank stabilization

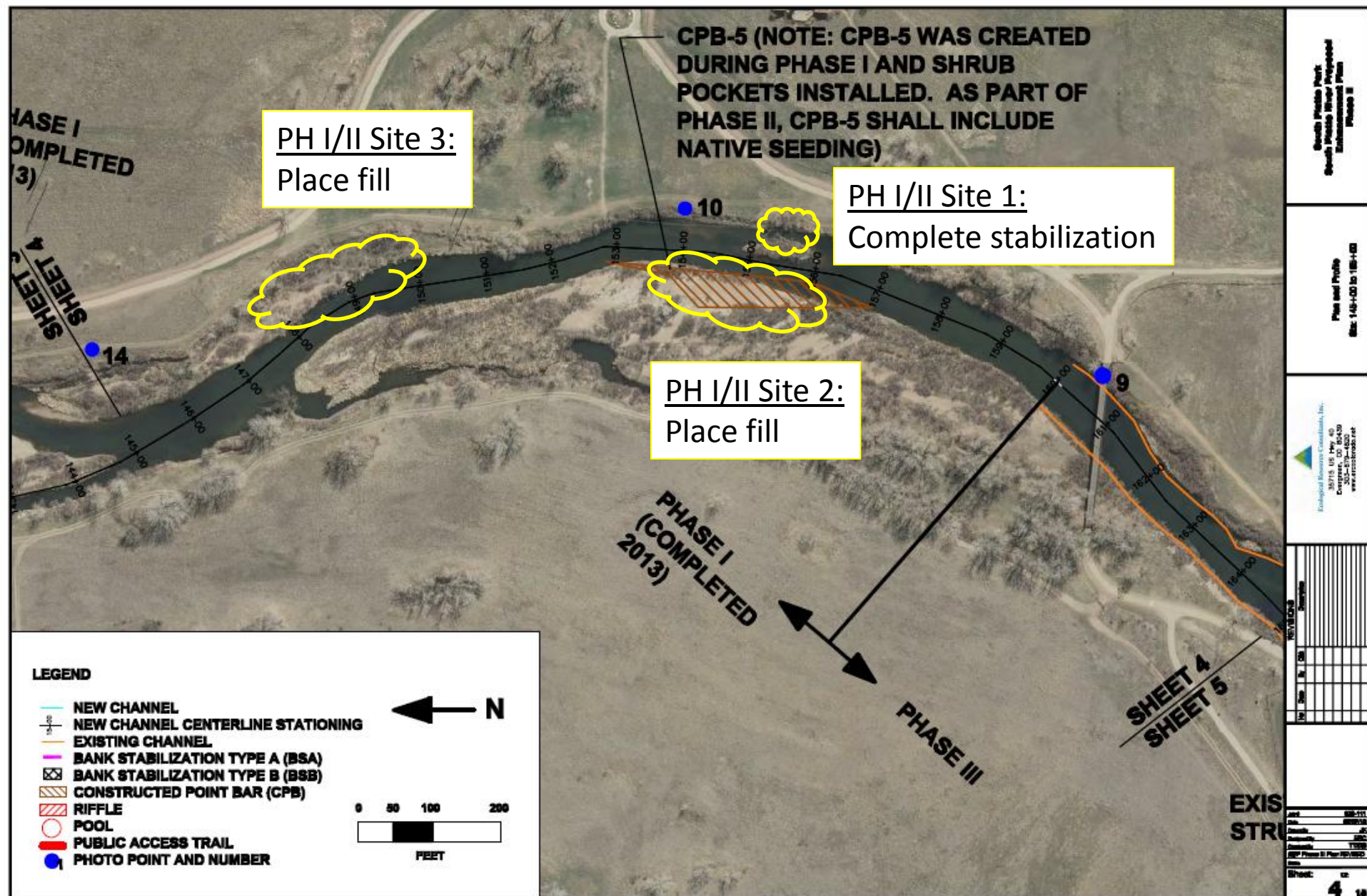
PH I/II Site 5:
Channel grading

PH I/II Site 4:
Riffle restoration
Place fill

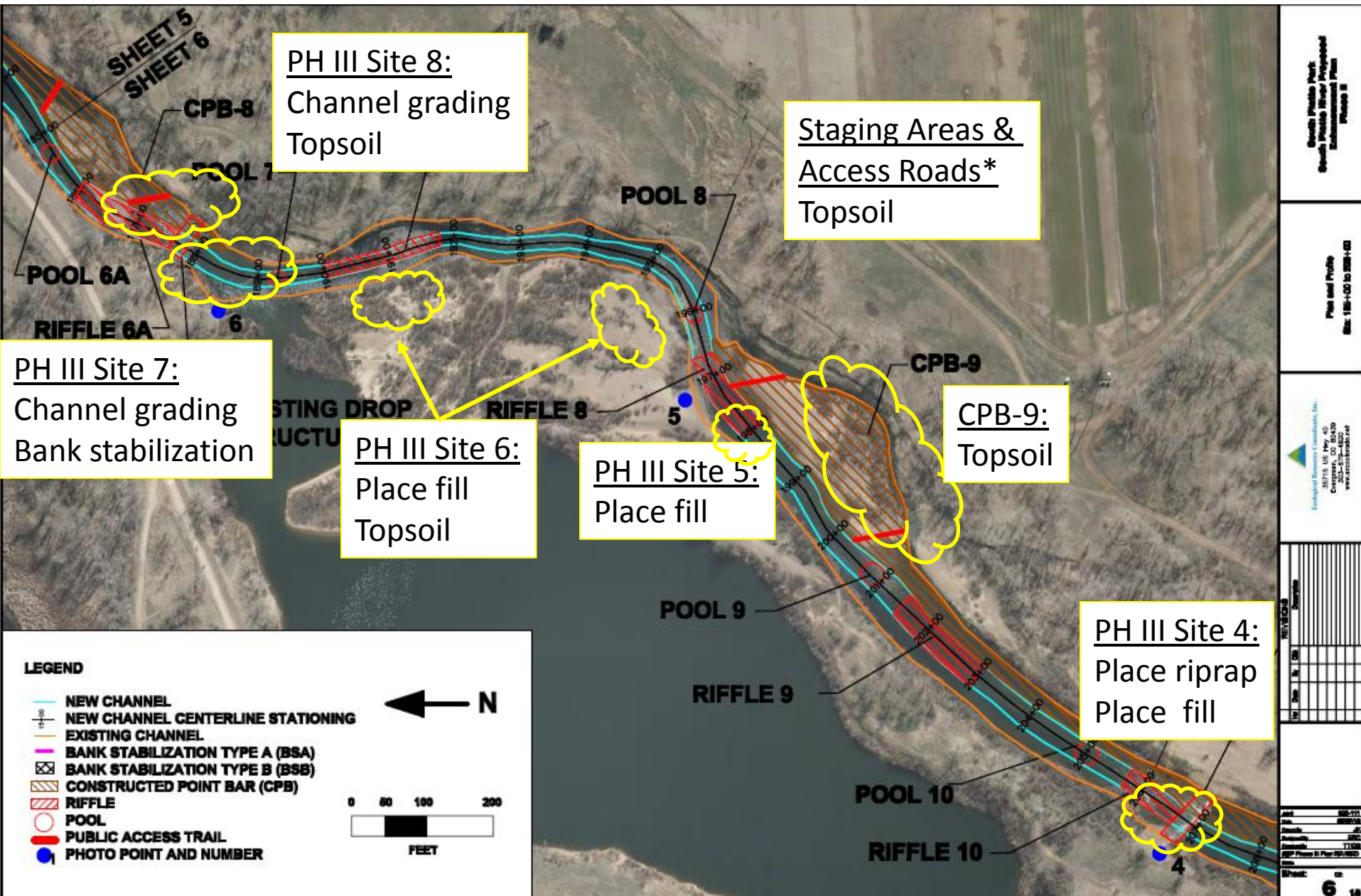


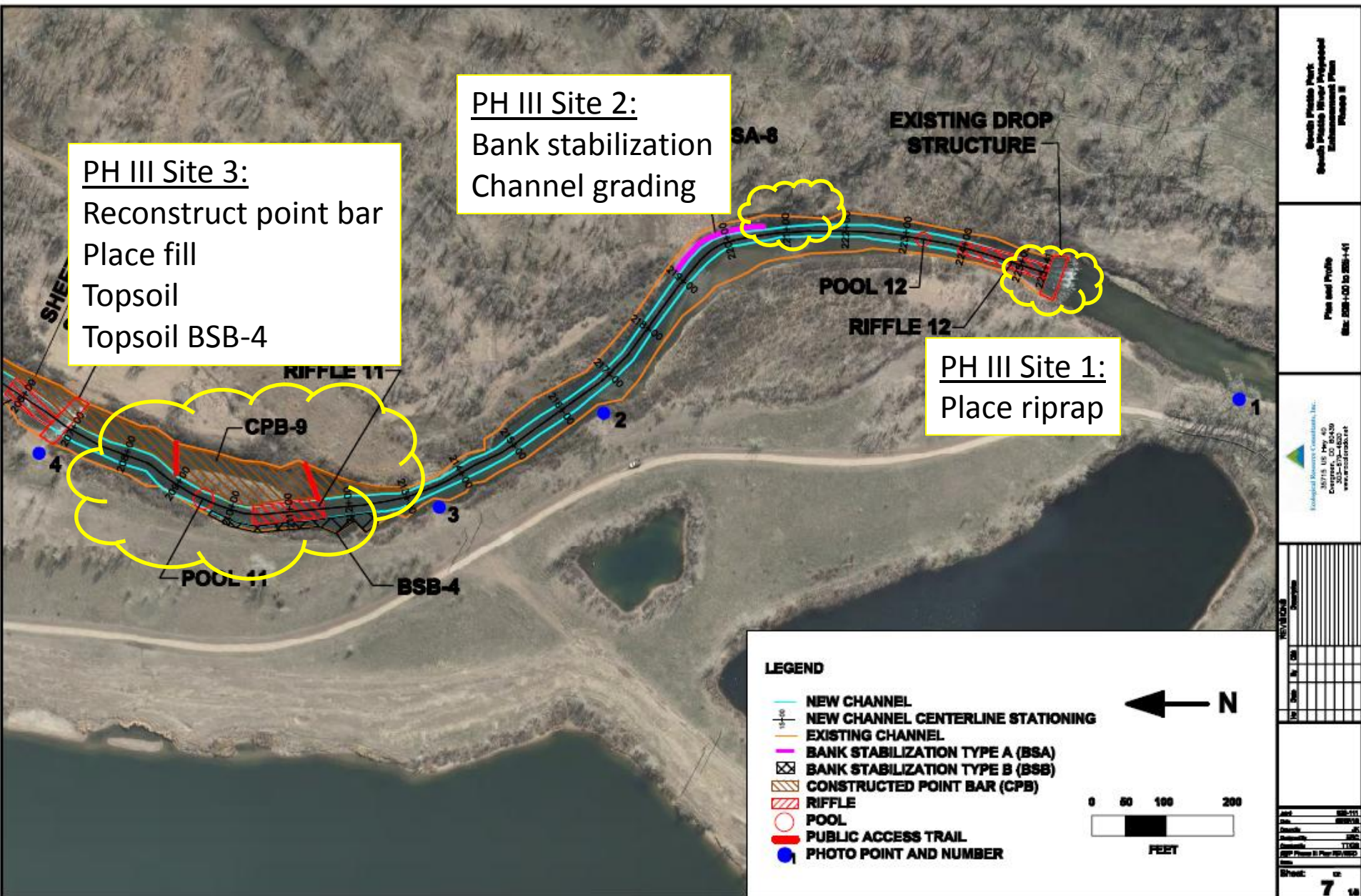
- LEGEND**
- NEW CHANNEL
 - NEW CHANNEL CENTERLINE STATIONING
 - EXISTING CHANNEL
 - BANK STABILIZATION TYPE A (BSA)
 - BANK STABILIZATION TYPE B (BSB)
 - CONSTRUCTED POINT BAR (CPB)
 - RIFFLE
 - POOL
 - PUBLIC ACCESS TRAIL
 - PHOTO POINT AND NUMBER





Station	10+00	10+20	10+40	10+60	10+80	11+00	11+20	11+40	11+60	11+80	12+00	12+20	12+40	12+60	12+80	13+00	13+20	13+40	13+60	13+80	14+00	14+20	14+40	14+60	14+80	15+00	15+20	15+40	15+60	15+80	16+00	16+20	16+40	16+60	16+80	17+00	17+20	17+40	17+60	17+80	18+00	18+20	18+40	18+60	18+80	19+00	19+20	19+40	19+60	19+80	20+00	20+20	20+40	20+60	20+80	21+00	21+20	21+40	21+60	21+80	22+00	22+20	22+40	22+60	22+80	23+00	23+20	23+40	23+60	23+80	24+00	24+20	24+40	24+60	24+80	25+00	25+20	25+40	25+60	25+80	26+00	26+20	26+40	26+60	26+80	27+00	27+20	27+40	27+60	27+80	28+00	28+20	28+40	28+60	28+80	29+00	29+20	29+40	29+60	29+80	30+00	30+20	30+40	30+60	30+80	31+00	31+20	31+40	31+60	31+80	32+00	32+20	32+40	32+60	32+80	33+00	33+20	33+40	33+60	33+80	34+00	34+20	34+40	34+60	34+80	35+00	35+20	35+40	35+60	35+80	36+00	36+20	36+40	36+60	36+80	37+00	37+20	37+40	37+60	37+80	38+00	38+20	38+40	38+60	38+80	39+00	39+20	39+40	39+60	39+80	40+00	40+20	40+40	40+60	40+80	41+00	41+20	41+40	41+60	41+80	42+00	42+20	42+40	42+60	42+80	43+00	43+20	43+40	43+60	43+80	44+00	44+20	44+40	44+60	44+80	45+00	45+20	45+40	45+60	45+80	46+00	46+20	46+40	46+60	46+80	47+00	47+20	47+40	47+60	47+80	48+00	48+20	48+40	48+60	48+80	49+00	49+20	49+40	49+60	49+80	50+00	50+20	50+40	50+60	50+80	51+00	51+20	51+40	51+60	51+80	52+00	52+20	52+40	52+60	52+80	53+00	53+20	53+40	53+60	53+80	54+00	54+20	54+40	54+60	54+80	55+00	55+20	55+40	55+60	55+80	56+00	56+20	56+40	56+60	56+80	57+00	57+20	57+40	57+60	57+80	58+00	58+20	58+40	58+60	58+80	59+00	59+20	59+40	59+60	59+80	60+00	60+20	60+40	60+60	60+80	61+00	61+20	61+40	61+60	61+80	62+00	62+20	62+40	62+60	62+80	63+00	63+20	63+40	63+60	63+80	64+00	64+20	64+40	64+60	64+80	65+00	65+20	65+40	65+60	65+80	66+00	66+20	66+40	66+60	66+80	67+00	67+20	67+40	67+60	67+80	68+00	68+20	68+40	68+60	68+80	69+00	69+20	69+40	69+60	69+80	70+00	70+20	70+40	70+60	70+80	71+00	71+20	71+40	71+60	71+80	72+00	72+20	72+40	72+60	72+80	73+00	73+20	73+40	73+60	73+80	74+00	74+20	74+40	74+60	74+80	75+00	75+20	75+40	75+60	75+80	76+00	76+20	76+40	76+60	76+80	77+00	77+20	77+40	77+60	77+80	78+00	78+20	78+40	78+60	78+80	79+00	79+20	79+40	79+60	79+80	80+00	80+20	80+40	80+60	80+80	81+00	81+20	81+40	81+60	81+80	82+00	82+20	82+40	82+60	82+80	83+00	83+20	83+40	83+60	83+80	84+00	84+20	84+40	84+60	84+80	85+00	85+20	85+40	85+60	85+80	86+00	86+20	86+40	86+60	86+80	87+00	87+20	87+40	87+60	87+80	88+00	88+20	88+40	88+60	88+80	89+00	89+20	89+40	89+60	89+80	90+00	90+20	90+40	90+60	90+80	91+00	91+20	91+40	91+60	91+80	92+00	92+20	92+40	92+60	92+80	93+00	93+20	93+40	93+60	93+80	94+00	94+20	94+40	94+60	94+80	95+00	95+20	95+40	95+60	95+80	96+00	96+20	96+40	96+60	96+80	97+00	97+20	97+40	97+60	97+80	98+00	98+20	98+40	98+60	98+80	99+00	99+20	99+40	99+60	99+80	100+00	100+20	100+40	100+60	100+80	101+00	101+20	101+40	101+60	101+80	102+00	102+20	102+40	102+60	102+80	103+00	103+20	103+40	103+60	103+80	104+00	104+20	104+40	104+60	104+80	105+00	105+20	105+40	105+60	105+80	106+00	106+20	106+40	106+60	106+80	107+00	107+20	107+40	107+60	107+80	108+00	108+20	108+40	108+60	108+80	109+00	109+20	109+40	109+60	109+80	110+00	110+20	110+40	110+60	110+80	111+00	111+20	111+40	111+60	111+80	112+00	112+20	112+40	112+60	112+80	113+00	113+20	113+40	113+60	113+80	114+00	114+20	114+40	114+60	114+80	115+00	115+20	115+40	115+60	115+80	116+00	116+20	116+40	116+60	116+80	117+00	117+20	117+40	117+60	117+80	118+00	118+20	118+40	118+60	118+80	119+00	119+20	119+40	119+60	119+80	120+00	120+20	120+40	120+60	120+80	121+00	121+20	121+40	121+60	121+80	122+00	122+20	122+40	122+60	122+80	123+00	123+20	123+40	123+60	123+80	124+00	124+20	124+40	124+60	124+80	125+00	125+20	125+40	125+60	125+80	126+00	126+20	126+40	126+60	126+80	127+00	127+20	127+40	127+60	127+80	128+00	128+20	128+40	128+60	128+80	129+00	129+20	129+40	129+60	129+80	130+00	130+20	130+40	130+60	130+80	131+00	131+20	131+40	131+60	131+80	132+00	132+20	132+40	132+60	132+80	133+00	133+20	133+40	133+60	133+80	134+00	134+20	134+40	134+60	134+80	135+00	135+20	135+40	135+60	135+80	136+00	136+20	136+40	136+60	136+80	137+00	137+20	137+40	137+60	137+80	138+00	138+20	138+40	138+60	138+80	139+00	139+20	139+40	139+60	139+80	140+00	140+20	140+40	140+60	140+80	141+00	141+20	141+40	141+60	141+80	142+00	142+20	142+40	142+60	142+80	143+00	143+20	143+40	143+60	143+80	144+00	144+20	144+40	144+60	144+80	145+00	145+20	145+40	145+60	145+80	146+00	146+20	146+40	146+60	146+80	147+00	147+20	147+40	147+60	147+80	148+00	148+20	148+40	148+60	148+80	149+00	149+20	149+40	149+60	149+80	150+00	150+20	150+40	150+60	150+80	151+00	151+20	151+40	151+60	151+80	152+00	152+20	152+40	152+60	152+80	153+00	153+20	153+40	153+60	153+80	154+00	154+20	154+40	154+60	154+80	155+00	155+20	155+40	155+60	155+80	156+00	156+20	156+40	156+60	156+80	157+00	157+20	157+40	157+60	157+80	158+00	158+20	158+40	158+60	158+80	159+00	159+20	159+40	159+60	159+80	160+00	160+20	160+40	160+60	160+80	161+00	161+20	161+40	161+60	161+80	162+00	162+20	162+40	162+60	162+80	163+00	163+20	163+40	163+60	163+80	164+00	164+20	164+40	164+60	164+80	165+00	165+20	165+40	165+60	165+80	166+00	166+20	166+40	166+60	166+80	167+00	167+20	167+40	167+60	167+80	168+00	168+20	168+40	168+60	168+80	169+00	169+20	169+40	169+60	169+80	170+00	170+20	170+40	170+60	170+80	171+00	171+20	171+40	171+60	171+80	172+00	172+20	172+40	172+60	172+80	173+00	173+20	173+40	173+60	173+80	174+00	174+20	174+40	174+60	174+80	175+00	175+20	175+40	175+60	175+80	176+00	176+20	176+40	176+60	176+80	177+00	177+20	177+40	177+60	177+80	178+00	178+20	178+40	178+60	178+80	179+00	179+20	179+40	179+60	179+80	180+00	180+20	180+40	180+60	180+80	181+00	181+20	181+40	181+60	181+80	182+00	182+20	182+40	182+60	182+80	183+00	183+20	183+40	183+60	183+80	184+00	184+20	184+40	184+60	184+80	185+00	185+20	185+40	185+60	185+80	186+00	186+20	186+40	186+60	186+80	187+00	187+20	187+40	187+60	187+80	188+00	188+20	188+40	188+60	188+80	189+00	189+20	189+40	189+60	189+80	190+00	190+20	190+40	190+60	190+80	191+00	191+20	191+40	191+60	191+80	192+00	192+20	192+40	192+60	192+80	193+00	193+20	193+40	193+60	193+80	194+00	194+20	194+40	194+60	194+80	195+00	195+20	195+40	195+60	195+80	196+00	196+20	196+40	196+60	196+80	197+00	197+20	197+40	197+60	197+80	198+00	198+20	198+40	198+60	198+80	199+00	199+20	199+40	199+60	199+80	200+00	200+20	200+40	200+60	200+80	201+00	201+20	201+40	201+60	201+80	202+00	202+20	202+40	202+60	202+80	203+00	203+20	203+40	203+60	203+80	204+00	204+20	204+40	204+60	204+80	205+00	205+20	205+40	205+60	205+80	206+00	206+20	206+40	206+60	206+80	207+00	207+20	207+40	207+60	207+80	208+00	208+20	208+40	208+60	208+80	209+00	209+20	209+40	209+60	209+80	210+00	210+20	210+40	210+60	210+80	211+00	211+20	211+40	211+60	211+80	212+00	212+20	212+40	212+60	212+80	213+00	213+20	213+40	213+60	213+80	214+00	214+20	214+40	214+60	214+80	215+00	215+20	215+40	215+60	215+80	216+00	216+20	216+40	216+60	216+80	217+00	217+20	217+40	217+60	217+80	218+00	218+20	218+40	218+60	218+80	219+00	219+20	219+40	219+60	219+80	220+00	220+20	220+40	220+60	220+80	221+00	221+20	221+40	221+60	221+80	222+00	222+20	222+40	222+60	222+80	223+00	223+20	223+40	223+60	223+80	224+00	224+20	224+40	224+60	224+80	225+00	225+20	225+40	225+60	225+80	226+00	226+20	226+40	226+60	226+80	227+00	227+20	227+40	227+60	227+80	228+00	228+20	228+40	228+60	228+80	229+00	229+20	229+40	229+60	229+80	230+00	230+20	230+40	230+60	230+80	231+00	231+20	231+40	231+60	231+80	232+00	232+20	232+40	232+60	232+80	233+00	233+20	233+40	233+60	233+80	234+00	234+20	234+40	234+60	234+80	235+00	235+20	235+40	235+60	235+80	236+00	236+20	236+40	236+60	236+80	237+00	237+20	237+40	237+60	237+80	238+00	238+20	238+40	238+60	238+80</
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Part 7: Photos





Part 8: Timeline

Timeline			
Task	Estimated Hours and/or Expected Date to Complete	Responsible Person/Group	Measurable Objective/Deliverable
Mobilization	Sept 15, 2016	Naranjo	Begin Project
Phase 1 repairs	3 days	Naranjo	Channel grading and sediment fill material, topsoil placement
Phase 1 restoration	3 days	Arrowhead	Replace willow stakes, blanket, seed, planting pockets
Phase 2 repairs	4 weeks	Naranjo	Riffle reconstruction, Channel restoration, terrace repairs, topsoil placement
Phase 2 restoration	4 weeks	Arrowhead	Seed and blanket, planting pockets, tree planting, willow staking
Phase 2 veg maintenance	6 months	Arrowhead, S Platte Pk	Watering, weed control, replacement plantings
Phase 3 repairs	8 weeks	Naranjo	Riffle reconstruction, Channel restoration, terrace repairs, topsoil placement
Phase 3 restoration	6 weeks	Arrowhead	Seed and blanket, planting pockets, tree planting, willow staking
Phase 3 veg maintenance	6 months	Arrowhead, S Platte Pk	Watering, weed control, replacement plantings
Estimated TOTAL Hours and/or Final Date of Completion	April 2017		

Part 9: Commitments and Official Support



City Manager

2255 West Berry Avenue
Littleton, Colorado 80120
303-795-3720

November 20, 2015

Arapahoe County Open Space and Trails Advisory Board
6934 S. Lima Street, Unit A
Centennial, Colorado 80112

Re: Letter of Support and Commitment of Matching Funds

Dear Advisory Board Members:

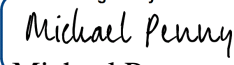
The City of Littleton is partnering with South Suburban Parks and Recreation District and the Urban Drainage and Flood Control District to repair the low-flow river channel damage to the South Platte River in South Platte Park caused by the unprecedented high-flows in the river in 2015.

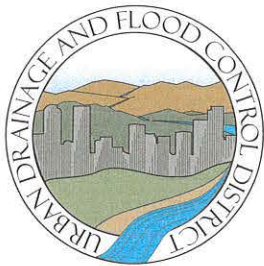
The city is the owner of the park and fully supports the proposed repair project and has committed \$500,000 to address the repair work in 2016. This project is a high priority for the city and will restore river health and river access in the regionally-significant South Platte Park. Additionally, County support for this project at this time will allow the repairs to be conducted all-at-once, limiting the intrusion and disruption of the public's enjoyment of the natural area.

On the behalf of the Littleton City Council, I strongly urge Arapahoe County to again join in the restoration of the enhancements to the South Platte River in South Platte Park and respectfully request your support on this joint project application.

Sincerely,

DocuSigned by:


Michael Penny
City Manager



URBAN DRAINAGE AND FLOOD CONTROL DISTRICT

Paul A. Hindman, Executive Director
2480 W. 26th Avenue, Suite 156B
Denver, CO 80211-5304

Telephone 303-455-6277
Fax 303-455-7880
www.udfcd.org

November 19, 2015

Arapahoe County Open Space and Trails Advisory Board
6934 S. Lima St., Unit A
Centennial, CO 80112

RE: South Platte Park Enhancement High Water Repairs
Letter of Support

To Whom It May Concern:

The Urban Drainage and Flood Control District (District) has partnered with South Suburban Park and Recreation and the City of Littleton to design and construct river corridor enhancements in South Platte Park. The project is broken into three construction phases. These phases consist of reshaping the low flow channel, reinstituting a riffle, pool, and glide series, creating riparian benches, and bank stabilization.

Phase 1 was completed in the summer of 2013, Phase 2 was completed in January of 2015, and Phase 3 was almost complete when the high release started coming out of Chatfield Dam. The first layer of protection against high water in our stream and rivers is vegetation. Due to the fact the vegetation wasn't able to establish during Phase 2 and Phase 3, the project areas were very vulnerable to the sustained high water resulting in some damage to the sites.

The District builds numerous projects each year all within floodplains. High water conditions during or shortly after construction is always a risk. We are confident that the long term design and implementation of the South Platte Park improvements will be of benefit to the park and the community. The District is committed to and has budgeted an additional \$100,000 in 2016 towards completing Phases 2 and 3.

Sincerely,

Paul A. Hindman
Executive Director

SOUTH PLATTE WORKING GROUP

February 3, 2016

Arapahoe County Open Space and Trails Advisory Board
c/o Arapahoe County Open Spaces Program
6934 S Lima St. Unit A
Centennial, CO 80112

Dear Members of the Open Space and Trails Advisory Board:

We are writing in support of the application for funds by South Suburban Parks and Recreation District to affect repairs on the South Platte River in South Platte Park as a result of the historic floods of 2015.

When the repairs were completed in March 2015, the river and its banks were both beautiful and designed to be resilient to the periodic flooding that we normally experience on the South Platte River. Unfortunately, the vegetation that would have held much of the topsoil and finer embankment materials in place did not have the two-year period to establish and further protect the area.

Although the eight weeks of flooding did damage the river and the restoration efforts, we are impressed with the way that the design was able to effectively retain its form, and also with the degree to which the banks held. The design and implementation ended up being largely effective in the face of extreme flows.

The City of Littleton, Urban Drainage and Flood Control District, and South Suburban Parks & Recreation District are also contributing substantial funds. While the Arapahoe County funds are separate from those pledged to our working group projects, this project meets the important goal of the South Platte Working Group: *"To restore and revitalize the river and its habitat while maintaining its role as a flood conveyance."*

The repairs will be timed to avoid potential high flows this spring, giving the vegetation time to be established. We hope that you will support this effort to repair the damage of the rarely seen flooding of 2015.

Sincerely,

The Members of the South Platte Working Group
(Please see the next page for members.)

SOUTH PLATTE WORKING GROUP

Arapahoe County

Nancy Doty, Commissioner
Shannon Carter, Intergovernmental
Relations and Open Spaces Director

City of Englewood

Linda Olson, City Council
Eric Keck, City Manager

City of Sheridan

Sally Daigle, City Council
Devin Granbery, City Manager

Colorado Water Conservation Board

Joe Busto, South Platte River Coordinator

South Metro Land Conservancy

Bobbie Sheffield, Board Member

Arapahoe County Open Space & Trails Advisory Board

Bev Bradshaw, At Large Board Member

Town of Columbine Valley

Gale Christy, Mayor

City of Littleton

Debbie Brinkman, Mayor Pro Tem
Michael Penny, City Manager

South Suburban Parks & Recreation District

Sue Rosser, Board Member
Rob Hanna, Executive Director

Urban Drainage & Flood Control District

Paul Hindman, Executive Director

South Suburban Park Foundation

David Bolt, Board Member

Part 10: Budget

Budget						
Sources of Funds	South Suburban	Littleton	Urban Drainage		County	Total Project Funds
Cash Committed	\$ 50,000	\$500,000	\$300,000			\$850,000
Cash Pending					\$480,000	\$480,000
In Kind						
Subtotal Costs						\$1,330,000
Contingency (≈10% of total costs)			\$125,000		N / A	\$125,000
<i>Totals – Revenue plus contingency</i>	\$50,000	\$500,000	\$425,000		\$480,000	\$1,455,000
Uses of Funds – Expenditures	Lead Agency	Funding Partner	Funding Partner	Spending IGA	County	Total Project Costs
Design / Permitting	\$	\$	\$		\$	\$
Engineering				\$187,907		\$187,907
Consulting						
Construction				\$271,496		\$271,496
Materials				\$362,702		\$362,702
Labor / Services				\$507,801		\$507,895
Signage						
Other						
Subtotal Costs						
Contingency (≈10% of total costs)				\$125,000	N / A	\$125,000
<i>Totals – Cost plus contingency</i>	\$	\$	\$	\$	\$	\$1,455,000

Grand total fr. table far right lower corner (must equal column and line totals) \$1,455,000



Staff Communication

File #: Resolution 31-2016, **Version:** 1

Agenda Date: 06/07/2016

Subject:

A resolution approving the Amended and Restated Intergovernmental Agreement Establishing the Chatfield Watershed Authority

Presented By: Mark Relph, Public Works and Utilities Director

POLICY QUESTION:

Does city council support approving the intergovernmental agreement of the Chatfield Watershed Authority?

BACKGROUND:

The Chatfield Watershed Authority was established in 1993 by an agreement that expired December 31, 1996. It was replaced by the Agreement for Continuation of the Watershed Authority, dated March 26, 1997.

The Chatfield Watershed Authority is a group of cities, towns, counties, special districts and private industries, which collectively serve as the management agency for the area, which is tributary to Chatfield Reservoir. The Authority was responsible for carrying out the Chatfield Reservoir Control Regulation adopted by the Water Quality Control Commission of the State of Colorado. This regulation sets and enforces water quality standards for Chatfield Reservoir, the South Platte River and Plum Creek.

When the city annexed the Chatfield Green property (TrailMark), it assumed jurisdiction for a small part of the watershed that drains to Chatfield Reservoir. Considering the potential water quality impacts to the reservoir when Chatfield Green developed, the city joined the Chatfield Basin Authority. When the Chatfield Control Regulation was amended by the State in 1996, the Chatfield Basin Authority was renamed the Chatfield Watershed Authority.

Approving the amended and restated intergovernmental agreement, which includes amended by-laws as an attachment, will allow the City of Littleton to remain a member of the Chatfield Watershed Authority. Members of the Chatfield Watershed Authority are: Douglas County, Jefferson County, Town of Castle Rock, Town of Larkspur, Castle Pines Metropolitan District, Centennial Water and Sanitation District, Dominion Water and Sanitation District, Louviers Water and Sanitation District, Perry Park Water and Sanitation District, Roxborough Water and Sanitation District, the City and County of Denver through its Board of Water Commissioners, and the Plum Creek Water Reclamation Authority.

STAFF ANALYSIS:

It is important the city participate in the Chatfield Watershed Authority for a coordinated, regional approach to the watershed management as it best protects the interests of all affected parties while also protecting water quality.

FISCAL IMPACTS:

The City of Littleton's annual cost to participate in the Chatfield Watershed Authority is \$2,000. This is a flat fee considering the assessed valuation of the percentage of land in the watershed within Littleton's jurisdiction.

STAFF RECOMMENDATION:

Staff recommends approving the amended and restated intergovernmental agreement.

PROPOSED MOTION:

I move to approve the resolution approving the Amended and Restated Intergovernmental Agreement Establishing the Chatfield Watershed Authority.

1 **CITY OF LITTLETON, COLORADO**

2
3 **Resolution No. 31**

4
5 **Series, 2016**

6
7 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**
8 **LITTLETON, COLORADO, APPROVING THE AMENDED AND**
9 **RESTATED INTERGOVERNMENTAL AGREEMENT ESTABLISHING**
10 **THE CHATFIELD WATERSHED AUTHORITY**
11

12 **WHEREAS**, the council may, by resolution, enter into contracts with other
13 governmental bodies to furnish or receive governmental services, to make or pay charges for
14 such services and to enter into cooperative or other joint activities with other governmental
15 bodies;
16

17 **WHEREAS**, the Chatfield Watershed Authority provides a coordinated, regional
18 approach to water quality management in Chatfield Reservoir and the streams draining into the
19 reservoir;
20

21 **WHEREAS**, the City of Littleton desires to enter into an agreement with the
22 affected parties to continue to plan and implement goals and objectives for protection of water
23 quality in the Chatfield sub-watershed;
24

25 **WHEREAS**, the Chatfield Watershed Authority was first established in 1993 by
26 an agreement that expired on December 31, 1996 and was subsequently replaced by the
27 Agreement for Continuation of the Watershed Authority, dated March 26, 1997;
28

29 **WHEREAS**, the members by prior agreement set forth their goals and objectives
30 in implementing the Chatfield Reservoir Control Regulation, adopted by and amended by the
31 Water Quality Control Commission of the State of Colorado, 5 CCR 1002-73;
32

33 **WHEREAS**, the members additionally desire to establish an entity to provide for
34 a regional, coordinated approach to phosphorous and other nonpoint source pollution control in
35 the Chatfield Watershed, including but not limited to providing for the construction, operation
36 and maintenance of nonpoint control projects, water quality monitoring and urban runoff, and
37 erosion management and control;
38

39 **WHEREAS**, the members have determined that the most effective way to
40 continue pursuit of such goals and objectives is to allow the Authority to continue as the
41 designated water quality management agency for the Chatfield Watershed while allowing for the
42 Authority to exercise other powers to implement its purpose and goals; and
43

44 **WHEREAS**, the members desire to reestablish the Chatfield Watershed
45 Authority as the successor entity to the Authority as previously organized and accept the bylaws

of the Chatfield Watershed Authority;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF LITTLETON, COLORADO, THAT:**

The Amended and Restated Intergovernmental Agreement with the amended by-laws establishing the Chatfield Watershed Authority, between the City of Littleton, Douglas County, Jefferson County, Town of Castle Rock, Town of Larkspur, Castle Pines Metropolitan District, Centennial Water and Sanitation District, Dominion Water and Sanitation District, Louviers Water and Sanitation District, Perry Park Water and Sanitation District, Roxborough Water and Sanitation District, City and County of Denver Acting by and through its Board of Water Commissioners and the Plum Creek Water Reclamation Authority is hereby approved.

INTRODUCED, READ AND ADOPTED at a regularly scheduled meeting of the
City Council of the City of Littleton, Colorado, on the 7th day of June, 2016, at 6:30 p.m. at the
Littleton Center, 2255 West Berry Avenue, Littleton, Colorado.

ATTEST:

Wendy Heffner
CITY CLERK

Bruce O. Beckman
MAYOR

APPROVED AS TO FORM:

Kristin Schledorn
CITY ATTORNEY

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT
ESTABLISHING the CHATFIELD WATERSHED AUTHORITY**

_____, 2016

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT ESTABLISHING the CHATFIELD WATERSHED AUTHORITY (the “**Agreement**”) is entered into as of the ____ day of _____, 2016, by and between Douglas County, a political subdivision of the State of Colorado; Jefferson County, a political subdivision of the State of Colorado; the City of Littleton, a home rule municipality and political subdivision of the State of Colorado; the Town of Castle Rock, a home rule municipality and political subdivision of the State of Colorado; the Town of Larkspur, a home rule municipality and political subdivision of the State of Colorado; Castle Pines Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado; Centennial Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado; Dominion Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado; Louviers Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado; Perry Park Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado; Roxborough Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado; the City and County of Denver, acting by and through its Board of Water Commissioners, a municipal corporation of the State of Colorado; and the Plum Creek Water Reclamation Authority, a political subdivision of the State of Colorado (hereinafter singularly as a “**Member**” and collectively as the “**Members**”).

RECITALS

WHEREAS, the Chatfield Watershed Authority was first established in 1993 by an agreement that expired on December 31, 1996 and was subsequently replaced by the Agreement for Continuation of the Watershed Authority, dated March 26, 1997; and

WHEREAS, the Members by prior agreement set forth their goals and objectives in implementing the Chatfield Reservoir Control Regulation heretofore adopted by and amended by the Water Quality Control Commission of the State of Colorado, 5 CCR 1002-73; and

WHEREAS, the Members additionally desire to establish an entity to provide for a regional, coordinated approach to phosphorous and other nonpoint source pollution control in the Chatfield Watershed, including but not limited to providing for the construction, operation, and maintenance of nonpoint control projects, water quality monitoring, and urban runoff and erosion management and control; and

WHEREAS, the Members have determined that the most effective way to continue pursuit of such goals and objectives is to allow the Authority to continue as the designated water quality management agency for the Chatfield Watershed while allowing for the Authority to exercise other powers to implement its purpose and goals; and

WHEREAS, the Members have the authority pursuant to Article XIV, Section 18 of the Colorado Constitution and Sections 29-1-203 and 29-1-204.2, C.R.S., to cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each and to establish a separate governmental entity as a water resource authority; and

WHEREAS, the Members are authorized to own and operate water systems or facilities pursuant to Section 30-20-402(1), C.R.S. (concerning the Members representing counties); Section 31-35-402(1), C.R.S. (concerning the Members representing municipalities), Section 32-1-103(24), C.R.S. (concerning the Members representing water and sanitation districts); and Section 32-1-103(10), C.R.S. (concerning the Members representing metropolitan districts), and as such, may establish an entity as a water resource authority; and

WHEREAS, the Members desire to reestablish the Authority as the successor entity to the Authority as previously organized and as a water resource authority pursuant to Section 29-1-204.2; and

WHEREAS, pursuant to Section 29-1-204.2(8), C.R.S., such a successor entity assumes the same functions, services, systems or facilities and is entitled to all rights and privileges, and assumes all obligations and liabilities of the Authority as previously organized; and

WHEREAS, by the continuation and reorganization of the Authority, the Members wish to continue an agenda for the implementation of the goals and objectives of the Authority as a separate governmental entity through which the Members may prudently plan, provide for, manage, and operate programs, facilities, and structures to address water quality and water quality improvements related to and affecting the Chatfield Watershed.

NOW, THEREFORE, in consideration of the mutual promises and benefits of this Agreement, including but not limited to continuing local control and oversight over water resources, systems, facilities, and related water quality and drainage programs, the Authority, consisting of the undersigned signatories, is hereby continued and reestablished pursuant to Section 29-1-204.2, C.R.S., incorporating all of its prior authority, duties, and responsibilities, and pursuant thereto, the Members hereby covenant and agree as follows:

ARTICLE I

NAME AND PURPOSE

1. **Establishment of Water Resource Authority.** The Members hereby create and establish a water resource authority known as the “Chatfield Watershed Authority” (hereinafter, the “**Authority**”), pursuant to Sections 29-1-203 and 29-1-204.2, C.R.S to carry out, and only carry out, the provision of this Agreement and to advance the purposes and goals of the Authority as set forth in Article I, Section 2 below. The Authority shall be a successor entity to the Chatfield Watershed Authority as previously organized, shall assume the same functions, services, systems or facilities and shall be entitled to all rights and privileges, and shall assume all obligations and liabilities of such former organization. The Authority shall be a separate governmental entity and political subdivision and public corporation of the State of Colorado, separate from the parties to this Agreement, and 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 Authority.

2. **Purpose.** The purpose of the Authority is to provide for and promote a regional, coordinated approach for the provision of water quality improvements and the protection of water quality in the Chatfield Watershed for recreation, fisheries, drinking water supplies, other beneficial uses, and for the public benefit of the Members of the Authority, their inhabitants, and the People of the State of Colorado, as deemed appropriate by the Board of Directors of the Authority, and may include but is not limited to: providing for the construction, operation, and maintenance of point and nonpoint source control projects; monitoring of the Chatfield Reservoir, South Platter River below Strontia Springs Reservoir, and Plum Creek and the water flowing into them; recommending water quality standards therefor; continuing to implement Colorado Water Quality Control Commission Chatfield Reservoir Control Regulations, 5 CCR 1002-73; and coordinating with state and federal agencies regarding water quality control measures.

ARTICLE II **MEMBERSHIP**

1. **Membership.** The Members of the Authority shall consist of Permanent General Jurisdiction Members; Water and Sanitation District (“**W&S**”) Members; Water Providers, other Municipalities and Metropolitan Districts (collectively the “**Other Members**”), and such other Members as may join the Authority from time to time, as set forth herein and in a set of duly approved bylaws of the Authority (the “**Bylaws**”).

2. **Additional Members.** Membership in the Authority will be initially limited to the signatory Members to this Agreement, which comprise the Permanent General Jurisdiction Members, the W&S Members, and the Other Members as set forth in the Bylaws. Other parties, who will be called the Ex-Officio Participants, will be provided an opportunity participate in the Authority as set forth in the Bylaws without executing this Agreement or any amendment thereto. Ex-Officio Participants are not Members. Additional parties may be allowed to join the Authority as Permanent General Jurisdiction Members, W&S Members, or Other Members, by executing an amendment to this Agreement, subject to approval by two-thirds (2/3) of the then-existing Members of the Authority. Such amendment may contain reasonable terms and conditions requiring such party to reimburse the then-existing Members for a reasonable share of all expenses previously incurred and expended by such Members and to assume a fair and equitable share of the outstanding liabilities of the Authority, and will require the payment of such other sums to the Authority as may be provided in the amendment. The amendment will specify the rights, powers, duties, and obligations of any new Member.

3. **Withdrawal.** Any Member may withdraw from the Authority by giving one hundred twenty (120) days written notice to the Secretary of the Authority of its intent to withdraw. Such withdrawing Member shall pay all of its obligations arising hereunder or pursuant to the Bylaws until the effective date of its withdrawal; provided, however, that if a Member determines to withdraw from the Authority after October 31 of the then-current calendar year, the withdrawing Member shall be required to pay the full amount of the Member’s

annual dues for the ensuing year. As of the effective date of withdrawal, the withdrawing Member shall lose all rights and benefits under this Agreement, which rights and benefits shall be reassigned by action of the Authority. A withdrawing Member shall have no obligation, financial or otherwise, to the Authority following the effective date of its withdrawal, except as otherwise provided herein and except that if such withdrawing Member is bound by any ongoing, long-term, or other obligation in its capacity as a Member of the Authority that cannot be completed by the effective date of withdrawal, such withdrawing Member shall be bound by the terms of that obligation and shall provide therefore until such obligation has been discharged.

Should any Member of the Authority fail to pay funds to satisfy its annual dues assessment prior to April 1 of any year for which such dues are authorized and remit such payment to the Authority prior to April 1 of the same year, the failure shall be deemed a default, the Authority may exercise its rights to recover unpaid dues, and all rights and benefits previously accorded to such Member shall be suspended. The Authority will issue a written notice of default to the Member. If the default is not cured by May 1 of that year, the membership of the Member may be terminated at the discretion of the Authority, and the Authority shall be entitled to sue to recover the unpaid dues assessment. A terminated Member shall have no obligation, financial or otherwise, to the Authority, except as otherwise provided herein and except that if such terminated Member is bound by any ongoing, long-term, or other obligation in its capacity as a Member of the Authority that cannot be completed by the effective date of termination, such terminated Member shall be bound by the terms of that obligation and shall provide therefore until such obligation has been discharged. If the defaulting Member does not withdraw or if the defaulting Member is not terminated, the Member shall continue to be charged an annual dues assessment until such time as withdrawal is effective, and at such time, the withdrawing Member shall be required to pay in full all past due obligations to the Authority.

ARTICLE III **GOVERNING BODY**

1. **Governing Body.** There is hereby established a Board of Directors in which all of the power of the Authority shall be vested. The Board of Directors (the “**Board**”) shall be governed by the Bylaws and shall be comprised of representatives of such Members of the Authority as set forth in the Bylaws.

2. **Powers.** Except as otherwise provided herein, the Authority, acting by and through the Board, shall possess all of the powers, privileges, and duties set forth in the Bylaws. The Bylaws as attached hereto as Exhibit A shall be the official Bylaws of the Authority as of the Effective Date until such time as the Bylaws are amended as provided therein.

3. **Voting.** The Members of the Authority shall be entitled to vote for Board Members in accordance with the Bylaws. The voting requirements for action by the Board shall also be as set forth in the Bylaws.

4. **Compensation.** Members of the Board of Directors shall not receive compensation from the Authority for their services. The Board may provide for reimbursement

of a Director for reasonable and necessary expenses incurred on behalf of, and authorized by, the Authority to the extent permitted by law.

5. **Officers.** The officers of the Authority, the manner of their selection, and their duties shall be as set forth in the Bylaws.

ARTICLE IV FUNDING

1. **Member Dues.** The Members, including Permanent General Jurisdiction Members, W&S Members, and Other Members, shall provide funds to the Authority pursuant to a dues structure as set forth in the Bylaws, the amount of such dues for the following calendar year to be determined by the Board by no later than July 31 of the then-current calendar year, and by such fees, rates, and charges for functions, services, or facilities provided by the Authority, as determined by the Board. The Authority may sue any Member to recover unpaid, past-due annual dues, as provided for herein.

2. **Authority Obligations.** The bonds, notes, and other obligations of the Authority shall not be the debts, liabilities, or obligations of the Members or of other parties that may join the Authority from time to time.

3. **Fees, Rates, and Charges.** The Authority shall have the power to fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the Authority.

4. **Bonds.** The Authority shall have the power 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 Authority, or from any other available funds of the Authority, pursuant to the provisions Section 29-1-204.2(7), C.R.S.

5. **Additional Funding.** The Members shall be entitled to cooperate and contract with one another to provide for the sharing of costs, the imposition of taxes, or the incurring of debt; provided that such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve. Additionally, the Authority shall be entitled to seek additional funds or funding as may be or become available to it.

6. **Park Fees.** The Authority shall be authorized to seek legislative action from the Colorado Legislature affecting the Authority, including but not limited to legislation authorizing the collection of fees, rates, and charges at State parks and recreation facilities to support the services, functions, and facilities of the Authority, and legislation imposing a tax to be determined by the Members to generate revenues to be utilized by and for the benefit of the Authority.

ARTICLE V LIABILITY

1. **Liability of Members.** The Authority shall be solely responsible for the acts of the Authority. The debts, liabilities and obligations of the Authority shall not be debts, liabilities or obligations of any Member of the Authority, as defined in the Bylaws. The liability of the Authority is limited to the available funds of the Authority. All contracts entered into by the Authority shall contain this liability disclaimer.

2. **Indemnification.** To the extent permitted by law, the Authority shall defend and indemnify its directors, officers, and employees in connection with any claim or actual or threatened suit, action, proceeding in which he or she may be involved in his or her official capacity by reason of his or her being or having been such a director, officer, or employee, or by reason of any action or omission by him or her in any such capacity, and shall pay any judgment resulting therefrom, except any liability arising out of any criminal offense or willful and wanton misconduct. Such indemnification and duty to defend shall be further subject to and limited by the resources of the Authority available for such purposes, including available insurance coverage. The Authority's obligations to defend and indemnify its directors, officers, and employees shall be in accordance with and subject to the limitations of the Colorado Governmental Immunity Act, Sections 24-10-101 *et seq.*, C.R.S. This indemnification shall not apply to any suit brought by the Authority as plaintiff or third-party plaintiff, or to any suit brought by a Member to enforce the terms of this Agreement, excepting a suit brought solely to enforce this indemnification according to its terms.

3. **Insurance.** The Authority shall maintain a liability policy with respect to its directors and officers. The Authority shall maintain insurance or self-insure with respect to its properties and affairs and employees against such casualties and contingencies of such types and in such amounts as the Board may determine from time to time, in its discretion.

ARTICLE VI **MISCELLANEOUS**

1. **Term.** This Agreement shall commence on the date of its full execution by the parties hereto and shall be deemed to automatically renew each year thereafter, subject to funding of a new budget, unless terminated in accordance with the provisions of this Article.

2. **Amendment.** This Agreement may be supplemented, amended or modified only by written approval of two-thirds (2/3) of the Members to the Agreement.

3. **Termination.** This Agreement may be terminated by approval of two-thirds (2/3) of the Members to the Agreement, as such Agreement is amended from time-to-time; provided, however, that this Agreement may not be terminated so long as the Authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations has been made pursuant to the terms thereof. In the event of the termination of this Agreement and the dissolution of the Authority, the Board may make such decisions as it deems appropriate in connection with the distribution, disposition, or division of the Authority's assets; provided, however, that in all cases, the Authority shall continue to meet its contractual and service obligations. Upon dissolution of the Authority, any fixed asset of the Authority shall be distributed to the Member that so contributed the fixed asset, and if more than one Member

contributed the fixed asset to the Authority, the fixed asset shall be distributed, upon agreement of the Members that contributed thereto, to one of the Members with fair and just compensation paid by said Member to the other Member or Members. Liquid assets of the Authority remaining after satisfaction of all obligations of the Authority shall be equitably distributed to the Members as deemed fair and appropriate by the Board.

4. **Non-Appropriation.** Notwithstanding any other provision contained in this Agreement to the contrary, the payment of Member obligations in fiscal years subsequent to the current year is contingent upon funds for this Agreement being appropriated and budgeted. If funds for this Agreement are not appropriated and budgeted in any year subsequent to the fiscal year of execution of this Agreement by any Member, then it shall be deemed that such Member has withdrawn from the Authority upon receipt of such notice of non-appropriation by the Board, and all of such Member's rights and obligations with respect to the Authority shall terminate effective as of the date in such notice of non-appropriation. The Authority's fiscal year is currently the calendar year.

5. **No Impairment.** Nothing in this Agreement shall be deemed to impair any of the powers of the parties hereto. Nothing in this Agreement shall impair, amend, limit, abridge, contravene, or otherwise affect the rights of any party under any existing contract or agreement. Nothing in this Agreement shall prohibit or otherwise limit any party from obtaining water from any source or from developing any water supply, storage, treatment, or distribution project, either alone or in some combined manner with other parties, Members, or a combination thereof.

6. **No Third Party Rights.** This Agreement does not and shall not be deemed to confer upon or grant to any third party any right enforceable at law or equity arising out of any term, covenant, or condition contained herein or the breach thereof.

7. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue and jurisdiction for any dispute arising hereunder shall lie with the District Court of Douglas County.

8. **Severability.** The provisions of this Agreement are severable. If a provision or any part of this Agreement or the application thereof to any person, entity, or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Agreement, and in such event this Agreement shall be construed in all respects as if such invalid provision were omitted.

9. **Binding Agreement.** The provisions of this Agreement shall bind and inure to the benefit of each Member and its respective successors and permitted assigns, if any.

10. **Entire Agreement.** This Agreement constitutes and represents the entire, integrated agreement among the Members with respect to the matters set forth herein, and supersedes any and all prior negotiations, representations, agreements, or arrangements of any kind, whether written or oral, with respect to those matters.

11. **Headings.** The headings provided throughout this Agreement are for convenience and reference only and in no way define, limit, or add to the meaning of any provision hereof.

12. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

13. **Authority to Enter Agreement.** The signatures of those representatives of the Members below affirm that they are authorized to enter into and execute this Agreement and that all necessary actions, notices, meetings, and/or hearings pursuant to any law required to authorize the execution of this Agreement have been made.

[The remainder of this page is intentionally blank. Signature pages follow.]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written, the Effective Date of this Agreement.

COUNTY OF DOUGLAS

By: _____
Its: _____
Date: _____

COUNTY OF JEFFERSON

By: _____
Its: _____
Date: _____

CITY OF LITTLETON

By: _____
Its: _____
Date: _____

TOWN OF CASTLE ROCK

By: _____
Its: _____
Date: _____

TOWN OF LARKSPUR

By: _____
Its: _____
Date: _____

CASTLE PINES METROPOLITAN DISTRICT

By: _____
Its: _____
Date: _____

**CENTENNIAL WATER AND SANITATION
DISTRICT**

By: _____
Its: _____
Date: _____

DOMINION WATER AND SANITATION DISTRICT

By: _____
Its: _____
Date: _____

LOUVIERS WATER AND SANITATION DISTRICT

By: _____
Its: _____
Date: _____

**PERRY PARK WATER AND SANITATION
DISTRICT**

By: _____
Its: _____
Date: _____

**ROXBOROUGH WATER AND SANITATION
DISTRICT**

By: _____
Its: _____
Date: _____

**PLUM CREEK WATER RECLAMATION
AUTHORITY**

By: _____
Its: _____
Date: _____

**CITY AND COUNTY OF DENVER,
ACTING BY AND THROUGH ITS
BOARD OF WATER COMMISSIONERS**

By: _____
Its: _____
Date: _____

Exhibit A

Bylaws of Authority

(See attached)

BYLAWS OF THE CHATFIELD WATERSHED AUTHORITY

ARTICLE I PURPOSE

1.1 Purpose. The purpose of the Chatfield Watershed Authority (the “**Authority**”) is to provide for and promote a regional, coordinated approach for the provision of water quality improvements and the protection of water quality in the Chatfield Watershed for recreation, fisheries, drinking water supplies, other beneficial uses, and for the public benefit of the Members of the Authority, their inhabitants, and the People of the State of Colorado, as deemed appropriate by the Board of Directors of the Authority, and may include but is not limited to providing for the construction, operation, and maintenance of point and nonpoint source control projects, monitoring of the Chatfield Reservoir, South Platter River below Strontia Springs Reservoir, and Plum Creek and the water flowing into them, recommending water quality standards therefor, and coordinating with state and federal agencies regarding water quality control measures, pursuant to the Amended and Restated Intergovernmental Agreement Establishing the Chatfield Watershed Authority (the “**Establishing Agreement**”), entered into and effective as of the ____ day of _____, 2016.

ARTICLE II OFFICES

2.1 Principal Office. The principal office of the Authority shall be located within the State of Colorado at such location as is designated by the Board of Directors from time to time. At the time of execution of these Bylaws, the principal office of the Authority was Douglas County Public Works Engineering Department, 3030 N. Industrial Way, Castle Rock, CO 80109. Written notice of any change in the location of the Authority’s principal office shall be provided in advance to all Members of the Authority.

2.2 Other Offices. The Authority may have such other offices and places of business within the State of Colorado as the Board may designate from time to time.

ARTICLE III MEMBERSHIP

3.1 Member Entities. The members of the Authority shall consist of the Permanent General Jurisdiction Members; the Water and Sanitation District (“**W&S**”) Members; the water providers, metropolitan districts and other municipalities’ members (collectively, the “**Other Members**”); as have entered into the Establishing Agreement and as defined below, and such additional parties as may join the Authority from time to time (collectively, “**Members**”).

3.2 Permanent General Jurisdiction Members. The Authority shall initially have three (3) Permanent General Jurisdiction Members, including Douglas County, Jefferson County and the Town of Castle Rock. The Permanent General Jurisdiction Members shall be the primary funding members of the Authority. Additional parties will be allowed to join the

Authority as Permanent General Jurisdiction Members from time to time, as provided in the Establishing Agreement.

3.3 W&S Members. The Authority shall initially have six (6) W&S Members. W&S Members shall include: (i) Centennial Water and Sanitation District, (ii) Dominion Water and Sanitation District, (iii) Louviers Water and Sanitation District, (iv) Perry Park Water and Sanitation District, (v) Roxborough Water and Sanitation District, and (vi) Plum Creek Water Reclamation Authority. Additional parties will be allowed to join the Authority as W&S Members from time to time, as provided in the Establishing Agreement.

3.4 Other Members. The Authority shall initially have four (4) Other Members. The Other Members shall include: (i) the Castle Pines Metropolitan District, (ii) the City and County of Denver acting through its Board of Water Commissioners, (iii) Town of Larkspur, and (iv) the City of Littleton. Additional parties will be allowed to join the Authority as Other Members from time to time, as provided in the Establishing Agreement.

3.5 Ex-Officio Participants. The Ex-Officio Participants shall include the Colorado Agricultural Leadership Foundation, the Colorado Parks and Wildlife Commission (Chatfield State Park), the Colorado Department of Transportation, the Colorado Water Conservation Board, the Ken Caryl Ranch Master Association, the Law Enforcement Foundation, Ponderosa Retreat, Sacred Heart Retreat, Tri-County Health Department, the U.S. Army Corps of Engineers, the Chatfield Reservoir Mitigation Company, Inc., and the Water Quality Control Division of the Colorado Department of Public Health and Environment. Each Ex-Officio Participant may designate a representative of such party and provide written notice of such representative's name and contact information to the Manager of the Authority to be included on communications related to the Authority. Ex-Officio Participants are not members of the Authority and have no voting rights or other obligations with respect to the Authority, including no obligation to pay dues. Ex-Officio Participants are encouraged to participate in the Authority meetings and provide input on the operations of the Authority at any public meetings of the Authority.

ARTICLE IV

BOARD OF DIRECTORS

4.1 Powers and Duties. The governing body of the Authority shall be a Board of Directors (the "**Board**"). Subject to any limitations of the Establishing Agreement, Sections 29-1-203 and 29-1-204.2 C.R.S., or these Bylaws, all powers of the Authority shall be exercised by, or under the authority of, and the business and affairs of the Authority shall be controlled by, the Board. The Board shall collectively act as is necessary and as is authorized by law and by these Bylaws to carry out the provisions of the Establishing Agreement to advance the purpose and goals of the Authority. The Authority shall have all powers, privileges, and duties enumerated in the Establishing Agreement and these Bylaws and granted to entities formed pursuant to Sections 29-1-203 and 29-1-204.2 C.R.S., as they now exist or may be amended from time to time.

In addition to the powers, privileges, and duties enumerated in the Establishing Agreement, these Bylaws, and granted to entities formed pursuant to Sections 29-1-203 and 29-1-204.2 C.R.S., the Authority shall have the following powers:

a. To seek legislative action from the Colorado Legislature affecting the Authority, including but not limited to enabling legislation for watershed authorities in the State of Colorado, and legislation authorizing funding and/or revenue generation to support the services, functions, and facilities of the Authority.

b. To establish advisory committees to gather, research, compare, and evaluate information, and advise the Board regarding matters pertaining to the water quality of the Chatfield Watershed or such other matters pertaining to the purpose and goals of the Authority as deemed necessary or advisable by the Board.

4.2 Number of Directors. The Authority's Board shall consist of five (5) representatives of the Members (each a "**Director**"). The Board's membership shall consist of three (3) Directors, one of whom is appointed by each Permanent General Jurisdiction Member; one (1) Director selected by the W&S Members; and one (1) Director selected by the Other Members, as described in this Article IV. In the event new Members are added pursuant to Article II, Section 2 of the Establishing Agreement, the Board will amend these Bylaws to appropriately address composition of the Board.

4.3 Directors Representing the Permanent General Jurisdiction Members.

4.3.1 Directors. Each Permanent General Jurisdiction Member shall appoint one (1) Director to the Board. The Director for each Permanent General Jurisdiction Member must be an elected official of the appointing Member and be qualified, willing, and able to assume and perform the duties and responsibilities required of the directorship. Each Permanent General Jurisdiction Member shall provide written notice of the name and contact information of its appointed Director to the Manager of the Authority.

4.3.2 Alternate Directors. Each Permanent General Jurisdiction Member shall be entitled to appoint one alternate representative to serve on the Board in the absence of the Director (the "**Alternate Director**"). Each Permanent General Jurisdiction Alternate Director shall also be an elected official of such Member. If the selected Alternate Director is not an elected official of such Member, such Alternate Director will not be authorized to vote on behalf of such Member at meetings where the Director is absent.

4.3.3 Term. There shall be no restriction on the term of a Director for the Permanent General Jurisdiction Members. Each Permanent General Jurisdiction Member shall appoint such Director and Alternate Director as such jurisdiction sees fit who shall serve until a successor is duly appointed as established by such Members' policies and procedures. Any changes in the Permanent General Jurisdiction Member shall be communicated promptly to the Manager of the Authority.

4.3.4 Removal. A Permanent General Jurisdiction Member may, in its sole discretion, remove its appointed Director or Alternate Director from the Board at any time and appoint a successor thereto by providing written notice to the Manager of the Authority.

4.4 Director Representing W&S Members.

4.4.1 Director. The W&S Members of the Authority, collectively, shall select one W&S Member to represent all of the W&S Members as a Director on the Board, as provided herein. The Director must be qualified, willing, and able to assume and perform the duties and responsibilities required of the directorships.

4.4.2 Manner of Selection. The election of the Director for the W&S Members shall take place in the Fall of each year an election is necessary through a written ballot process as described herein. All W&S Members in good standing with the Authority that have paid all past dues and fees shall be entitled to participate in the election of the W&S Member Director. By the end of September in such year, the Manager shall send out a written notice, electronic mail notice is acceptable, to all W&S Members in good standing requesting the nomination of one Director from such Member's organization. Each W&S Member may, but is not required to, nominate one (1) qualified candidate to serve as Director; no other nominations will be accepted. Each W&S Member shall notify the Manager of its Director nomination on or before October 31st. The Manager shall then have one (1) week to prepare and send out, either via prepaid mail or electronic mail, a ballot for the W&S Members to return for the election of the W&S Member Director. Each W&S Member shall have until November 30th to return the completed ballot to the Manager. A quorum of W&S Members for an election shall consist of a majority of the W&S Members entitled to cast a vote on the matter. If a quorum does not exist on November 30th, the Manager shall solicit additional ballots from the missing W&S Members until a quorum is obtained. Voting by proxy is strictly prohibited. Each W&S Member shall be entitled to cast up to three (3) votes for the nominees; provided, however, the W&S Member is not required to cast all three (3) votes and each vote cast must be for a different candidate (i.e. no cumulative voting is allowed). If only two (2) or fewer nominees are on the ballot, then each W&S Member shall only be entitled to cast one (1) vote in the election. The nominee receiving the most votes shall serve as the Director for the W&S Members. In the event of a tied ranking, a tiebreaking vote or votes, as necessary, shall be conducted. The Manager shall use reasonable efforts to ensure that the W&S Director is known no later than December 15th, if any tiebreaking votes are required. The W&S Member whose candidate received the most votes shall provide written notice of the name and contact information of the Director to the Manager of the Authority.

4.4.3 Alternate Directors. The W&S Member that is select to represent all of the W&S Members shall be entitled to appoint one alternate representative to serve on the Board in the absence of the Director (the "**W&S Alternate Director**"). The W&S Members' Director and Alternate Director may be elected officials or staff of the entity such W&S Member represents.

4.4.4 Term. Any Director of the W&S Members shall serve a term of two (2) years from the date of election or until a successor is duly elected. No W&S Member Director shall serve more than two (2) consecutive two-year terms. Fulfilling an incomplete term is not considered part of the term limit.

4.4.5 Removal. The W&S Members may, by unanimous approval, remove a Director representing the W&S Members from the Board at any time. If so removed, the W&S Members shall elect a replacement Director to fill the remainder of the removed Director's term pursuant to the procedures of Section 4.4.2 with the timing of such votes adjusted accordingly. Written notice of the removal and election should be provided to the Manager of the Authority and the Manager will assist with the election process.

4.5 Other Members.

4.5.1 Director. The Other Members of the Authority, collectively, shall select one (1) Other Member to represent all of the Other Members as a Director to serve on the Board, as provided herein. The Director must be qualified, willing, and able to assume and perform the duties and responsibilities required of the directorships.

4.5.2 Manner of Selection. The election of the Director for the Other Members shall take place in the Fall of each year an election is necessary through a written ballot process as described herein. All Other Members in good standing with the Authority that have paid all past dues and fees shall be entitled to participate in the election of the Other Member Director. By the end of September in such year, the Manager shall send out a written notice, electronic mail notice is acceptable, to all Other Members in good standing requesting the nomination of one Director from such Member's organization. Each Other Member may, but is not required to, nominate one (1) qualified candidate to serve as Director; no other nominations will be accepted. Each Other Member shall notify the Manager of its Director nomination on or before October 31st. The Manager shall then have one (1) week to prepare and send out, either via prepaid mail or electronic mail, a ballot for the Other Members to return for the election of the Other Member Director. Each Other Member shall have until November 30th to return the completed ballot to the Manager. A quorum of Other Members for an election shall consist of a majority of the Other Members entitled to cast a vote on the matter. If a quorum does not exist on November 30th, the Manager shall solicit additional ballots from the missing Other Members until a quorum is obtained. Voting by proxy is strictly prohibited. Each Other Member shall be entitled to cast up to three (3) votes for the nominees; provided, however, the Other Member is not required to cast all three (3) votes and each vote cast must be for a different candidate (i.e. no cumulative voting is allowed). If only two (2) or fewer nominees are on the ballot, then each Other Member shall only be entitled to cast one (1) vote in the election. The nominee receiving the most votes shall serve as the Director for the Other Members. In the event of a tied ranking, a tiebreaking vote or votes, as necessary, shall be conducted. The Manager shall use reasonable efforts to ensure that the Other Member Director is known no later than December 15th, if any tiebreaking votes are required. The Other Member whose candidate received the most

votes shall provide written notice of the name and contact information of the Director to the Manager of the Authority.

4.5.3 Alternate Directors. The Other Member that is selected to represent all of the Other Members shall be entitled to appoint one alternate representative to serve on the Board in the absence of the Director (the “**Other Member Alternate Director**”). The Other Members’ Director and Alternate Director may be elected officials or staff of the entity such Other Member represents.

4.5.4 Term. Any Director of the Other Members shall serve a term of two (2) years from the date of election or until a successor is duly elected. No Other Member Director shall serve more than two (2) consecutive two-year terms. Fulfilling an incomplete term is not considered part of the term limit.

4.5.5 Removal. The Other Members may, by unanimous approval, remove a Director representing the Other Members from the Board at any time. If so removed, the Other Members shall elect a replacement Director to fill the remainder of the removed Director’s term pursuant to the procedures of Section 4.5.2 with the timing of such votes adjusted accordingly. Written notice of the removal and election should be provided to the Manager of the Authority and the Manager will assist with the election process.

4.6 Vacancies and Election of Directors. A vacancy on the Board may occur by reason of death, disability, resignation, removal or otherwise of any Director. For the Permanent General Jurisdiction Members, vacancies shall be filled pursuant to the procedures set forth in Sections 4.3.1 above. For W&S and Other Members, a vacancy caused by any reason, other than removal pursuant to Section 4.4.5 and 4.5.5 hereof, shall be filled by the appointment of a qualified individual of the Member organization represented by the departing Director. Any Director appointed to fill a vacancy on the Board shall serve the remainder of the departing Director’s term.

4.7 Withdrawal of Members. In the event a Member organization with a representative on the Board decides to withdraw from the Authority as permitted or required in the Establishing Agreement, then, in the case of a W&S or Other Member, the applicable Members shall hold an election in accordance with the procedures set forth in Sections 4.4.2 and 4.5.2 with the timing of such votes adjusted accordingly. If a Permanent General Jurisdiction Member withdraws, then the remaining Board of Directors shall amend these Bylaws which vote shall require the unanimous approval of the remaining Directors.

4.7 Compensation. The Directors shall not receive any compensation from the Authority for their services to the Authority.

ARTICLE V **OFFICERS**

5.1 Presiding Officers. At the first Board meeting of each calendar year, or such other date as mutually agreed upon by the Board, the Board shall elect by a Majority Vote (as

defined in Section 8.2 below) from the Directors a Chairman and Vice-Chairman who shall be the presiding officers at Chatfield Watershed Authority meetings (the “**Presiding Officer(s)**”). If the Chairman or Vice-Chairman elects not to preside over a meeting or particular matter, a Majority Vote of the Board present shall then elect a temporary chairman who shall be the Presiding Officer for that particular meeting or particular matter only, as the case may be.

5.2 Term. The term of office for the Presiding Officers is one (1) year from the date of election; however, there is no limit on the number of terms a Presiding Officer may serve. Each Presiding Officer shall hold office until his successor is duly elected or until his death, incapacity, resignation, or removal.

5.3 Resignation and Removal. A Presiding Officer may resign at any time by giving written notice to the Board and the Authority’s Manager and it shall be effective as of the date stated in the resignation. Any Presiding Officer may be removed with or without cause at any meeting of the Board by Super Majority Vote (as defined in Section 8.3 below) of the Board, provided that the agenda for such meeting lists officer removal as an agenda item. Resignation or removal shall terminate all authority of the officer.

5.4 Presiding Officer Vacancies. If the office of Chairman should become vacant during the term of office, the Vice-Chairman shall assume the duties of Chairman. Should the office of Vice-Chairman become vacant, a special election shall be held as soon as possible following the announcement of the vacancy. Nominations from the floor by members of the Board during the election meeting shall be permissible.

5.5 Authority and Duties of the Chairman and Vice-Chairman. It shall be the responsibility of the Chairman to preside at all meetings of the Authority, execute documents of behalf of the Authority, ensure that all orders and resolutions of the Board are carried into effect, make appointments to committees, and be the primary liaison between the Board and the Authority Manager. The Vice-Chairman shall perform the duties of the Chairman during the Chairman’s absence. The Presiding Officers of the Authority shall have the authority and exercise the powers and perform the duties as specified herein and as may be additionally specified by the Board, or these Bylaws, and as may be required by law.

5.6 Authority Manager. The Authority shall retain a third-party to manage the day-to-day operations of the Authority (the “**Manager**”). The Board shall select the Manager and the Manager shall report to the Board.

5.6.1 Duties of the Manager. The Manager shall provide management services for the Authority, including the Board, the Technical Advisory Committee and any other committees formed by the Board. The Manager shall be responsible for coordinating and overseeing the activities of any consultants or contractors engaged by the Authority, including any accountants and legal counsel who shall also report directly to the Board. The Manager shall perform all duties typically performed by the secretary of an organization, including but not limited to, keeping a book of minutes of all meetings of the Board and any committees thereof, ensuring that all notices are duly given in accordance with the provisions of these Bylaws or as required

by law, and such other all duties as may from time to time be assigned by the Board or as may be required by these Bylaws or the Board.

5.7 Authority Accountant. The Board shall retain a third-party to manage the accounts of the Authority which shall include, but is not limited to, keeping full and accurate accounts of all receipts and disbursements of the Authority, depositing all moneys as may be designated by the Board, disbursing the funds of the Authority as ordered by the Board, preparing and recommending an annual operating budget to the Board by such date as established by the Board each year for the succeeding calendar year, and performing all other duties as may from time to time be assigned by the Board or as may be required by these Bylaws or the Board. The Authority's accountant shall work closely with the Manager.

ARTICLE VI

WRITTEN INSTRUMENTS AND CHECKS

6.1 Written Instruments. The Board of Directors may authorize any officer(s) or agent(s) to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Authority, and such authority may be general or confined to specific instances. The Chairman, and Vice-Chairman in the absence of the Chairman, shall have general authority to execute any contract or execute and deliver any instrument in the name of the Authority, provided such item was properly approved by the Board.

6.2 Checks. All checks or demands for money and notes of the Authority shall be signed by two (2) Directors or such other person or persons as the Board of Directors may from time to time designate.

ARTICLE VII

MEETINGS

7.1 Regular Meetings. Regular meetings of the Board shall be held quarterly or at such other regular intervals and at such time and place as determined by the Board. The Board may provide by resolution the time and place within the State of Colorado for the holding of regular meetings. In the absence of any such meeting designation, meetings shall be held at the principal office of the Authority.

7.2 Special Meetings. Special meetings of the Board for any purpose(s) may be called at any time by the Chairman, by resolution of the Board, or by request of any two Board members then in office.

7.3 Meeting by Telephone. Members of the Board or any committee thereof may participate in a meeting of the Board or committee by means of telephone conference or similar communications equipment by which all persons participating in the meeting can hear one another at the same time. Such participation shall constitute presence in person at the meeting, no matter where such person is actually located.

7.4 Notice of Meetings. Notice to the public of any regular and special meetings of the Board or any meeting of any advisory, policy-making, rulemaking, or formally constituted body of the Authority to which the Authority has delegated a governmental decision-making function shall be posted as required by the Colorado Open Meetings Law. The Board shall, annually at its first regular meeting of the calendar year, designate a public place for the posting of Authority notices in accordance with C.R.S. 24-6-402(2)(c).

Notice of regular Board meetings shall be personally delivered or sent by first class mail, postage prepaid, facsimile, telephone, e-mail, or other electronic communication to each Director at his or her address as shown on the records of the Authority as soon as reasonably practicable prior to each regular meeting. Notice of special Board meetings shall be given to each Director at least forty-eight (48) hours before the meeting. Notice shall be either oral or written. Oral notice shall be given face-to-face or by telephone. Written notice may be given by mail, personal delivery, facsimile, e-mail, or other electronic communication. The notice shall contain (1) the date, time, and place of the meeting; and (2) the agenda for said meeting, or the purpose or purposes for which a special meeting is called. Special meetings of the full Board shall be limited to the purpose or purposes set forth in the notice of said special meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

All Members shall receive electronic copies of all notices, agendas, and appropriate enclosures at the e-mail address of their designated representative provided to the Manager of the Authority.

7.5 Public Meetings. All the meetings of the Board, other than executive sessions, shall be open to the public. No vote or other formal action shall be taken in any session which is closed to the general public. The Manager, or such other officer as the Board may from time to time determine, shall maintain a list of persons who, within the previous two (2) years, have requested notification of all meetings or of meetings when certain specified policies will be discussed and shall provide reasonable advance notification of such meetings; provided, however, that unintentional failure to provide such advance notice will not nullify actions taken at an otherwise properly published meeting.

7.5.1 Executive Session. The Board, upon the affirmative vote of two-thirds of the quorum present, may hold an executive session for any of the reasons set forth in C.R.S. 24-6-402(4) as are applicable. No formal action may be taken while in executive session. Prior to convening an executive session, the Chairman shall announce the topic(s) to be discussed, including the specific statutory citation(s), and identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

7.6 Informal Meetings. Informal meetings of the Board at which no final decision is made or formal action is taken may be held from time to time and may include study sessions, subcommittee meetings, or any meeting of three or more Board members at which Authority business is to be discussed. Notice of any such meeting shall be given to all Directors at least

seventy-two (72) hours in advance of such meeting, unless such informal meeting was set and authorized by the Board at a regular or special meeting. Public notice of the meeting shall be posted in the designated posting place for the Authority at least twenty-four (24) hours prior to such meeting as required by the Colorado Open Meetings Law.

7.7 Conduct of Meetings. Unless otherwise agreed to by the Board, Robert's Rules of Order, Revised shall be the parliamentary authority for all meetings of the Board and the rules contained therein shall govern the procedures utilized at such meetings where not inconsistent with the Colorado law. Failure to adhere to Robert's Rules of Order, Revised shall not affect the validity of any Board action.

ARTICLE VIII **VOTING**

8.1 Quorum for the Board. A quorum must be present at any Board meeting for business transactions to take place and motions to pass. A quorum of the Board shall be a majority of the members of the Board.

8.2 Weighted Voting. Douglas County and Jefferson County, acting through its Director shall each be entitled to two (2) votes on any matter coming before the Board. All other Directors shall be entitled to one (1) vote on any matter coming before the Board. Except as otherwise provided herein, and in Section 8.3 below, all actions of the Board for which a vote is required shall be made and decided by a Majority Vote. For purposes of these Bylaws, "Majority Vote" shall mean a majority of the votes shall be cast in favor of the item coming before a quorum of the Board, committee or Members, as applicable. For example, if all five members of the Board are present, then seven (7) votes would be cast and four (4) votes will be needed to pass the item; those votes may come from only the two county members since they are entitled to two votes each. No Board Member shall abstain from voting unless abstention is required by law.

8.3 Special Voting Requirements. Any decision of the Board relating to financial matters including, but not limited to, money, expenditures, changes in the fees or dues structure for the Authority, the issuance of debt, the budget or other finances, shall require a Majority Vote and also the affirmative vote of at least three (3) Directors of the Board (a "Super Majority Vote").

8.4 Disclosures. Each Director shall provide such disclosures, including potential conflict of interest disclosures, as may be required by law, including but not limited to Sections 24-18-101 *et seq.*, C.R.S. and Section 18-8-308, C.R.S. Unless otherwise permitted by law, any Director or Alternate Director who has a personal or private interest in any matter proposed or pending before the Board after disclosure thereof shall recuse him or herself from the meeting and shall refrain from attempting to influence the decision of the other members of the Board on such matter.

ARTICLE IX **COMMITTEES**

9.1 Committees. The Board may establish by resolution such standing committees or special committees in addition to those specified in this Article as it deems appropriate, with such duties, responsibilities, and members as it may designate. The Board or the Chairman may refer to the proper committee any matter affecting the Authority or any operations needing study, recommendation, or action. The delegation of authority to any committee shall not operate to relieve the Board or any of its members of any legal responsibility.

9.2 Limitations. Except in cases where these Bylaws or the Board has by written resolution provided otherwise, the function of any committee is as an advisory body to the Board. No member of any committee, without the prior authorization of the Board or as set forth in these Bylaws, has the authority to purchase, collect funds, implement policy, or bind, or obligate the Authority or the Board in any way or by any means. All such powers are expressly reserved to the Board and the officers of the Authority.

9.3 Technical Advisory Committee. The Technical Advisory Committee shall be a standing committee of the Authority which shall report to the Board and shall perform such duties and tasks as the Board shall from time to time direct. To the extent requested by the Board, the Technical Advisory Committee shall consider and report to the Board on all Authority matters of a scientific or technical nature. The Technical Advisory Committee findings and recommendations on these matters shall be forwarded to the Board for full consideration.

9.3.1 Membership. All Members in good standing of the Authority may, but are not required to, appoint one (1) representative to be a member of the Technical Advisory Committee. Directors of the Board shall not serve on the Technical Advisory Committee. The representatives of the Member organizations on the Technical Advisory Committee may be elected officials or staff members of the appointing Member and shall be qualified, willing, and able to assume and perform the duties and responsibilities required of the members of the committee. Each Member shall provide written notice of the name and contact information of its appointed Technical Advisory Committee member to the Manager of the Authority.

9.3.1.1 Alternate Technical Advisory Committee Members. Each Member participating on the Technical Advisory Committee shall be entitled to appoint one (1) alternate representative to serve on the committee in the absence of its primary representative.

9.3.1.2 Term. There shall be no restriction on the term of a representative on the Technical Advisory Committee. Each participating Member shall appoint such committee members and alternate representative as such entity sees fit who shall serve until a successor is duly appointed as established by such Members' policies and procedures. Any changes in the Technical Advisory Committee membership shall be communicated promptly to the Manager of the Authority.

9.3.2 Meetings. The Technical Advisory Committee may hold meetings on a monthly basis at a time and place to be determined by the Technical Advisory Committee. All meetings of the Technical Advisory Committee shall be posted and shall comply with Article VII of these Bylaws.

9.3.2 Duties. The Technical Advisory Committee shall have the authority to develop and submit referral comments on behalf of the Authority on various matters including, but not limited to, those associated with the Water Quality Control Commission Control Regulations. The Technical Advisory Committee is vested with the ability to approve site applications submitted to the Authority.

9.3.3 Referral Approvals and Appeals. An approval of a site application, with or without conditions, by the Technical Advisory Committee shall be deemed an approval by the Authority. If any applicant on a referral case, whose case was either denied or approved with conditions, desires to appeal the decision of the Technical Advisory Committee, such party shall make such a request for an appeal to the Board within thirty (30) days of the decision. The Board shall then hear the appeal at the next regular quarterly meeting of the Board. The Board's determination on the appeal shall be the final decision of the Authority.

9.4 Provisions Applicable to All Committees.

9.4.1 Committee Membership. Committee members may include representatives of the Permanent General Jurisdiction Members, W&S Members, Other Members, Ex-Officio Participants, and parties, as determined by the Board. No Director of the Board shall be eligible to serve on the Technical Advisory Committee; however, the Board may appoint a Director or Directors to serve on any other committee or to act as a liaison to any committee, or both, in the Board's discretion. The Board may from time to time appoint to any standing or special committee any individual who is qualified to serve on such committee and who has the requisite expertise and knowledge to supply value thereto, as determined by the Board in its discretion.

9.4.2 Committee Officers. Each committee shall select by Majority Vote one of its members to serve as Chairman and one of its members to serve as Vice Chairman. The Chairman of each committee shall preside at all meetings of such committee and shall discharge the duties of presiding officer. The Vice Chairman of each committee shall have such powers and perform such duties as the members of the committee may from time to time prescribe or as the Chairman may from time to time delegate. At the request of the Chairman, or in the event of the Chairman's absence or inability to act, the Vice Chairman shall serve as acting Chairman. If the Chairman or Vice-Chairman elects not to preside over a meeting or particular matter, a Majority Vote of the committee present shall then elect a temporary chairman who shall be the presiding officer for that particular meeting or particular matter only, as the case may be.

9.4.3 Committee Meetings. A committee may hold regular meetings at a time and place to be determined by the members of such committee. A quorum must be

present at any committee meeting for business to take place and motions to pass. A quorum of a committee shall be a majority of the members of such committee. All committees shall act by Majority Vote, unless otherwise prescribed by the Board. Rules governing procedures for meetings of any committee shall be as established by the Board, or in the absence thereof, the rules set forth in these Bylaws shall be followed. All meetings of any committee shall be open to the public.

9.4.4 Resignation. A member of any committee may resign at any time by giving written notice to the Chairman of the committee and to the Manager of the Authority. Such resignation shall take effect at the time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

9.4.5 Vacancies. Any vacancy occurring on any committee by reason of resignation or otherwise may be filled by action of the Board, unless otherwise provided herein.

9.4.6 Removal. At any meeting of the Board duly called and expressly providing for such purpose, any one or more members of any committee may be removed with or without cause by a Super Majority Vote of the Board.

ARTICLE X **FUNDING**

10.1 Funding. The Authority shall be funded by a dues structure; by fees, rates, and charges for functions, services, or facilities provided by the Authority as determined by the Board from time to time; and by such other funding sources as may be or become available to the Authority.

10.2 Member Dues. The Members, including Permanent General Jurisdiction Members, W&S Members, and Other Members shall pay annual dues to the Authority in an amount to be determined annually by the Board. Douglas County, Jefferson County and the Town of Castle Rock shall be the primary funding Members and shall fund the base budget approved for the Authority.

The initial base budget will be \$150,000.00, and will be split by the Permanent General Jurisdiction Members based on the land area within the watershed for such jurisdiction as follows:

Jefferson County	16.1%	\$24,155.00
Douglas County	41.95%	\$62,925.00
Castle Rock	41.95%	\$62,925.00

The remaining Members will be charged a membership due set annually by the Board. The initial membership dues for W&S and Other Members shall be \$2,000.00 per Member. The Board shall fix the amount of such dues for the ensuing calendar year by no later than July 31 of the then-current calendar year and shall notify all Members thereof. The Members shall have

until October 31 of the then-current calendar year to determine to pay annual dues for the following year to the Authority in the amount fixed by the Board, and the Members shall notify the Manager of the Authority of such determination. The Board shall approve a budget for the ensuing calendar year during the months of November or December, but never later than December 31. The Members shall pay annual dues to the Authority by no later than April 1 of the calendar year for which such dues are required.

10.3 Fees, Rates, and Charges. The Board shall fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the Authority, as it deems appropriate from time to time but no more often than annually.

10.4 Authority to Seek Funds. To provide for the purposes, powers, and functions of the Authority, the Authority may seek additional funds or funding as may be or become available, including without limitation, moneys from state or federal governments or any political subdivision thereof; grants; legislative appropriations; or legislation authorizing funding of or for the Authority.

10.5 Bonds. The Board may authorize issuance of bonds, notes, or other obligations payable solely from the revenues derived from any function, service, system, or facility or the combined functions, services, systems, or facilities of the Authority, or from any other available funds of the Authority, pursuant to the provisions Section 29-1-204.2(7), C.R.S. and applicable law.

ARTICLE XI **PROJECTS**

11.1 Projects. The Authority may undertake projects to advance the purpose and goals of the Authority. The Board may consider the amount of a Member's financial or in kind contribution to a project as a factor relevant to its prioritization of projects or its determination to undertake a project or both.

11.2 Process. The Board shall approve a project, or conditionally approve a project subject to funding, by resolution. The Board may request financial or in kind contributions from its Members for any project; provided, however, that no Member shall be required to make a financial or in kind contribution to the Authority beyond the amount of the Member's annual dues requirement, and any decision to so contribute shall be in the Member's sole discretion. For projects conditionally approved subject to funding, within forty-five (45) days of the Board's conditional approval of the project, Members must determine whether to contribute to such project and notify the Manager of the Authority of the determination.

For projects funded in whole or in part by Member contributions pursuant to this Section 11.2, the Board may approve, and the Authority and all contributing Members shall execute, a project agreement regarding their participation in the project. The project agreement shall obligate only those Members executing the project agreement, and no other Member shall have rights or obligations with regard to the project.

ARTICLE XII
MISCELLANEOUS

12.1 Amendment. These Bylaws may be amended or repealed at any regular meeting of the Board or at any special meeting called for that purpose provided that written notice of the proposed amendment or repeal shall have been given at least fourteen (14) days prior to the meeting. Except as provided herein, any such amendment or repeal shall require a Super Majority Vote of the Board at any duly constituted meeting of the Authority.

12.2 Severability. The invalidity of any provision of these Bylaws shall not affect the other provisions hereof. In the event any provision of these Bylaws is determined to be invalid, these Bylaws shall be construed in all respects as if such invalid provision were omitted.

12.3 Headings. The headings provided throughout these Bylaws are for convenience and reference only and in no way define, limit, or add to the meaning of any provision hereof.

I, _____, as Chairman of the Chatfield Watershed Authority, hereby certify that attached hereto are the Bylaws of the Chatfield Watershed Authority, which were duly adopted by the Authority on _____ and are of full force and effect as of the date hereof.

Dated: _____

Chairman

**AGREEMENT FOR CONTINUATION OF
CHATFIELD WATERSHED AUTHORITY**

March 26, 1997

THIS AGREEMENT is entered into as of this 1st day of January, 1997, by membership entities of the Chatfield Watershed Authority (hereinafter the "Authority").

WHEREAS, the parties to this Agreement established the Authority by previous agreement which expired on December 31, 1996;

WHEREAS, the Authority wants to continue as the designated water quality management agency for the Chatfield sub-watershed;

WHEREAS, the parties to this Agreement continue to have the authority, pursuant to Article XIV, Section 18 of the Colorado Constitution, and Section 29-1-201, et seq., Colorado Revised Statutes, to enter in to Intergovernmental Agreements for the purpose of providing any service or performing any function which they can perform individually;

WHEREAS, the parties deemed it necessary and advisable and entered into an Agreement in 1992-1993, which set forth their goals and objectives in implementing the Chatfield Reservoir Control Regulation heretofore adopted by and amended by the Water Quality Control Commission of the State of Colorado;

WHEREAS, the parties wish to continue herein an agenda for the implementation of the goals and objectives of the Chatfield Watershed Authority by the continuation of a governmental entity through which the separate entities signatory hereto may lawfully and prudently plan and budget monies for the funding of structures and programs for the control of phosphorus and ammonia discharge in the Chatfield Sub-watershed;

NOW, THEREFORE, in consideration of the benefits from this agreement, including but not limited to continuing local control over water quality programs which will result in significant cost savings and the ability to provide for continued economic growth of each of the parties hereto.

NOW, THEREFORE, the Authority consisting of the undersigned signatories herein established by previous agreement is hereby continued. The purposes of this Agreement include, but are not limited to, the following:

- a. Provide for a regional, coordinated approach to phosphorus control in the Chatfield Sub-watershed;
- b. Provide for a regional, coordinated approach for the construction and operation and maintenance of nonpoint phosphorus control projects;
- c. Provide for regional, coordinated water quality monitoring of Chatfield Reservoir, Plum Creek and the water flowing into them, as well as recommending water quality standards for the reservoir and its tributary waters, as appropriate;

- d. Provide for coordination with state and federal agencies having water quality responsibilities in the Chatfield Sub-watershed;

NOW, THEREFORE, the Authority will be governed by an approved set of by-laws as shown in exhibit A.

NOW, THEREFORE, the Authority shall continue to have the following duties and responsibilities:

- a. To seek legislative action from the Colorado Legislature to provide for any of the following:
 - (1) Any necessary amendments to existing state statutes to grant specific bonding and taxing authority to counties, municipalities, and special districts to utilize in the operation of a watershed-wide authority, and/or
 - (2) The creation of a specific watershed-wide authority with taxing and/or bonding powers, such as the specific authorities found in C.R.S., 29-1-204, 29-1-204.2, and 29-1-204.5.
- b. The Authority, subject to funding limitations, shall have the following rights and duties:
 - (1) Develop plans for water quality control strategies for the Chatfield Watershed and revise those plans as needed.
 - (2) To the extent funds are, or may be made, available, construct, operate and maintain nonpoint phosphorus control projects;
 - (3) Review nonpoint source control projects constructed in Chatfield Watershed, establish interim and long-term management strategies, recommend operation and maintenance plans and monitoring systems;
 - (4) Oversee and conduct water quality monitoring programs, including monitoring of phosphorus loading in the Chatfield Watershed and ammonia and nitrate levels in Plum Creek, and review, analyze and report on the water quality monitoring results to the Regional Planning Agency and Water Quality Control Commission;
 - (5) Recommend to local governments erosion and urban runoff control standards or other best management practices, which may be adopted by those local governments, for the Chatfield Watershed;
 - (6) Recommend programs to monitor and control the phosphorus contributions from septic systems, industrial sources, construction, or any other activities in the Chatfield Watershed;

- (7) Conduct pilot studies on nonpoint source control projects, including monitoring of the effectiveness of certain projects and erosion control measures;
 - (8) Prepare reports, including reports on the water quality of Chatfield Reservoir; audits on any construction projects, annual operations, maintenance and administrative summaries; audits upon the completion of each major construction project; and any other reports requested by the Authority;
 - (9) Recommend nonpoint phosphorus control projects for construction and recommend funding mechanisms for construction, operation and maintenance for nonpoint source projects within the Chatfield Watershed;
 - (10) Pursue continued study of potential phosphorus control solutions;
 - (11) Analyze the cost effectiveness of recommended standards, regulations, ordinances and control projects.
- c. The Authority shall have the following advisory rights and duties, subject to a weighted vote as set forth in the by-laws, Exhibit A:
- (1) Review and make recommendations to the Water Quality Control Division on site applications and discharge permits; however, review of site applications and discharge permits shall be limited to assuring compliance with phosphorus, ammonia and adopted stream standards.
 - (2) Recommend to the Denver Regional Council of Governments and the Water Quality Control Commission any amendments to the Clean Water Plan and the phosphorus effluent limits in the Chatfield Sub-watershed;
 - (3) Consider the development of a plan which would allow trading of phosphorus loadings, and develop a specific policy concerning facilities which choose to treat beyond established phosphorus limits.
 - (4) Adopt annual scopes of work, budgets and fee assessments to carry out its responsibilities.

NOW, THEREFORE, the Authority shall be a separate legal entity with the following powers, subject to a weighted vote as set forth in the by-laws, Exhibit A:

- a. To lease any real or personal property, either as lessee or lessor, together with any facilities thereon, when necessary to implementation of this Agreement;
- b. Enter into lawful agreements with any person, private corporation or business, or any federal, state or local government agency for the purposes contemplated by this Agreement;

- c. Obtain federal funding for construction or other acts authorized by this Agreement;
- d. Hire staff as needed and/or contract with a public agency as an administrative agency to provide accounting, administrative, secretarial, audit, payroll and other staff functions;
- e. Do any and all acts and things necessary to effectively exercise the duties and responsibilities in this Agreement.

NOW, THEREFORE, the Authority shall be funded by a dues structure set forth in the by-laws, Exhibit A.

NOW, THEREFORE, IT IS FURTHER RESOLVED that a member may withdraw from the Authority by giving one hundred twenty (120) days written notice of intent to withdraw. The withdrawing party shall lose all rights and benefits under this Agreement, which rights and benefits shall be reassigned by action of the Authority. A withdrawing member shall have no obligation, financial or otherwise, to the Authority. Should any member of the Authority fail to contribute funds to satisfy its annual fee assessment prior to April 1 of that year, all rights and benefits previously accorded to such member shall be suspended. The Authority shall issue a written notice of default to the member within 60 days of default. If the default is not cured by July 15th of that year, the membership of the member may be terminate at the discretion of the Authority. A terminated member shall have no obligation, financial or otherwise, to the Authority.

NOW, THEREFORE, IT IS FURTHER RESOLVED that this Agreement may be amended only by the unanimous vote of the Authority.

NOW, THEREFORE, IT IS FURTHER RESOLVED that this Agreement shall have a one-year term from the date first set forth herein, and shall be deemed to automatically renew each year thereafter, subject to funding of a new budget, unless forty percent (40%) of the member entities of the Authority vote to cancel the Agreement.

NOW, THEREFORE, the Authority shall be solely responsible for the acts of the Authority. The liability of the Authority is limited to available Authority funds. The obligations of the Authority shall not be the obligations of any member or participant as defined in the by-laws. All contracts entered by the Authority shall contain this liability disclaimer.

This Agreement shall be executed by an authorized representative of each member or participant of the Authority. This Agreement may be executed in counterparts.

JEFFERSON COUNTY, COLORADO

Attest:

By: _____

By: _____

DOUGLAS COUNTY, COLORADO

Attest:

By: _____

By: _____

THE TOWN OF CASTLE ROCK, a Colorado
municipal corporation

Attest:

By: _____

By: _____

THE TOWN OF LARKSPUR, a Colorado
municipal corporation

Attest:

By: _____

By: _____

PERRY PARK WATER AND SANITATION
DISTRICT

Attest:

By: _____

By: _____

ROXBOROUGH PARK METROPOLITAN
DISTRICT

Attest:

By: _____

By: _____

CASTLE PINES METROPOLITAN DISTRICT

Attest:

By: _____

By: _____

PLUM CREEK WASTEWATER AUTHORITY

Attest:

By: _____

By: _____

CITY OF LITTLETON, a Colorado
municipal corporation

Attest:

By: _____

By: _____

LOCKHEED MARTIN ASTRONAUTICS, a
division of Lockheed Martin Corporation

Attest:

By: _____

By: _____

Exhibit A

CHATFIELD WATERSHED AUTHORITY BYLAWS

Article I. Definitions

As used in the bylaws, the following terms shall have the meaning hereinafter presented:

- a. Authority - The Chatfield Watershed Authority, consisting of 10 membership entities as listed in Appendix A and a maximum of five designated participants as listed in Appendix B.
- b. Contributions - Membership entities are responsible for financially supporting the Chatfield Sub-Watershed management and water quality monitoring program as listed in Appendix C. Participants will be requested to provide financial contributions and/or in-kind services as deemed appropriate by the Authority.
- c. Chatfield Reservoir Control Regulation - The Authority is responsible for implementing requirements of the Chatfield Reservoir Control Regulation as adopted by the Colorado Water Quality Control Commission.
- d. Chatfield Sub-Watershed - The watershed boundary is designated in the Regional Clean Water Plan and includes tributary drainage to Chatfield Reservoir from Douglas and Jefferson counties. Boundary changes to the watershed must be adopted through the regional Clean Water Plan.
- e. Majority Vote - A majority vote is greater than 50 percent of the meeting participants once a quorum is established.
- f. Membership Entities - All designated representatives and/or alternatives from a general purpose government, special district, and all other National Permit Discharge Elimination System (NPDES) permittees as designated by the Colorado Department of Public Health and Environment in the Chatfield Sub-Watershed, which have entered into the *Memorandum of Understanding For Establishing a Management Agency in the Chatfield Sub-Watershed*.
- g. Participants - A maximum of five entities, other than membership entities, that demonstrate vested interest and support for the Chatfield Sub-Watershed management program can be designated by the Authority as participants.
- h. Quorum - A quorum at Authority meeting is thirty-three percent of the Authority with 50 percent of those present being membership entities.
- i. Weighted Vote - Membership entities will be given a weighted vote at Chatfield Watershed Authority meetings as listed in Appendix C for each representative or alternate on matters specifically related to management agency, operating agency or general purpose government responsibilities as defined in the *Agreement For Continuation of Chatfield Watershed Authority*.

Article II. The Chatfield Watershed Authority

The Chatfield Watershed Authority is responsible under the Chatfield Reservoir Control Regulation for implementation of the Chatfield management plan. The Memorandum of Understanding which continues the Chatfield Watershed Authority is attached hereto and made a part thereof. The Chatfield Watershed Authority will be the designated management agency under the provisions of the regional Clean Water Plan.

Membership jointly in the Chatfield Watershed Authority Memorandum of Understanding has the power under Colorado law to develop, recommend and adopt provisions for water quality management within the Chatfield Sub-Watershed consistent with the regional Clean Water Plan. The Chatfield Watershed Authority will provide an integrated, holistic water quality management and implementation program to protect or attain established beneficial uses of waters within the Chatfield Sub-Watershed.

Article III. Authority Powers

The Authority shall have the power to:

- a. Amend the bylaws by a majority vote of the membership entities.
- b. Adopt or revise an annual budget and environmental monitoring program for the Authority by majority vote.
- c. Elect a Chair and vice-chair by majority vote from the Authority membership at the first meeting of each year to serve for a term of one-year.
- d. Appoint a secretary and/or treasurer or administrator by majority vote at the first meeting of each year to serve for a term of one-year.
- e. Recognize one vote on each issue from a designated representative or alternate from each membership entity and participant, except when a weighted vote is required. A weighted vote must be declared by the chair or vice-chair prior to calling the vote and the additional weighted votes given to membership entities as show in appendix C shall apply to vote tabulations.
- f. Place all funds under the care of a designated membership entity or to create separate accounts at financial institutions selected by the Authority. All funds shall be subject to annual audit by either the Authority or duly designated representative.
- g. Expend funds in accordance with the annual budget as adopted by the Authority or amended by the Authority. Such expenditures shall be approved by the Authority prior to payment.
- h. Prepare and maintain a file of minutes and meeting summaries of the Authority meetings.
- i. Enter and execute contracts, accept and utilize financial assistance, raise revenues and incur indebtedness by majority vote of the Authority.

Article IV. Authority Meetings

- a. A quorum shall be declared present to hold an official meeting of the Authority.
- b. Meetings shall be held at least once quarterly.
- c. An agenda shall be distributed by a designated administrator of the Authority for all meetings. Special meeting notification can be made by fax with approval of the Authority chair or vice-chair.
- d. The chair or vice-chair shall preside at the Authority meetings.
- e. No absentee or proxy voting shall be allowed.
- f. Public comments will be allowed at the beginning of each meeting with a time limit of five minutes per speaker on topics of concern not included on the agenda.
- g. A list of membership entities and Authority members will be maintained by the secretary of the Authority and made available upon request at Authority meetings.

Appendix A

Membership Entities

1. City of Littleton
 2. Town of Castle Rock
 3. Town of Larkspur
 4. Perry Park Water and Sanitation District
 5. Castle Pines Metropolitan District
 6. Roxborough Park Metropolitan District
 7. Plum Creek Wastewater Authority
 8. Lockheed Martin Astronautics
 9. Douglas County
 10. Jefferson County
-

Appendix B

Participants

1. U.S. Army Corp of Engineers
2. Colorado Department of Public Health and Environment - Water Quality Control Division
3. Division of Natural Resources - Chatfield State Park
4. Tri-County Health Department
5. Denver Water Department, City and County of Denver

Appendix C

Annual Funding Contributions and Applied Weighted Votes

Entity	Percent Contribution ¹	Annual Contribution	Weighted Vote
Jefferson County	20.28	19,594	2
Douglas County	18.82	18,183	2
Lockheed Martin Astronautics	18.28	17,661	2
Town of Castle Rock	13.82	13,352	2
Plum Creek Wastewater Authority	11.13	10,753	2
Castle Pines	4.53	4,377	1
Roxborough Park	5.10	4,927	1
Perry Park	3.75	3,623	1
Town of Larkspur	0.36	588	1
City of Littleton	Flat Fee	588	1
Denver Water Department	Flat Fee	2,353	0
TOTAL	97.07	\$95,999	15

1/ Percent of Assessed Valuation.

2/ Does not equal 100% due to nonparticipation of other entities in the watershed.

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION
5 CCR 1002-73

REGULATION NO. 73

CHATFIELD RESERVOIR CONTROL REGULATION

ADOPTED: July 10, 1989
EFFECTIVE: August 31, 1989
TRIENNIAL: August 4, 1992
AMENDED: February 1, 1993
EFFECTIVE: March 30, 1993
TRIENNIAL: July 10, 1995
AMENDED: October 7, 1996
EFFECTIVE: November 30, 1996
AMENDED: July 14, 1997
EFFECTIVE: August 30, 1997
TRIENNIAL: July 13, 1998
AMENDED: August 9, 1999
EFFECTIVE: September 30, 1999
TRIENNIAL REVIEW: September 10, 2001
AMENDED: November 14, 2005
EFFECTIVE: January 30, 2006
AMENDED: February 9, 2009
EFFECTIVE: March 30, 2009

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL COMMISSION

5 CCR 1002-73

REGULATION NO. 73

CHATFIELD RESERVOIR CONTROL REGULATION

73.0 CHATFIELD RESERVOIR CONTROL REGULATION

73.1 AUTHORITY

The Water Quality Control Commission is authorized by section 25-8-205, C.R.S. to promulgate control regulations to describe limitations for the extent of specifically identified pollutants that any person may discharge into any specified class of state waters.

73.2 DEFINITIONS

See the Colorado Water Quality Control Act and other Water Quality Control Commission regulations for additional definitions.

1. "Background" means the calculated phosphorus loads from surface water and alluvial groundwater, including nonpoint sources and direct precipitation, that does not originate from point source discharges. Background is calculated by subtracting the Reservoir Base-Load and Wasteload Allocations from the Total Maximum Annual Load.
2. "Best management practice" means best methods, measures or practices selected by an agency to meet its nonpoint source control needs. Best management practices include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures. Best management practices can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.
3. "Chatfield Watershed" consists of: (a) for Plum Creek, all portions of Plum Creek and its tributaries, including segments 8, 9, 10a, 10b, 11a, 11b, 12 and 13¹ and (b) for the South Platte River, the portions of segments 6a, 6b, and 7 of the South Platte River¹ downstream of Strontia Springs Reservoir outfall. The Chatfield Watershed is depicted in Figure 1 attached to this regulation (New Figure 1)

¹ The stream segments referenced are described in the Classifications and Numeric Standards - South Platte River Basin, Regulation No. 38 (5 CCR 1002-38).

4. "Chatfield Watershed Authority" means the organization formed by local governments and Title 32 Districts, industry, corporations and other entities within the Chatfield Watershed to implement point source, nonpoint source and/or stormwater controls.
5. "Effluent limitation" means any restriction or prohibition established pursuant to this regulation, the Colorado Water Quality Control Act or the federal act on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into state waters, including, but not limited to, standards of performance for new sources, toxic effluent standards, and schedules of compliance.

6. "Individual sewage disposal system" means a system or facility for treating, neutralizing, stabilizing, or disposing of sewage which is not a part of or connected to a wastewater treatment works.
7. "Land application" is any discharge applied to the land for land disposal or land treatment and does not include a discharge to surface waters even if such waters are subsequently diverted and applied to the land.
8. "Land Application Return Factor" means (1) For land application sites with an augmentation plan decreed by Colorado District Court, Water Division 1: the return flow percent decreed in that augmentation plan; and (2) For land application sites without an augmentation plan decreed by Colorado District Court, Water Division, or who elect not to use the return flow percent in their decree: the ratio of the area of the land treatment site divided by the sum of the surface areas of all lysimeters.
9. "Land disposal" is any discharge of pollutant containing waters being applied to land for which no further treatment is intended.
10. "Land treatment" is any discharge of pollutant containing waters being applied to land for the purpose of treatment.
11. "Margin of safety" means the additional protective factor in the Total Maximum Annual Load, which accounts for limitations in accuracy of modeling.
12. "Nonpoint source" means, for the purpose of this regulation, any activity or facility other than a point source with wasteload allocation specified at section 73.3(2)(c), from which pollutants are or may be discharged. For the purposes of this regulation, nonpoint source includes all stormwater runoff, whether sheet flows or collected and conveyed through channels, conduits, pipes or other discrete conveyances, and runoff from wildfires such as the Hayman Fire.
13. "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. "Point source" does not include irrigation return flows.
14. "Reserve/Emergency Pool" means the pool of point source total phosphorus pounds available for allocation to point source wastewater dischargers pursuant to 73.3(2)(h) of this regulation or for emergency allocations to point source wastewater dischargers for a time period not to exceed five years.
15. "Reservoir base-load" means the average measured total phosphorus load reaching the Chatfield Reservoir.
16. "Regulated Stormwater" means stormwater discharges to state waters that are from regulated facilities or activities; i.e., industrial or commercial facilities, or municipal separate storm sewer systems regulated under 5 CCR 1002-61 section 61.3(2)(e), (f) or (g), including those designated by the Water Quality Control Division ("Division") under section 61.3(2)(f)(iii).
17. "TMAL" means the Total Maximum Annual Load for Chatfield Reservoir, derived from the sums of the Reservoir Base-Load, Background, and Wasteload Allocations for Chatfield Watershed and Upper South Platte River Watershed, with the Margin of Safety.
18. "Trading Program" means the program administered by the Authority for phosphorus trading in the Chatfield Watershed.

19. "Upper South Platte River Watershed" means all portions of the South Platte River and its tributaries, from the river's headwaters through Strontia Springs Reservoir outfall, including Segments 1a, 1b, 2a, 2b, 2c, 3, 4, 5a, 5b, 5c, and the portions of segments 6 and 7¹ upstream of Strontia Springs Reservoir outfall. The Upper South Platte River Watershed is depicted in Figure 2 attached to this regulation. The Roberts Tunnel transfers water from Dillon Reservoir in Summit County into Segment 4 of the South Platte River.
20. "Wasteload allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution.
21. "Wastewater Treatment Facility" means a system or facility for treating, neutralizing, stabilizing or disposing of domestic wastewater, which system or facility has a designed capacity to receive more than two thousand gallons per day of domestic wastewater. The term "Wastewater Treatment Facility" also includes appurtenances to such system or facility, such as outfall sewers and pumping stations and equipment related to such appurtenances.

73.3 TOTAL MAXIMUM ANNUAL LOAD ALLOCATION FOR TOTAL PHOSPHORUS LOADING AND EFFLUENT LIMITATIONS

1. TOTAL MAXIMUM ANNUAL LOAD ALLOCATION FOR TOTAL PHOSPHORUS LOADING
- a. A new total maximum annual load (TMAL) for phosphorus of 19,600 lbs/y under a median inflow of 100,860 AF/y has been identified to attain the water quality standards for 10 µg/l chlorophyll a and 0.030 mg/L total phosphorus, as described in Regulation No.38.
- i. Revised allocations of that load will be developed to complete revisions to the TMAL.
 - ii. Activities necessary to reduce the actual phosphorus loads to an amount no greater than the TMAL shall be implemented.
 - iii. The activities to support revisions to allocations of the allowable load are identified below. The Authority shall implement these activities, as allowed by applicable funding levels, for review by the Division and Commission at the next triennial review. Results from the Authority's implementation of this control regulation and the load allocation development tasks listed below may suggest redefining and reprioritizing activities. The Authority shall submit any such proposed revisions with proposed priorities for review and approval by the Division, annually, in their annual report to the Commission due May 15 of each year. The activities shall include, but are not limited to the following items:
 - A. Partition allowable load between the two main basins (South Platte and Plum Creek);
 - B. Determine allocation of loads within each basin;
 - C. Revise wasteload allocations, as appropriate; and
 - D. Update definitions and regulation language to support TMAL revisions.
 - iv. Attainment of the TMAL may require progressive development of point source and nonpoint controls.

- v. The following provisions of this control regulation along with the waste load and load allocations remain in effect until revisions have been adopted to meet the new TMAL.
- b. The total phosphorus allocations by watersheds are distributed among sources as follows:

Allocation Type	Total Phosphorus Pounds/Year
Total Maximum Annual Load (TMAL) =	59,000 @ 261,000 ac-ft/year
Chatfield Watershed	40,894
Reservoir Base-Load	13,400
Background	19,961
Wasteload Allocation (point sources)	7,533 ¹
Upper South Platte River Watershed	17,930 ²
Reservoir Base-Load	6,000
Background	11,842
Summit County Wasteload Allocation	88
Total	58,824 ³

¹ Point source discharge permit holders and regulated stormwater permittees who are in compliance with their permit limits and terms for a constituent will not have those limits or terms modified prior to any future adjustment of classifications or standards by the Commission to the extent any observed water quality standards exceedances are attributable to other factors, such as wildfires that are beyond the control of the permit holders.

² Loadings from the Upper South Platte River watershed include all point sources upstream of the Strontia Springs Reservoir outfall, including 88 pounds of phosphorus per year from wastewater originating in Summit County and discharged directly into the Roberts Tunnel, and all nonpoint sources above the Strontia Springs Reservoir outfall.

³ While the TMAL total phosphorus poundage allocation formula remains unchanged, the amount of total phosphorus assigned to the Chatfield Watershed is reduced because of approved nonpoint source to point source trades.

2. EFFLUENT LIMITATIONS AND POINT SOURCE WASTELOAD ALLOCATIONS

- a. The Division shall not issue discharge permits (pursuant to Regulation #61) or notices of authorizations for use of reclaimed water (pursuant to Regulation #84) to any wastewater facilities and industrial process wastewater sources that allow effluent limitations exceeding their total phosphorus allocation, unless such exceedances consist solely of phosphorus pounds awarded from the Reserve Pool, or that are authorized through the Trading Program or by Temporary Transfers. However, in no event shall these allocations be construed to allow discharges in violation of the requirements of section 73.3.1, subject to approved trades pursuant to section 73.3.2.

- b. No municipal, domestic, or industrial wastewater discharge in the Chatfield Watershed shall exceed 1.0 mg/l total phosphorus as a 30-day average concentration, except as provided under section 73.3(2)(f)
- c. The allowed annual wasteload of point source phosphorus in the Chatfield Watershed is limited to 7,533 lbs/yr, allocated among the dischargers as follows, except as provided in sections 73.3(2)(e),(g),(h), and (i):

Facility	Pounds Per Year
Plum Creek Wastewater Authority	4,256
Lockheed Martin Astronautics	1,005
Roxborough Park Metro District	1,218
Perry Park Water & San. District-Waucondah	365
Perry Park Water & San. District-Sageport	73
Town of Larkspur	231
Louviers Mutual Service Company	122
Sacred Heart Retreat	15 ¹
Jackson Creek Ranch	50 ²
Ponderosa Retreat Center	75 ²
Centennial Water and Sanitation District	50 ²
Reserve/Emergency Pool	73
Total Point Source Phosphorus Wasteload =	7,533

¹ A five-year Total Phosphorus Allocation (2010) of 15 pounds for inclusion in the Sacred Heart discharge permit; Obtained from the Reserve/Emergency Pool.

² These entities received point source allocations through trades pursuant to the Authority Trading Guidelines.

- d. Phosphorus effluent limits for site approvals and discharge permits in the Chatfield Watershed shall be based on total phosphorus effluent quality of 1.0 mg/l for a 30-day average at the design capacity of the wastewater facility, except as provided in section 73.3(2)(f), and the annual wasteload allocation specified in this section, except as provided in 73.3(2)(e)(g)(h) and (i). A wastewater treatment facility may need to adjust operations for periods of time sufficient to meet the annual phosphorus poundage allocation by producing effluent total phosphorus concentrations below 1.0 mg/l.
- e. Point source dischargers may apply to the Chatfield Watershed Authority and the Division for phosphorus trade credits, which allow corresponding increases to a discharger's total phosphorus wasteload allocation. Phosphorus trade credits for point sources shall be based upon reductions of phosphorus from nonpoint sources. The amount of point source trade credit shall be based upon one pound of credit for two pounds of nonpoint

source reduction, unless water quality data substantiates greater phosphorus removals, in which case one pound of trade credit may be established by fewer than two pounds of nonpoint source reduction, on a site-specific basis. The Chatfield Watershed Authority shall review the application for trade credits in coordination with the Division. The Chatfield Watershed Authority shall take action by approving, conditionally approving, or denying the trade credits, and forward its decision to the Division. Thereafter, the Division shall consider the Authority's decision and render the Division's final decision on the trade credits. Trade credits shall be incorporated into discharge permits by the Division, as appropriate, and incorporated as proposed amendments to the phosphorus allocation at the next triennial review or rulemaking hearing for this regulation.

- f. Point sources may discharge a total phosphorus concentration of greater than 1.0 mg/l if an agreement has been made with an alternative point source discharger for equal phosphorus reduction. The agreement for alternative treatment must be executed by the owners of both facilities, and the agreement must describe estimated changes in average wastewater flows and performance in treatment of phosphorus. The wastewater facility that agrees to provide the equivalent phosphorus poundage reduction must demonstrate that it is achieving a total phosphorus effluent concentration of less than 1.0 mg/l for a period of time sufficient to remove the equivalent phosphorus load by which the wastewater treatment facility is exceeding its wasteload allocation. The Chatfield Watershed Authority shall review applications for alternative treatment arrangements in coordination with the Division. The Chatfield Watershed Authority shall take action by approving, conditionally approving, or denying the alternative treatment arrangements, and forward its decision to the Division. Thereafter, the Division shall consider the Authority's decision and render the Division's final decision on the alternative treatment arrangements. Alternative treatment arrangements, including provisions for equivalent phosphorus reductions shall be incorporated as permit conditions into both discharge permits, as appropriate.
- g. Point source wastewater dischargers shall apply to the Chatfield Watershed Authority and the Division for transfers of all or part of one point source discharger's total phosphorus allocation to another point source wastewater discharger. Both dischargers must jointly apply for such transfers. Applications for transfer must include an agreement executed by the owners of the facilities specifying changes in average wastewater flows and performance in treatment of total phosphorus. The Chatfield Watershed Authority shall review phosphorus transfer proposals in coordination with the Division. The Chatfield Watershed Authority shall take action by approving, conditionally approving, or denying the phosphorus transfer, and forward its decision to the Division. Thereafter, the Division shall consider the Authority's decision and render the Division's final decision on the phosphorus transfer. The Division shall incorporate approvals in both discharge permits, if these transfers are not otherwise accounted for by the Division.
- h. Point source wastewater dischargers may apply to the Chatfield Watershed Authority and the Division for allocations of total phosphorus pounds from the reserve/emergency pool, to be applied to the dischargers total phosphorus wasteload allocation. Applications for total phosphorus pounds from the reserve/emergency pool must specify the number of pounds desired from the pool. The Chatfield Watershed Authority shall review the application for allocations of phosphorus from the reserve/emergency pool in coordination with the Division. The Chatfield Watershed Authority shall take action by approving, conditionally approving, or denying allocations from the reserve/emergency pool, and forward its decision to the Division. Thereafter, the Division shall consider the Authority's decision and render the Division's final decision on an allocation from the reserve/emergency pool. Approved allocations of phosphorus pounds from the reserve/emergency pool shall be incorporated as proposed amendments to the phosphorus wasteload allocation in section 73.3 at the next triennial review or rulemaking hearing of this regulation.

- i. If new point source wastewater facilities are proposed for the Chatfield Watershed, the appropriate entities shall apply to the Chatfield Watershed Authority and the Division for a phosphorus allocation. Phosphorus allocation pounds for such new point source wastewater dischargers may be derived from: (1) withdrawals from the reserve/emergency pool pursuant to 73.3(2)(h); (2) nonpoint source to point source trades pursuant to 73.3(2)(e); (3) point source to point source transfers pursuant to 73.3(2)(g); or (4) phosphorus concentration reductions through alternative treatment pursuant to 73.3(2)(f). Applications shall specify the number of desired total phosphorus pounds and how the pounds will be derived as specified in 73.3(2)(i). The Chatfield Watershed Authority shall review the applications for phosphorus allocations in coordination with the Division. The Chatfield Watershed Authority shall take action by approving, conditionally approving, or denying the new phosphorus allocations, and forward its decision to the Division. Thereafter, the Division shall consider the Authority's decision and render the Division's final decision on the new phosphorus allocation. Allocations for new dischargers shall be incorporated into the new discharge permit by the Division and incorporated as proposed amendments to the phosphorus wasteload allocation in section 73.3 at the next triennial review or rulemaking hearing of this regulation.
- j. The Division shall provide notice of any application for a proposed trade in the Chatfield watershed in the monthly Water Quality Bulletin. Such notice shall be provided as early in the process as possible but only after the Division has completed its initial review.
- k. Any person adversely affected or aggrieved by a final decision of the Division on trade credits, transfers, or awards of phosphorus pounds from the Reserve Pool pursuant to section 73.3.2 may request an adjudicatory hearing before the Commission pursuant to the requirements and procedures of section 21.4. 5 CCR 1002-21.

73.4 DETERMINATIONS OF WASTELOAD

For municipal, domestic and industrial discharges, the monthly and annual wasteloads shall be determined as follows:

1. Direct Discharge.

For each direct discharge, monthly phosphorus loads (pounds) contributed shall be determined based upon the following formula:

Monthly Phosphorus Load (pounds) = Monthly volume discharged (million gallons) X Average Phosphorus Concentration (mg/l) for that month X 8.34.

The monthly volume (million gallons) = the sum of all total volumes of effluent measured at each permitted wastewater outfall ÷ number of measurements.

Average Phosphorus Concentration (mg/l) = the sum of the total phosphorus concentrations (mg/l) of all samples for the month ÷ the number of samples collected during the month.

2. Land Application.

- a. Land Treatment. For each land treatment discharge, monthly phosphorus load (pounds) contributed shall be determined based upon the following formulas:

- i. Monthly Phosphorus Load

Monthly Phosphorus Load (pounds) = sum of the Phosphorus Masses (pounds) for the month X Land Application Return Factor.

OR

Monthly Phosphorus Load (pounds) = sum of loads from each land treatment site (monthly Phosphorus Mass at each land treatment site X Area Ratio for the land treatment site X Land Application Return Factor for the land treatment site)

ii. Phosphorus Mass

Phosphorus Mass = $8.34 \times \text{concentration value (mg/l) for phosphorus determined for the sample} \times \text{the volume of water applied to the land (gallons)} \div 1,000,000$

iii. Phosphorus Concentration

Phosphorus concentrations for land treatment sites may be monitored either (1) at the land treatment site below the surface and above the seasonal high groundwater level, or (2) in the system prior to land application.

b. Land Disposal. For each land disposal discharge, monthly phosphorus load (pounds) contributed shall be determined based upon the following formulas:

i. Monthly Phosphorus Load

Monthly Phosphorus Load (pounds) = Monthly volume discharged (million gallons) X Average Phosphorus Concentration (mg/l) for that month X 8.34 X Land Application Return Factor.

ii. Monthly Volume

The monthly volume (million gallons) = the sum of all total volumes measured at or calculated for the month for all wastewater land applied.

iii. Average Phosphorus Concentration

Average Phosphorus Concentration (mg/l) = the sum of the total phosphorus concentrations (mg/l) of all samples for the month \div the number of samples collected during the month.

iv. Phosphorus Concentration

Phosphorus concentrations for land disposal sites must be measured prior to land application.

c. Exemption. The Division may determine that a land application discharger has no phosphorus discharge, or a reduced phosphorus discharge, if the discharger demonstrates that: (1) the discharger land applies, or will land apply, at agronomic rates for the specific vegetative species at the land application site, and (2) the discharger has installed, or will install, soil moisture probes or other systems to assure land application at agronomic rates. Further, for such dischargers, the Division may authorize reduced monitoring requirements for discharge volume or phosphorus.

- d. Site Approval. The Division shall use the return flow percent in a decreed augmentation plan to calculate phosphorus discharge loads for the site application of a land application discharger, if the discharger demonstrates that: (1) the discharger land applies, or will land apply, at agronomic rates for the specific vegetative species at the land application site, and (2) the discharger has installed, or will install, soil moisture probes or other systems to assure land application at agronomic rates.

3. Annual Phosphorus Wasteload.

The annual phosphorus wasteload shall be the sum of the 12 monthly phosphorus loads calculated for that calendar year for permitted wastewater discharge points and sites and shall not exceed the wasteload allocations, set forth in section 73.3.

73.5 MONITORING AND ANNUAL REPORT

1. The Chatfield Watershed Authority shall, in consultation with the Water Quality Control Division, prepare and implement a monitoring and quality assurance project plan and annually review such plan to ensure that the monitoring addresses water quality problems and data transfer requirements associated with the Chatfield Watershed. The Division shall receive an electronic data transfer annually of all water quality data collected by the Authority. Data collection, compilation and transfer protocols will be detailed in the Chatfield Watershed Authority's quality assurance project plan.
2. The Chatfield Watershed Authority shall submit an annual report to the Water Quality Control Division for submittal to the Water Quality Control Commission by May 15. The annual report shall provide information on water quality monitoring, point source loadings and the status of compliance with discharge permit limits and conditions, nonpoint source loadings and the status of nonpoint source control efforts, status of trades approved, model updates, recommendations on any new or proposed expansion of wastewater treatment facilities, and recommendations for improving water quality, as appropriate.
3. For point source discharges, the annual report shall include a summary of actual discharge monitoring data for each permit, with average monthly concentrations of phosphorus and the annual phosphorus poundage discharged for each permit.

73.6 NONPOINT SOURCE CONTROLS

1. The Chatfield Watershed Authority shall develop an implementation program of best management practices for control of erosion and sediments. The Commission shall review the implementation program for existing erosion and sediment control programs as submitted by the Chatfield Watershed Authority at each triennial review of this regulation.
2. The Chatfield Watershed Authority members shall implement nonpoint source control programs for those areas within their jurisdictions with the goal of reducing nonpoint source phosphorus in the Chatfield Watershed so as not to exceed the 33,361 lbs/yr allocation for reservoir base-load and background.
3. If nonpoint source control programs are not implemented, the Commission may adjust the phosphorus total maximum annual load allocations stated in section 73.3 of this regulation, alter water quality monitoring requirements and specify a nonpoint source management program.
4. Constructed structural nonpoint source best management practices shall be monitored by the Chatfield Watershed Authority, agencies, owners, or dischargers to determine total phosphorus removal efficiencies if credits for the controls are to be assigned to point source facilities, as provided under section 73.3(2)(e).

73.7 - 73.10 RESERVED

73.11 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE

The provisions of sections 25-8-202(1)(c), (h) and (2); and 25-8-205; C.R.S., provide the specific statutory authority for adoption of this regulation. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S., the following Statement of Basis and Purpose.

BASIS AND PURPOSE:

The Colorado Water Quality Control Commission adopted a water quality standard for phosphorus for the Chatfield Reservoir on August 14, 1984 of 0.027 mg/l total phosphorus measured throughout the water column in Chatfield Reservoir for the months of July, August and September. The standard was based upon water quality data and hydrologic conditions of 1982.

Total phosphorus loading to the Chatfield Reservoir varies with the water yield in the basin. 1982 water quality data and hydrologic conditions were used to determine the phosphorus standard. However, the phosphorus allocations to different sources, as shown in Section 4.7.3 of this regulation, is based on further modeling of phosphorus loadings estimated for both present and future conditions. The estimated loadings are shown in Table 4 of the Chatfield Basin Study and are adopted as part of the 208 Water Quality Management Plan covering the Chatfield Basin. The total allowable pounds of phosphorus estimated in the Chatfield study is 36,400 pounds per year. This total poundage is not expected to cause the 0.027 mg/l numeric standard to be exceeded, although it may be exceeded at higher water yields. The 0.027 mg/l total phosphorus standard was adopted by the Commission with the intent of maintaining the chlorophyll a level in the reservoir at no more than 0.017 mg/l during the growing season. Although a majority of the phosphorus loading to the Chatfield Reservoir comes from background sources from the South Platte River, the control of point and nonpoint sources of phosphorus to the reservoir is essential to maintaining the water quality and the classified uses of the reservoir. Point source effluent limits have been identified which will meet the numeric standard for total phosphorus in the reservoir, based on projections of point source phosphorus loading in the basin and the modeling of different concentrations of phosphorus as an effluent limit. The 0.2 mg/l 30-day average concentration for point source phosphorus can be achieved by mechanical wastewater treatment or land application of effluent, in most cases. This level of treatment can be provided at a reasonable cost.

The Chatfield Basin Water Quality Study of 1988 indicated that if the expected flows of wastewater in the basin were treated to a level of 0.2 mg/l total phosphorus, then nonpoint sources of phosphorus would not have to be reduced until after the year 2000 and the water quality standard of 0.027 mg/l would be maintained.

Section 4.7.4(4) of the regulation requires that an ammonia wasteload allocation be developed for the Plum Creek Basin. The adopted ammonia standards for segments 8, 9, 10a, 10b, and 11b of the South Platte Basin, which are in the Plum Creek drainage, are 0.02 mg/l unionized or 0.06 mg/l. The Plum Creek drainage is shown in the 1988 305(b) report of the Water Quality Control Division as "threatened" for ammonia. The Plum Creek segments, except for 11 and 11a, are classified for water supply uses. Nitrates from wastewater discharges could impact that use. The original scope of work for the Chatfield Basin Study, which was started in 1985, included a wasteload allocation plan for ammonia as one of the tasks. The wasteload plan was not finished at the time of the control regulation adoption.

The Chatfield Basin Water Quality Task Force has not identified controls or practices for nonpoint sources of phosphorus. However, the estimate of nonpoint sources of phosphorus in the Basin is 9,600 pounds per year. This is a significant source and can be attributed mainly to stormwater runoff in the watershed. Best management practices can be used to reduce phosphorus in stormwater. A goal of 50% removal has been set for nonpoint phosphorus reduction. The nonpoint source control plan required by Section 4.7.5 shall determine if 50% removal basin-wide is achievable and weigh the relative costs and benefits. Hence, the regulation requires that a basin-wide control plan be developed for nonpoint sources and submitted by January 1, 1992. The basin wide control plan may examine the potential for trading point

and nonpoint source phosphorus as a component of the overall plan. This will allow about three years for further studies and development of institutional arrangements for nonpoint source controls.

Section 4.7.6 provides for an annual report on the Chatfield Basin to be submitted to the Commission for the purpose of updating information about water quality in the Basin and to track progress in implementing this regulation and meeting the adopted water quality standards for the Plum Creek Basin and the Chatfield Reservoir.

The Perry Park Water and Sanitation District requested that the compliance date for meeting the point source discharge limit for total phosphorus in section 4.7.4(1) be changed to January 1, 1993, only for their district. The Division intends to provide advance of allowance funding for planning and design of wastewater facility improvements and intends to provide assistance from the State Revolving Fund so that Perry Park can upgrade their treatment facility to meet the 0.2 mg/l phosphorus limit. Such assistance would be available in 1990 providing that Perry Park can qualify financially for the loan. If loan funds are not available to Perry Park, or problems are encountered in completing the project by January 1, 1991, the Division shall give an extension to the compliance date if Perry Park requests a variance from the control regulation and the variance criteria in section 25-8-205(6) of the Water Quality Control Act is met.

The provisions in section 4.7.4(4), 4.7.5, and 4.7.6 of the regulation are expected to be carried out by a basin-wide group of municipal, county, private, and other entities which are currently in the process of formulating an intergovernmental agreement. When this organization is formed, it is expected that such basin group will be designated as management agency for the Chatfield Basin.

73.12 Statement of Basis, Specific Statutory Authority and Purpose - Revisions of January, 1993.

The provisions of sections 25-8-202(1)(c) and (2); and 25-8-205; C.R.S. provide the specific statutory authority for adoption of the attached regulation. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The Colorado Water Quality Control Commission adopted a regulation for control of phosphorus in the Chatfield Basin in June, 1989. The regulation was based on phosphorus controls to meet the in-lake phosphorus standard of .027 mg/l in the growing season and to not exceed .017 mg/l chlorophyll *a* which is the goal for maintaining the beneficial uses of the reservoir. The standards and goals were based on water quality and hydrologic data gathered in 1982. Monitoring data gathered from 1983 - 1991 indicate that the annual phosphorus loading to Chatfield Reservoir is significantly higher than the 36,400 lbs. per year that was estimated in 1984 to be the assimilative capacity of the reservoir, and that the higher total phosphorus loads have not caused the reservoir to exceed the chlorophyll *a* goal of .017 mg/l. Further modeling of the reservoir indicates that the assimilative capacity of the reservoir for a one in ten year flow regime is 59,000 lbs. per year. When the control regulation was adopted in 1989, the wastewater effluent limitation for phosphorus was 0.2 mg/l. Significant costs have been incurred by the dischargers in the basin to upgrade treatment as well as provide on-going operation and maintenance of advanced treatment facilities. Several dischargers in the basin have not been able to obtain financing for advanced treatment facilities to meet the 0.2 mg/l limit. The Commission adopted the recommendation of the Chatfield Basin Authority and the Division that the effluent limit for total phosphorus be changed to 1.0 mg/l as a 30-day average concentration but with an annual poundage allocation for each discharger that cannot be exceeded. This will increase the allowable phosphorus poundage from point sources to 7,358 lbs. per year. The basis of the annual poundage allocations to the dischargers shown in section 4.7.3(2) is the projected wastewater flow in the year 2000 at an effluent concentration of 0.6 mg/l. Although the effluent limit for phosphorus is 1.0 mg/l, some or all dischargers may be required to meet a concentration less than 1.0 mg/l in order to stay within their wasteload allocation if population growth rates increase. It is assumed that advanced wastewater treatment must be provided to achieve a concentration lower than 0.6 mg/l. It is assumed that each discharger can stay within the annual poundage allocation by achieving an effluent concentration between 0.6 to 1.0 mg/l. The change to a maximum allowable concentration of

1.0 mg/l will save the dischargers significant dollars in capital and operational costs through the year 2000 while keeping algae growth in the reservoir within target levels.

Section 4.7.4(4) has been deleted due in part to much slower population growth in the Plum Creek portion of the Chatfield Basin than what was anticipated. Ammonia data has been collected on Plum Creek since the regulation was adopted which indicates that ammonia concentrations in-stream are low and within the unionized ammonia standard of 0.06 mg/l. Discharge permit limits for total ammonia which are written for design capacity flows at low flow conditions are sufficient to protect the stream without requiring a Plum Creek wasteload allocation for ammonia.

The Commission adopted language which allows for phosphorus credits and trading between point source dischargers and allows point source credits if nonpoint source reductions are demonstrated. This provides for flexibility in point source and nonpoint source phosphorus management while maintaining phosphorus loads within the basin targets and wasteload allocations provided for in this regulation. The Division has administrative authority, after review by the Chatfield Basin Authority, to require documentation of phosphorus reduction and appropriate agreements among parties in the basin to insure that phosphorus credits are justified and that trading arrangements are within the scope of this control regulation.

The Chatfield Basin Authority has spent considerable time within the last year looking at the South Platte watershed, which is the main source of water and phosphorus load to the reservoir, in an effort to assess the potential for nutrient loading reductions. The Authority wishes to investigate whether other dischargers in the upper South Platte basin, such as Woodland Park, Bailey, Fairplay, Florissant, and Alma could reduce phosphorus loading in the future and whether they should be subject to the provisions of this control regulation. This issue is expected to be addressed at the next triennial review of the control regulation.

The Commission added a new section on monitoring to address concerns by the Division of Wildlife and the Division of Parks and Outdoor Recreation that the monitoring program conducted by the Chatfield Basin Authority in recent years may not be sufficient to detect nuisance algae blooms or the conditions that may cause nuisance blooms to occur. The Commission determined that the Water Quality Control Division should take the primary role in determining what the appropriate monitoring parameters and frequencies are, in consultation with other interested parties, so that monitoring data over time will better reflect what is causing water quality problems and may be impacting the beneficial uses of the reservoir. The intent is that the Authority will continue to develop an annual monitoring program which the Division shall have the responsibility to review and recommend changes if needed so that the water quality data will be adequate to assess conditions in the reservoir. Other interested parties shall be provided an opportunity annually to have input on the monitoring plan so that appropriate resources can be directed to address water quality impacts.

A study of phosphorus loadings to Chatfield Reservoir and an assessment of nonpoint source phosphorus in the basin was prepared for the Chatfield Basin Authority by Woodward Clyde Consultants in 1992. The study recommends that structural and non-structural best management practices to control nonpoint source phosphorus be used. A schedule to develop specific projects for phosphorus control is included which recommends that engineering be done in 1993 and 1994 with implementation in 1995. Nonpoint source phosphorus loads are not easily identified and additional time is needed to develop control projects. The Chatfield Basin LEMNA nonpoint source demonstration project will be installed in 1993 and evaluated for phosphorus removal through 1994. Jefferson County has adopted an erosion control and grading regulation effective January, 1992 and Douglas County adopted a drainage criteria and erosion control regulation in October, 1992. These regulations are expected to reduce nonpoint phosphorus loadings to the reservoir. The provisions of these local requirements will be made part of the discharge permit conditions of any stormwater permits which are issued by the Division for construction projects in the basin, industrial activities, and for any municipalities that may be covered by municipal stormwater permits in the future. If progress in implementing best management practices to control nonpoint phosphorus is not evident in future years and if county and/or municipal governments in the Chatfield Basin are not enforcing ordinances or regulations to control such sources, then the Commission

will consider imposing further restrictions on point source dischargers through reduced wasteload allocations and/or more restrictive effluent limits. Specific plans for monitoring of nonpoint source phosphorus loads in the basin must be periodically submitted to and approved by the Division and progress in controlling nonpoint sources will be reviewed at each triennial review of this control regulation.

PARTIES TO THE RULEMAKING HEARING

JANUARY 4, 1993

1. Town of Larkspur
2. Martin Marietta Corp.
3. Roxborough Park Metropolitan District
4. Colorado Division of Wildlife
5. City & County of Denver
6. Douglas County
7. Chatfield Basin Authority
8. Plum Creek Wastewater Authority
9. Perry Park Water and Sanitation District

73.13 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE (1996 REVISIONS)

The provisions of sections 25-8-202(1)(c) and (2); and 25-8-205; C.R.S. provide the specific statutory authority for adoption of the attached regulation. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The Chatfield Basin has been designated as the Chatfield Sub-watershed through the Denver Regional Council of Government's Clean Water Plan. The basin boundary has been modified to a watershed boundary with recognition of drainage from Park County. This control regulation only applies to the Chatfield Sub-watershed portion of the South Platte Watershed.

A modification of the definition of "Chatfield Basin Authority" was considered but not adopted. The proposed definitional change would have described industrial dischargers as "ex-officio members." The purpose of the proposed modification was to describe the status of industrial dischargers such as Lockheed Martin Astronautics, who are assigned a phosphorus wasteload allocation and work closely with the Authority in an advisory capacity, but are not full member signatories to the intergovernmental agreement creating the Authority. A description of the role of these industrial dischargers was deemed unnecessary in this control regulation. The relationship between industrial dischargers and the Authority is already defined by the Chatfield Basin Authority Agreement.

The previous control regulation did not define the water quality conditions which established the reservoir total phosphorus load at 59,000 pounds per year. This 59,000 pound per year total phosphorus load is based on the reservoir's capacity to assimilate total phosphorus from all sources and not exceed the reservoir standard of 0.027 mg/l. The 59,000 pounds per year is related to a one in ten year recurrence low flow condition (Q_{10}) which corresponds to 261,000 ac-ft per year of flow through the reservoir. Therefore, the allowable total phosphorus pounds reaching the reservoir which will not cause an exceedence of the total phosphorus standard is flow dependent.

The point sources of total phosphorus from the Chatfield Sub-watershed are limited to 7,358 pounds per year. The remaining annual total phosphorus load of 51,642 pounds is attributable to a combination of nonpoint and background sources derived from the entire South Platte Watershed. Since limited water quality data exists on the distribution of total phosphorus in the watershed caused by precipitation to the reservoir and base-flow in South Platte River portion of the watershed, a wasteload allocation specific to

background sources can not be reasonably estimated from available data. As a result, the control regulation should not separate the total phosphorus allocation between background and nonpoint sources. The Chatfield Basin Authority should evaluate these background and nonpoint source allocations and report to the Commission at the 1998 Triennial Review.

The Authority recommends that wasteload allocation processes be consistent between adopted basin or watershed control regulations. The land disposal and land application wasteload definitions and determinations as adopted in the Cherry Creek Basin Control Regulation have been incorporated into the Chatfield Sub-watershed Control Regulation. This will allow the Authority and the Division to more efficiently administer land disposal or land treatment wasteloads.

A new section has been added to allow point source to point source trading for total phosphorus. A wastewater treatment facility could be authorized to exceed the 1.0 mg/l effluent limit or allocated wasteload for phosphorus, if an alternate permitted facility makes an equivalent reduction in either effluent limit or wasteload allocation. This provision will allow for flexibility among permitted facilities to accommodate unexpected growth and development.

The Chatfield Basin Authority submitted a nonpoint source compliance report to the Water Quality Control Commission in January 1996 which was approved. A summary report defines the nonpoint source management program and ongoing activities of the Authority. The Authority will continue to maintain a nonpoint source management program. Structural best management practices constructed within the watershed will be evaluated by the Authority to determine the total phosphorus removal efficiencies. This efficiency data can be used in assigning nonpoint source credits to point sources as part of a phosphorus trading program.

A change to the annual report from the Authority to the Commission was made. The annual report will be made available to the Commission on or before May 15 of each year which covers the previous calendar year.

PARTIES TO THE RULEMAKING HEARING

SEPTEMBER, 1996

1. Chatfield Basin Authority
2. Lockheed Martin Astronautics
3. The City of Westminster

74.14 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE: JULY, 1997 RULEMAKING

The provisions of sections 25-8-202 and 25-8-401, C.R.S., provide the specific statutory authority for adoption of the attached regulatory amendments. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The Commission has adopted a revised numbering system for this regulation, as a part of an overall renumbering of all Water Quality Control Commission rules and regulations. The goals of the renumbering are: (1) to achieve a more logical organization and numbering of the regulations, with a system that provides flexibility for future modifications, and (2) to make the Commission's internal numbering system and that of the Colorado Code of Regulations (CCR) consistent. The CCR references for the regulations will also be revised as a result of this hearing.

73.15 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE (1999 REVISIONS)

Sections 25-8-202 and 25-8-205, C.R.S., provide the specific statutory authority for adoption of the revisions to this regulation. The Commission also adopted, in compliance with Section 24-4-103(4), C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The 1999 Revisions to the Chatfield Reservoir Control Regulation (“Control Regulation”) address two major substantive issues: (1) phosphorus allocations, and (2) land application discharges.

The revisions pertaining to phosphorus allocations have two primary purposes. First, the revisions clarify and slightly modify the total maximum phosphorus allocation for the Chatfield Reservoir (“Reservoir”) and describe in greater detail how the allocations were calculated and distributed. Second, the allocation revisions amend and expand mechanisms for point source dischargers in the Chatfield Watershed to obtain additional phosphorus wasteload allocations.

The revisions concerning land application were adopted for two reasons. First, the modifications introduce a land application return factor into the formulas used to calculate phosphorus wasteloads for land application discharges. This change coordinates aspects of the state augmentation plan process (as decreed in Water Court and administered by the State Engineer) with Control Regulation requirements. Second, the land application revisions clarify and define certain monitoring and reporting requirements for land application dischargers.

Finally, in addition to the phosphorus allocation and land application modifications, this action also implements minor, miscellaneous changes.

I. PHOSPHORUS ALLOCATION REVISIONS

Total Phosphorus Allocation

The 1993 revisions to the Control Regulation established a total aggregate phosphorus allocation – or Total Maximum Annual Load (“TMAL”) – for loadings to the Reservoir of 59,000 pounds per year at a flow of 261,000 acre-feet per year. The 1999 revisions do not modify the overall TMAL of 59,000 pounds per year, but rather, provide additional explanation for the basis and distribution of the loading.

Explanation of TMAL

The revisions clarify that the TMAL for the Reservoir is based upon the formula of TMAL [59,000 pounds per year] = Chatfield Watershed (Reservoir base-load [13,400 pounds per year] + background [20,312 pounds per year] + wasteload allocation [7,358 pounds per year]) + Upper South Platte River Watershed (Reservoir base-load [6,000 pounds per year] + background [11,842 pounds per year] + Summit County Wasteload allocation [88 pounds per year]) + Margin of Safety. The formula takes into consideration that the Chatfield Reservoir receives phosphorus loadings from both the Chatfield Watershed, which is subject to the restrictions in the Control Regulation, and the Upper South Platte River Watershed, which is currently uncontrolled and outside the scope of the Control Regulation. The Chatfield Watershed, which is depicted in Figure 1, is defined as: (a) all portions of Plum Creek, and its tributaries, including segments 8, 9, 10a, 10b, 11a, 11b, 12 and 13; and (b) the South Platte River downstream of Strontia Springs Reservoir outfall, including the portions of segments 6 and 7 below Strontia Springs Reservoir outfall. The Upper South Platte River Watershed is depicted in Figure 2 and is defined as: all portions of the South Platte River, and its tributaries, from the river’s headwaters through Strontia Springs Reservoir, including Segments 1a, 1b, 2a, 2b, 2c, 3, 4, 5a, 5b, 5c and the portions of Segments 6 and 7 above Strontia Springs Reservoir outfall.

Components of TMAL

The revisions provide an expanded explanation and definition of the various components of the TMAL. Previously, the Control Regulation simply provided that point sources of phosphorus to the Reservoir (wasteload allocation) were limited to 7,358 pounds per year, and nonpoint and background sources (load allocation) were limited to 51,642 pounds per year. The 1999 revisions clarify that the TMAL is comprised of loadings from both the Chatfield Watershed (41,070 pounds per year) and the Upper South Platte River Watershed (17,930 pounds per year), and the revisions explain in greater detail the distribution of the loadings within the two watersheds. The loading allocation of 41,070 pounds per year for the Chatfield Watershed is comprised of: 13,400 pounds per year for "Reservoir base-load," 20,312 pounds per year for "background," and 7,358 pounds per year for point source wasteload allocations. The 17,930 pounds per year allocation for the Upper South Platte River Watershed consists of: 6,000 pounds per year for Reservoir base-load, 11,842 pounds per year for background, and 88 pounds of wasteload allocation to Summit County. For both watersheds, "Reservoir base-load" represents the average measured total phosphorus load reaching the Reservoir. For these revisions, the Reservoir base-load was determined using five years of data, 1993-1997. See DRCOG, Chatfield Historical Report, 1997.

Total "background" for the TMAL, 32,154 pounds per year (Chatfield and Upper South Platte River Watersheds combined), was calculated by subtracting total Reservoir base-load (19,400 pounds per year) and total wasteload allocations (7,446 pounds per year) from the TMAL (59,000 pounds per year). See Section 73.2(1) for definition of background. Background, which also has been sub-divided by watershed, is a significant buffer between total measured loadings (Reservoir base-load + wasteload allocations) and the total allowable loading (TMAL) for the Reservoir.

Implicit Margins of Safety in the TMAL

The revisions identify the implicit margins of safety in the TMAL. Although these margins of safety have been incorporated since the TMAL of 59,000 pounds per year was established in 1993 and have not changed, the Water Quality Control Division ("Division") requested further explanation of the margins of safety. The implicit margins of safety were derived from conservative assumptions used in the Reservoir loading model.

The first margin of safety relates to conservative flow assumptions. The annual flow of 261,000 acre-feet/year used to calculate the TMAL figure was established by evaluating a cumulative distribution of flows from six years of data (1985 through 1990) to predict the probability of given annual flows. A conservative assumption of a one in ten year flow, or Q_{10} , was applied to derive an annual flow of 261,000 acre-feet for the TMAL. The Q_{10} flow of 261,000 acre-feet/year was utilized to develop the TMAL. Q_{10} is protective, because there is a 90% probability that the Q_{10} flows and loads under the TMAL will not be exceeded each year. See Woodward-Clyde Consultants, Nonpoint Source Management Plan for the Chatfield Reservoir, Colorado (Sept. 1992) ("Woodward-Clyde Chatfield Report, 1992"). In response to Thornton's concerns that the TMAL model only relied upon 5 years of data, the Authority has confirmed the validity of the Q_{10} by recalculating the Q_{10} using 14 years of available data (1985 through 1998), rather than six. The Q_{10} recalculated with the larger data set was approximately 255,000 acre-feet, within 3% of the original Q_{10} estimate. Further, monitoring conducted in the Chatfield Watershed also confirms that this implicit margin of safety exists. Data collected since 1986 substantiate that the TMAL's margin of safety has generally ranged between 15,000 and 25,000 pounds per year. See Denver Regional Council of Governments, 1997 Chatfield Watershed Authority Annual Report (May 1998).

The second implicit margin of safety is a 13% upward bias for total loading to the Reservoir. See Woodward-Clyde Chatfield Report, 1992. The model, therefore, slightly overestimates the amount of phosphorus that will reach the Reservoir each year, a conservative and protective assumption.

The third implicit margin of safety concerns phosphorus concentrations in the Reservoir. See Woodward-Clyde Chatfield Report, 1992; and DRCOG, Chatfield Watershed and Reservoir 1986 – 1995 Historical Data Analysis and Monitoring Program Review (July 1997) ("DRCOG, Chatfield Historical Report, 1997"). Due to the conservative assumptions in the model, phosphorus concentrations in the Reservoir could be 32% greater (than the 27 mg/l standard in the Control Regulation) and would still attain the chlorophyll a

goal of 17 mg/l. Thus, the model provides a 32% margin of safety for phosphorus concentrations in the lake.

Upper South Platte Allocations

The 1999 revisions clarify that the loading components from the Upper South Platte River Watershed (Reservoir base-load, background and wasteload allocation) incorporate all point and nonpoint sources upstream of Strontia Springs Reservoir outfall, including 88 pounds per year of total phosphorus from wastewater that originates in Summit County and is discharged into the Roberts Tunnel. See Footnote 2 (Section 73.3(1)(b)). Sources from the South Platte River upgradient of Strontia Springs Reservoir outfall have been identified as either Reservoir base-load sources or background, but the revised Control Regulation does not sub-allocate these South Platte loadings, because loadings from the Upper South Platte River Watershed, including point sources, are not subject to the controls of this regulation. A separate watershed association has been formed for the Upper South Platte River Watershed, and this association should establish, as necessary, allocations for the point and nonpoint sources in the Upper South Platte River Watershed, in order to assure that Reservoir base-load and background limits are achieved in the South Platte above the Strontia Springs Reservoir outfall. (Current monitoring indicates that these upper South Platte base-load and background levels are being met at the Strontia Springs Reservoir monitoring station.)

The TMAL revisions modify one point source wasteload allocation. The total point source wasteload allocation for the Chatfield Watershed remains at 7,358 pounds per year, but the 88 pounds per year that were previously allocated to Summit County point sources have been placed in a “reserve/emergency pool” for future allocations. All sources upstream of Strontia Springs Reservoir outfall, including point sources from Summit County, have now been incorporated into the TMAL as Reservoir base-load, background and wasteload allocation from the “Upper South Platte River Watershed.” (Point sources upgradient of Strontia Springs Reservoir outfall, except Summit County, do not have specific allocations, and such analysis and allocations were beyond the scope of this study.) The remaining wasteload allocations in the Control Regulation have not been modified.

Mechanisms for Point Sources

In addition to modifying and explaining the TMAL, the 1999 revisions address four mechanisms for point sources in the Chatfield Watershed to obtain additional phosphorus wasteload allocations. These mechanisms are: (1) nonpoint source to point source trades; (2) alternative treatment arrangements for phosphorus concentration reductions; (3) point source to point source transfers; and (4) reserve/emergency pool allocations. The purpose of the revisions is to simplify and expand options for point sources to acquire additional wasteload allocations for their facilities.

The existing Control Regulation already provides for nonpoint source to point source trades and alternative treatment arrangements for phosphorus concentration reductions. The revisions clarify and modify these two existing mechanisms and also introduce two new mechanisms, point source transfers and reserve/emergency pool allocations.

For the two existing mechanisms, nonpoint to point source trades and alternative treatment arrangements, the revisions authorize the Chatfield Watershed Authority (“Authority”) to approve such trades and arrangements. This change was made to simplify and expedite the process for point sources to obtain additional allocations. Also, the Authority, as the entity with primary responsibility for water quality in the Chatfield Watershed, is well qualified to make informed and timely decisions on applications for wasteload allocations. All Authority approvals of trade credits and alternative arrangements, however, remain subject to review and confirmation by the Division. A modification allows trade ratios for nonpoint-point source trades that are less than 2:1, on a site-specific basis, if such lower ratio is substantiated by greater nonpoint source phosphorus removals. The Authority must develop detailed trading guidelines which will set forth, inter alia, the specific criteria and standards for establishing trade ratios less than 2:1, before trades with ratios less than 2:1 will be approved.

The revisions also introduce two new mechanisms for point source allocations: point source transfers and reserve/emergency pool allocations. In point source transfers, one point source discharger may agree to transfer all or part of its phosphorus wasteload allocation to another point source discharger. In reserve/emergency pool allocations, point source dischargers in the Chatfield Watershed may apply to the Authority for phosphorus wasteload allocation pounds from the reserve/emergency pool. Currently, the reserve/emergency pool for future allocations contains 88 pounds per year. As with nonpoint to point source trades and alternative arrangements, the Authority may approve point source transfers and emergency/reserve pool allocations, subject to review and confirmation by the Division.

Finally, the 1999 revisions explicitly provide that the Authority may utilize any of the four mechanisms for additional phosphorus wasteload allocations – nonpoint to point source trades; alternative treatment arrangements for concentration reductions; point source transfers; or reserve/emergency pool allocations – to approve allocations for new point source dischargers not listed at Section 73.3(2)(b).

II. LAND APPLICATION REVISIONS

Return Flow Factors

The revisions modify the formula for determining phosphorus loads from land application dischargers by incorporating a “land application return factor” into the equations at Section 73.4 used to determine monthly phosphorus loads for land treatment and land disposal dischargers. The land application return factor represents the estimated percent of water discharged by a wastewater treatment plant utilizing land application that reaches the streams, tributaries, or alluvium in the Watershed system subject to the Control Regulation. Return flows can vary considerably depending on site location and geology.

The revised Control Regulation establishes two simple formulas for determining the specific land application return factor for each land application site: (1) for sites with augmentation plans decreed by Colorado District Court, Water Division I (“Water Court”), the land application return factor for a particular site is equal to the return flow percent specified in the decreed augmentation plan for the land application site; and (2) for sites without decreed augmentation plans or for those who elect not to use the return flow percent in their decree, the land application return factor is equal to the area of the land treatment site divided by the sum of the surface areas of all lysimeters. The two formulas allow facilities the flexibility to select for their land application return factor either the return flow percents in their augmentation plans or the area ratio of their site.

The augmentation plan return flow percents are premised on the scientific and legal findings of the Office of the State Engineer, Division of Water Resources (“State Engineer”) and Water Court. The return flow percent in an augmentation plan is a scientifically-based figure that will have been previously scrutinized by the State Engineer and judicially decreed in Water Court pursuant to 37-90-137(9)(c)(I), C.R.S. In this administrative and judicial process, moreover, the State Engineer and Water Court already will have considered the unique conditions at the site, including: the location of the site in the Watershed, site geology and hydrology, and the distance from the land application site to streams, tributaries and alluvium. The most common method determining return flow percents for augmentation plans is the Glover technique, which calculates return flow volumes and models the time required for return flows to accrue in a river system. The State Engineer relies on the Glover technique, and other accepted methods and models such as Modflow, to calculate return flow percents for specific areas. Computations are based upon site-specific information for the study area, including physiography, geology, groundwater hydrology, groundwater flux assessments, drainage, and hydrology. The Water Court also has endorsed these methods as appropriate techniques for quantifying return flow factors for the State of Colorado. Because this particular formula utilizes information from decreed augmentation plans, the formula is, as a practical matter, limited to those dischargers at sites covered by augmentation plans that include return flow percentages. This is a reasonable approach, because the information considered and approved in the augmentation plan process establishes a sound, scientific basis for land application return factors. Discharges without augmentation decrees with return flow percentages, or discharges who opt not to use this method, will apply a land application return factor based on the lysimeters and area ratio of their sites.

Consistent with the addition of a land application return factor, the revisions also specify an alternative formula at 73.4, in addition to the existing formula (as amended to include a return flow factor), for determining phosphorus loads from land treatment discharges. The new equation calculates the monthly phosphorus load for a discharger as the sum of the individually-calculated monthly loads from each land treatment site. The new formula accounts for potential return flow variability, because it applies return factors separately for each land treatment site, whereas the existing formula applies one return factor to all of a facility's discharges. Therefore, if a single discharger land applies to multiple areas with different land application return factors, the new formula reflects these differences, proportionally, in the total load.

Phosphorus Concentration

The revised Control Regulation allows land treatment dischargers to sample for phosphorus concentration either (1) at the land application site below the surface and above the seasonal high groundwater level, or (2) in their systems prior to land treatment. The revisions also confirm that concentrations for land disposal discharges must be measured prior to land application.

The former version of the Control Regulation did not specify where land treatment discharges must sample phosphorus concentration, but implied that phosphorus concentrations should be measured in lysimeters. The revisions clarify these requirements and authorize land treatment dischargers to either reflect nutrient uptake by soils and vegetation when measuring phosphorus or comply with phosphorus limitations before land application. If a discharger chooses to measure phosphorus below the surface, the facility may use lysimeters, piezometers, or any other appropriate measurement devices.

Exemption

The revised Control Regulation provides that the Division may determine that a land application discharger has no phosphorus discharge, or a reduced phosphorus discharge, if the discharger demonstrates that it land applies at agronomic rates and that it has installed, or will install, soil moisture probes or other systems to assure treatment at agronomic rates. Agronomic rates, which vary by vegetative species, measure the rate at which plants consume constituents in the soil, like nutrients. Information on agronomic rates for particular species is primarily available from governmental or educational institutions such as Colorado State University. In addition, for such dischargers treating at agronomic rates, the Division may grant a partial exemption from monthly volume or phosphorus monitoring requirements. These provisions are intended to address a common scenario in which a land application discharger treats at very efficient rates and, thus, rarely measures any reportable discharge or phosphorus. The no discharge determination and the exemption allow dischargers that can demonstrate treatment at agronomic rates to avoid burdensome monitoring and reporting requirements.

Site Approvals

The revisions provide that the Division shall use the return flow percent specified in an augmentation plan to calculate phosphorus discharge loads for the site application of a land application discharger, if: (1) the discharger demonstrates that it land applies, or will land apply, at agronomic rates for the specific vegetative species at the land application site, and (2) the discharger has already, or will, install soil moisture probes or other devices to assure land application at agronomic rates. This provision encourages dischargers to land apply at efficient, agronomic rates.

III. MISCELLANEOUS REVISIONS AND ISSUES

The 1999 revisions specifically enumerate Douglas and Jefferson counties as the two counties subject to the requirements in Sections 73.5 and 73.6 for monitoring, annual reporting, and nonpoint source controls. The revisions also clarify that the requirements of Sections 73.5 and 73.6 may be implemented by water quality entities as separate management agencies or jointly as a watershed association. Finally, the revisions provide that the Water Quality Control Commission may adjust TMAL allocations, modify

water quality monitoring requirements or specify nonpoint source management measures, if the nonpoint source management programs mandated in Section 3.6 are not implemented.

Based on issues raised by some of the parties to the rulemaking hearing, the Commission recommended that, for the next triennial review, the Authority and the Upper South Platte Watershed Protection Association, in consultation with the Division, monitor and validate the modeling assumptions and partitioning of load allocations for each watershed proposed in the amended regulation.

IV SPECIFIC AMENDMENTS

Section 73.2 -- Definitions

Definitions for the following terms were added to Section 73.2: "Background," "Land application return factor," "Margin of safety," "Reserve/Emergency Pool," "Reservoir base-load," "TMAL," and "Upper South Platte River Watershed." Figure 1 also has been updated, and Figure 2, which depicts the Upper South Platte River Watershed, has been added. The term "Chatfield Sub-watershed" has been changed to "Chatfield Watershed" to more properly describe the nature of the watershed area subject to the Control Regulation, and the definition has been modified to clarify that the Chatfield Watershed includes all portions of Plum Creek, and its tributaries, as well as the South Platte River downgradient of the Strontia Springs Reservoir outfall. The term "Chatfield Basin Authority" has been amended to "Chatfield Watershed Authority" to reflect the Authority's name change. Lastly, the definition of "Nonpoint Source" has been modified to state that nonpoint source means any activity or facility other than a point source in the Chatfield Watershed with a wasteload allocation specified at Section 73.3(2)(b).

Section 73.3 – Total Maximum Annual Load Allocation

The titles of Sections 73.3 and 73.3(1) have been revised to more properly refer to the total phosphorus allocation for the Chatfield Watershed as a "Total Maximum Annual Load" rather than a "Wasteload Allocation."

Section 73.3(1)(b) sets forth, in detail, the Total Maximum Annual Load ("TMAL") for the Chatfield Reservoir. The TMAL is defined as: $TMAL = \text{Chatfield Watershed (Reservoir base-load + background + wasteload allocation)} + \text{Upper South Platte River Watershed (Reservoir base-load + background + Summit County wasteload allocation)} + \text{Margin of Safety}$. The margin of safety is an implicit component of the TMAL based upon conservative modeling assumptions. The allocation for the Chatfield Watershed consists of Reservoir base-load, background, and a wasteload allocation for point sources, and the allocation for the Upper South Platte River Watershed is comprised of Reservoir base-load, background, and Summit County wasteload allocation. The Upper South Platte River Watershed allocation also incorporates all point and nonpoint sources upstream of the Strontia Springs Reservoir outfall, including 88 pounds per year of total phosphorus from point source wastewater originating in Summit County and discharged into the Roberts Tunnel. The "Reservoir base-load" for both watersheds represents the average measured total phosphorus load reaching the Reservoir. A table has been added to Section 73.3(1)(b) to enumerate the different components of the TMAL. Both Reservoir base-load and background are comprised of loadings from both the Chatfield Watershed and the Upper South Platte River Watershed.

The 88 pounds per year of total phosphorus allocated to the reserve/emergency pool in the 1999 revisions was previously allocated to Summit County in the prior version of the Control Regulation. The former allocation was premised on a written agreement between Summit County and the Denver Water Department that allowed for the direct discharge of tertiary-treated wastewater effluent into the Robert's Tunnel, which discharges into the North Fork of the Upper South Platte River near Grant. A DRCOG Technical Memorandum dated November, 1986, which was included as part of the Chatfield Basin Master Plan, quantified the 88 pounds per year from Summit County.

It is still anticipated that treated effluent in Summit County could be discharged into the Robert's Tunnel in the future. Because the transport of phosphorus from the Upper South Platte River to the Reservoir is not well understood, it is reasonable for Summit County's allocation to remain with the allocation for the Upper South Platte River Watershed.

Section 73.3(2)(b), which lists specific phosphorus wasteload allocations by individual point source, has been amended to reflect that 88 pounds per year have been placed in a "Reserve/Emergency Pool" for future phosphorus allocations.

Section 73.3(2)(c), which explained the 88 pounds per year allocation to Summit County, has been deleted, and thus 73.3(2)(d) now becomes 73.3(2)(c). And, sequentially, Section 73.3(2)(e) now becomes 73.3(2)(d), and 73.3(2)(f) now becomes 73.3(2)(e).

Sections 73.3(2)(d) (formerly 73.3(2)(e)), regarding allocations of phosphorus trade credits, and Section 73.3(2)(e) (formerly Section 73.3(2)(f)), regarding alternative treatment arrangements for phosphorus concentration reductions, have been amended to allow the Authority to approve trade credit awards and alternative treatment arrangements. All Authority approvals of trade credit allocations and alternative treatment arrangements remain subject to review and confirmation by the Division.

New Section 73.3(2)(f) provides that the Authority may approve phosphorus allocation transfers from one point source to another point source. Both dischargers must jointly apply to the Authority for the transfer with a written agreement that specifies modifications in wastewater flows and treatment performance. The Authority may approve point source to point source transfers, subject to review and confirmation by the Division.

New Section 73.3(2)(g) authorizes the Authority to award allocations from the reserve/emergency pool to point source wastewater dischargers in the Chatfield Watershed. Dischargers desiring allocations must apply to the Authority and specify the number of pounds desired, and the Authority may approve such allocations, subject to review and confirmation by the Division. Reserve/emergency pool allocations will be applied to the discharger's wasteload allocation and incorporated as amendments to the allocations in Section 73.3 at the next triennial review of the Control Regulation.

New Section 73.3(2)(h) provides that the Authority may approve phosphorus wasteload allocation pounds for new point source dischargers in the Chatfield Watershed. Phosphorus wasteload allocation pounds for such new dischargers may be derived from: (1) the reserve/emergency pool, (2) trade credits from nonpoint source reductions, (3) a point source to point source transfer, or (4) a phosphorus concentration reduction through an alternative treatment arrangement. New dischargers desiring an allocation must submit an application to the Authority specifying the number of desired pounds and which of the four mechanisms will be used to establish the allocation. The Authority has been authorized to approve allocations for new dischargers, subject to review and confirmation by the Division.

Section 73.4 – Determination of Wasteload

Section 73.4(1), which previously did not contain a heading, was renamed "Direct Discharge," and the provisions in 73.4(1) pertaining to land disposal were moved to Section 73.4(2).

Section 73.4(2) was renamed "Land Application" and was reorganized into four subsections, (a) – (d). Section 73.4(2)(a), "Land Treatment," and section 73.4(2)(b), "Land Disposal," modify the equations for calculating phosphorus loads from land treatment and land disposal discharges, respectively, by adding a land application return factor to the formulas. Also, section 73.4(2)(a) includes an additional, alternative formula for determining phosphorus loads from land treatment discharges. In the new formula, monthly loads are calculated by adding the individual monthly loads from each land application site rather than in the aggregate. Sections 73.4(2)(a) and 73.4(2)(b) also were amended to clarify requirements for measuring phosphorus concentration. Section 73.4(2)(a)(iii) provides that land treatment dischargers may monitor for phosphorus either at the land application site below the surface or in their systems prior

to land application. Section 73.4(2)(b)(iv) confirms that land disposal dischargers must measure phosphorus before land application.

Section 73.4(2)(c), "Exemption," was added to provide that the Division may determine that a land application discharger has zero phosphorus discharge, or a reduced phosphorus discharge, if the discharger demonstrates that it land applies at agronomic rates and that it has installed, or will install, systems to assure land application at agronomic rates. Section 73.4(2)(c) also authorizes the Division to partially exempt such dischargers from volume or phosphorus monitoring requirements.

Section 73.4(2)(d), "Site Approval," was added to provide that the Division shall use the return flow in an augmentation plan to calculate phosphorus loads for a land application discharger's site application, if: (1) the discharger demonstrates that it land applies, or will land apply, at agronomic rates, and (2) the discharger has installed, or will install, soil moisture probes or other devices to assure land application at agronomic rates.

Section 73.5 – Monitoring and Annual Report, and Section 73.6 – Nonpoint Source Controls

In Section 73.5 and Section 73.6, the term "counties" has been replaced by "Douglas County, Jefferson County" to clarify that these two counties are responsible for the monitoring, annual reporting, and nonpoint source control requirements under the Control Regulation. Section 73.5 and 73.6 also have been modified to specify that the requirements for monitoring, annual reporting, and nonpoint source controls may be implemented by individual entities as separate management agencies or jointly as a watershed association. Section 73.6(2) has been revised to clarify that the limitation for total nonpoint sources to the Chatfield Watershed is 33,712 pounds per year (Reservoir base-load + background), and that stormwater and nonpoint management controls in the Chatfield Watershed must be implemented to assure that this limit is not exceeded.

Section 73.6(3) has been modified to provide that if nonpoint source control programs are not implemented, the Commission may adjust phosphorus allocations under the TMAL, amend water quality monitoring requirements, or specify a nonpoint source management program in the Chatfield Watershed.

Section 73.6(4) has been amended to clarify that monitoring of best management practices ("BMPs") in the Chatfield Watershed shall be conducted by one or more of the following entities: the Authority, other agencies, owners of BMPs, or dischargers.

PARTIES TO THE RULEMAKING HEARING

1. Chatfield Watershed Authority
2. Jackson Creek Ranch, LLC
3. City of Thornton
4. Summit County Government Snake River Wastewater Treatment Plan
5. Roxborough Park Metropolitan District
6. Plum Creek Wastewater Authority

73.16 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE (OCTOBER 2005 RULEMAKING HEARING EFFECTIVE JANUARY 30, 2006)

Sections 25-8-202 and 25-8-205, C.R.S., provide the specific statutory authority for adoption of the revisions to this regulation. The Commission also adopted, in compliance with Section 24-4-103(4), C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The Commission has adopted changes for this regulation, which include the addition of revised and new definitions, recognition that the margin of safety in the total maximum annual load equation is not an implicit margin of safety, adjusting the wasteload allocations for total phosphorus based on nonpoint source to point source trades and a reallocation within the Chatfield Watershed, identifying how reclaimed wastewater applies to the wasteload allocation, recognizing four new wastewater treatment facilities, directing the Authority and the Division to coordinate review and actions on trade applications, clarifying that the Division shall consider the Authority's decisions on trades in rendering its final decisions on such trades, incorporating an opportunity for public comment on trades, noticing that the Division's decisions on trades are subject to an adjudicatory process, identifying the Authority as the monitoring and reporting authority, identifying the quality assurance project plan as the mechanism to identify data collection, compilation and transfer protocols, recognizing that the Authority is responsible for the development of an implementation program of best management practices, specifying that the Authority will implement a nonpoint source management program, identifying additional components of the annual report including trades and modeling efforts, and adding a revised watershed map with all point sources located.

Several minor typographical errors were corrected throughout the regulation, such as the spelling of "Dillon."

In section 73.2, the following definitions were modified or added. A new figure 1 was added to the regulation reflecting an updated watershed boundary and the location of all wastewater treatment plants. The definition for the Authority was revised to recognize the existing and potential members of the Authority. The Authority is a water quality management agency within the areawide planning process of the Denver Regional Council of Governments. A phrase was added to the definition of "nonpoint source" to recognize that runoff from significant wildland fires, such as the Hayman burn, is classified as a nonpoint source and is accounted for in the wasteload allocation process as part of the background allocation. A new definition of "regulated stormwater" was added since Douglas and Jefferson Counties have stormwater management programs. Jefferson County is a new phase II stormwater permittee. As a point of clarification, the regulation notes that current stormwater permit holders (Douglas and Jefferson Counties) are not subject to the point source total phosphorus wasteload allocation in section 73.3. A definition of the Authority "Trading program" was added to the regulation, which identifies the Authority as the entity administering the trading program within the Chatfield Watershed. A new definition of "wastewater treatment facility" was added to the regulation, which identifies wastewater operations subject to the point source wasteload allocations in section 73.3.

The Commission recognizes that the Authority has an active nonpoint source to point source trading program as defined in its trading guidelines. This trading program allows for a trade ratio reduction in specific nonpoint source trade projects. This trading program results in the net reduction of annual pounds of nonpoint source total phosphorus within the Chatfield Watershed. This poundage reduction alters the total phosphorus allocations defined in the adopted "total maximum annual load or TMAL". However, the trades do not change the adopted TMAL, which remains as a flow dependent calculation of 59,000 pounds of total phosphorus at a total reservoir inflow volume of 261,000 ac-ft/ year. The trades effectively reduce the amount of total phosphorus assigned to the background allocation category within the Chatfield Watershed distribution by 351 pounds of total phosphorus per year. The assigned total phosphorus background allocation is reduced from 20,312 to 19,961 pounds. The trades result in an increase to the point source allocation within the Chatfield Watershed distribution from 7,358 to 7,533 pounds of total phosphorus using a 2:1 trade ratio. These trades do not affect the total allocation assigned to the "Upper South Platte Watershed".

The Commission recognizes the value of the Authority-maintained long-term data record to quantify the distributions of total phosphorus as inputs into Chatfield Reservoir. The Authority uses monitoring data to measure the response of chlorophyll productivity to the total phosphorus loading. The control regulation total phosphorus allocations reflect a data-driven predictive and monitoring strategy that better defines the limnological response of the reservoir to total phosphorus loading. A new footnote was added to 73.3(1) (b) that recognizes how the total phosphorus trades in the Chatfield Watershed can alter the wasteload allocations. It was noted that the margin of safety defined in the control regulation is not scientifically defined as an "implicit" margin of safety, so the term implicit was removed from the regulation.

A new footnote was added to the “Wasteload Allocation (point sources)” in the TMAL allocation table for point source discharge permit holders and stormwater permittees. This footnote states that dischargers or stormwater permittees in compliance with their permits will not have these limits modified prior to any future adjustment of classifications or standards by the Commission when attributable to factors such as wildland fires.

A new section is added to 73.3 (2) (a) to clarify that the use of reclaimed wastewater (pursuant to regulation 84) is subject to the provisions of this regulation including trading provisions. As a result, the subsequent subsections and internal cross-references were re-lettered.

In section 73.3 (2) (c), four new wastewater treatment facilities are added with the corresponding total phosphorus wasteload allocations. The existing Sacred Heart Retreat discharge system is assigned 15 pounds of total phosphorus from the reserve pool through 2010, which corresponds to the issuance period of the current wastewater discharge permit. The facility will develop a monitoring system and evaluate alternatives for a permanent wasteload allocation within the 5-year permit period. Three new treatment plants are scheduled to provide future wastewater service, and these allocations reflect approved trades being incorporated into this Control Regulation. The Authority applied a 2:1 trade reduction (nonpoint source: point source) for three projects in the watershed: the Ponderosa Retreat Center, the Centennial Water and Sanitation District and the Law Enforcement Training Facility, and the Jackson Creek Ranch. The Ponderosa and Centennial Water and Sanitation District allocations are supported by trades that convert nonpoint source total phosphorus to point source pounds through the closure of multiple septic systems. The Jackson Creek Ranch allocation is supported by an agreement for a point source to point source trade with the Roxborough Park Metro District and nonpoint source to point source trade reductions.

The Commission modified the Chatfield trading program in sections 73.3(2)(e) through (i) to clarify the Division’s authority to make final decisions on transfers, trade credits, and awards from the reserve/emergency pool to the dischargers in the Chatfield watershed. The Authority will continue to implement its historic application review and decision process on trade applications.

The Commission understands that the Chatfield Trading Guidelines (Guidelines) are acceptable to the Division and that the Division and the Authority are working to fine-tune the Guidelines to add a description of a coordinated review process. The Commission expects the Authority and Division to work expeditiously to complete this work and, in making revisions, encourages the Authority and the Division to consider the other basin trading programs in the State as possible models. Nevertheless, an applicant seeking approval of: (1) modifications to existing phosphorus allocations or new phosphorus allocations through trades, temporary transfers, or the Reserve Pool, or (2) modifications to phosphorus concentrations (all collectively “trades”) shall submit duplicate applications to the Authority and the Division. The Division will strive to approve or disapprove a trade within 60 days after the Authority Board’s decision on the trade. At its next triennial review of this regulation, the Commission will evaluate the process that the Authority and Division have developed and will determine how well the process is working with respect to the coordinated review process and the timeliness of their approval.

In reviewing an application, the Authority and the Division shall use the criteria outlined in the Chatfield Watershed Authority Water Quality Trading Guidelines, unless such Guidelines are modified without Division concurrence. If the Chatfield Watershed Authority Water Quality Trading Guidelines do not address an issue such as antibacksliding or antidegradation, then the Authority and the Division will defer to the Colorado Pollutant Trading Policy.

New sections 73.3 (2)(j) and (k) were added to require public notice of proposed trades and to provide that any person adversely affected or aggrieved by a Division decision on a total phosphorus trade may request an adjudicatory hearing before the Commission. These notices will provide an opportunity for third parties to review and comment upon proposed trades. The Authority has, and will continue, to provide notice of its meetings, including agendas, where trades will be considered.

Upon the effective date of the revisions to the regulation, any trades that have been approved by the Authority but have not been incorporated into a permit or are not reflected in a new or increased wasteload allocation in section 73.3(2)(c) will be subject to Division approval under the aforementioned process.

Because trades may affect effluent limits and wasteload allocations in discharge permits, approved trades must be incorporated into permits. To encourage trading and to avoid duplicative appeals of trades, the Commission endorses the process for Chatfield Watershed discharge permits proposed by the Authority and Division to authorize trading and to incorporate approved trades as minor modifications in the permits. The Division and Authority presented evidence that, for new permits - during the initial issuance process and for existing permits - during a reopening and amendment process, language indicating that any future Division-approved trades would be incorporated into the permit as a minor modification would be included in the new/amended permit and subject to public notice and comment. Accordingly, after the period for appeal of a Division-approved trade has passed, the adjustment to the wasteload allocation and/or concentration limit for phosphorus, as appropriate, would be made as a minor modification of permit limits for phosphorus without further public notice.

In section 73.5, the Authority is identified as the responsible entity for the monitoring and reporting program. Clarification was added to section 73.5 (1) to note that the data collection, compilation, and transfer protocols are defined in a quality assurance program plan maintained by the Authority and subject to review and acceptance by the Division. All data collected by the Authority will be transmitted electronically to the Division annually. In section 73.6, the Authority is identified as the responsible entity for implementing a nonpoint source management program. The Authority implementation program is subject to review under this control regulation. The Authority is responsible for providing strategies consistent with section 73.6 for those entities with land use powers to manage the 33,361 total phosphorus nonpoint source pounds assigned to the Chatfield Watershed.

The Authority, in cooperation with the Division and the Coalition for the Upper South Platte (CUSP), contracted for a special review of nonpoint source load assumptions contained in this Control Regulation. The independent review did not recommend that the existing wasteload allocations be adjusted, but rather was conducted to determine the validity of nonpoint source load assumptions used to allocate total phosphorus between the Chatfield and the Upper South Platte River Watersheds as defined in this control regulation and part of the adopted TMAL. The two goals of the review were:

1. Review the nonpoint source and total maximum annual phosphorus load allocation assumptions incorporated into this Control Regulation as requested by the Water Quality Control Commission;
2. Independently certify assumptions and nonpoint source load allocations assigned to the Chatfield and Upper South Platte River source watersheds.

This review required evaluation of the original assumptions used to establish the TMAL using the Woodward Clyde Report (1992), water quality data of the Authority, the control regulation, original Clean Lakes Study and information provided by the Authority, WQCD and CUSP. The review provided specific comments in the form of a technical memorandum addressing the TMAL assumptions and distribution of the total phosphorus allocations contained in the control regulation. The special study summary, conclusions and recommendations are in a technical memorandum. (Stednick, March 31, 2005). The special evaluation concluded that the Authority should revise the original model, underlying assumptions, load variability, runoff coefficients, impacts from the Hayman Wildfire, and the relationship of total phosphorus and chlorophyll in the reservoir based on the long-term available data. The evaluation further determined that the Authority reached a reasonable conclusion on the distribution of total phosphorus pounds between the Upper South Platte River and Chatfield Watersheds. The special study did not see the need to readjust these watershed distributions of total phosphorus as listed in the control regulation. The Commission finds that the assumptions and nonpoint source watershed distributions of 40,894 pounds of total phosphorus for the Chatfield Watershed and 17,930 pounds of total phosphorus for the Upper South Platte Watershed are supported by ongoing monitoring data, are reasonable. The study did

note that the proposed expansion of the Chatfield Reservoir may affect water quality and any new operational plans should consider water quality concerns.

Based on these observations from the Stednick special review, the total phosphorus allocations between the Chatfield Watershed and the Upper South Platte Watershed remain reasonable and are supported by the ongoing water quality monitoring data. Additionally, the data collected and analyzed by the Chatfield Authority supports the watershed distributions of 40,894 pounds of total phosphorus for the Chatfield Watershed and 17,930 pounds of total phosphorus for the Upper South Platte Watershed.

The Commission recognizes that the Authority and the Division do not agree on all of the findings of the Stednick study and directs both parties to work together cooperatively to examine the TMAL and underlying assumptions. With the understanding that implementation of the existing controls is resulting in attainment of the water quality standard for phosphorus and the goal for chlorophyll a for Chatfield Reservoir, the Commission directs the Division and the Authority, subject to available resources, to examine the TMAL and its underlying assumptions. The Authority and Division will report to the Commission at the next triennial review on progress made towards developing a plan, obtaining funding, and a schedule of future activities for such study.

The Commission is aware that the Colorado Water Conservation Board is leading an effort to increase the amount of storage volume and storage allocation in Chatfield Reservoir. In that regard, in support of the Environmental Impact Statement being prepared for the project, consultants working on behalf of the U.S. Army Corps of Engineers are developing a water quality model to assist in the evaluation of the project's potential to impact the water quality of the reservoir. To the extent that evaluation of the aspects of the increased water storage can dovetail with this TMAL evaluation process, the Commission encourages the Authority and the Division to coordinate with the EIS team on any common elements that may assist in the development of models or approaches to evaluate water quality.

PARTIES TO THE RULEMAKING

1. Chatfield Watershed Authority
2. Dominion Water and Sanitation District
3. Jackson Creek Metropolitan District
4. JRW Family Limited Partnership
5. Roxborough Park Metropolitan District
6. Plum Creek Watershed Authority

73.17 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE (NOVEMBER 2008 RULEMAKING HEARING; FINAL ACTION FEBRUARY 9, 2009; EFFECTIVE MARCH 30, 2009)

Sections 25-8-202 and 25-8-205, C.R.S., provide the specific statutory authority for adoption of the revisions to this regulation. The Commission also adopted, in compliance with Section 24-4-103(4), C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The Commission adopted a new total phosphorus allowable load in Section 73.3(1)(a) of this regulation. Although the allowable load was revised, the total phosphorus allocations were not revised. Therefore, the Commission included a list of tasks to be completed to support development of revised allocations of the new allowable load in the Control Regulation. It was the Commission's intent that until the allocations are revised, the existing nonpoint and point source allocations remain applicable.

Based on information presented by the Division during the July 2007 triennial review hearing, the Commission scheduled a rule-making hearing to consider revisions to the control regulation and to related water quality standards in Regulation #38. Specifically, the Commission heard evidence that the

phosphorus standard in Chatfield Reservoir had been exceeded in 5 of the last 6 years, while the chlorophyll goal was not exceeded. The Commission agreed that the linkages between in-lake chlorophyll and total phosphorus concentrations and between total phosphorus concentrations and total phosphorus load to the reservoir are critical to the basis of the Control Regulation and TMAL and that these linkages should be reviewed.

The Commission directed the Division to conduct a limited scope Technical Review of the Control Regulation TMAL and the underlying standard. The scope of the technical review was limited to the in-lake total phosphorus standard, chlorophyll goal, and the allowable load to attain these. The scope of the technical review did not include an examination of the allocation of the total phosphorus load. As part of this Technical Review, the Division provided reports and made monthly presentations to the Chatfield Watershed Authority Technical Review Committee from September 2007 through May 2008. The reports and presentations provided the basis for the proposal the Commission heard in this rule-making hearing.

Based on the results of the Technical Review, the Commission adopted revised site-specific standards for total phosphorus and chlorophyll for Chatfield Reservoir in relevant sections of Regulation #38. These standards are total phosphorus of 0.030 mg/L and chlorophyll a of 10 µg/l measured through the collection of samples that are representative of the mixed layer during summer months (July, August, September) and with a maximum allowable exceedance frequency of once in five years. As a result of these changes to the site-specific standards, the Commission adopted a new allowable load of total phosphorus of 19,600 lbs/y under a median inflow of 100,860 AF/y in this Control Regulation. The new allowable load better reflects the linkage between watershed total phosphorus load and the in-lake total phosphorus concentration.

The Commission directed the Division and the Authority to develop new nonpoint source and point source allocations related to the new allowable load for submittal during the next control regulation triennial review. The Commission acknowledged that progress toward development of the allocations will be contingent on the availability of suitable funding to support completion of the tasks identified in Section 73.3(1)(a). The Commission also recognized that control regulation definitions and language may need to be revised to support future updates to the TMAL.

PARTIES TO THE RULEMAKING

1. Chatfield Watershed Association
2. Plum Creek Wastewater Authority
3. Colorado Division of Wildlife
4. Roxborough Water and Sanitation District
5. Dominion Water and Sanitation District
6. U. S. EPA
7. Denver Regional Council of Governments



Staff Communication

File #: Ordinance 07-2016, **Version:** 1

Agenda Date: 06/07/2016

Subject:

An ordinance amending chapter 3 of title 4 and chapter 20 of title 3 of the city code concerning the regulation of signs

Presented By: Kristin Schledorn, City Attorney
--

POLICY QUESTION:

Does city council support amending the city code to remove content-based sign restrictions and to add regulations concerning signs on city property and in public rights of way?

BACKGROUND:

At the city council study session on May 10, 2016, the city attorney's office presented background information on the U.S. Supreme Court's recent decision in *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218 (2015) and suggested edits to the city code based on that decision. In the *Reed* case, the court ruled that the provisions in the Town of Gilbert's sign code, which had differing restrictions on temporary political, ideological and directional signs, were content-based regulation of speech (i.e. the law was applied based on the message expressed) which did not survive strict scrutiny (a legal standard that requires those regulations to be narrowly tailored to serve a compelling state interest), and therefore violated the First Amendment.

The city attorney's office is recommending that the city code be updated in light of the *Reed* decision.

STAFF ANALYSIS:

The proposed updates generally include:

- Section 1 General Provisions
 - Scope, Intent and Purposes: These sections of the sign code were expanded to clarify the city's intent to accommodate First Amendment speech rights and to add message neutrality and message substitution policies.
 - Definitions: This section was revised to add definitions for new types of signs (banners, feather banners, commercial mascots, digital and dynamic displays), to modernize existing definitions, and to remove or revise definitions that rely on or reference content or message.
- Section 2 Regulation of Signs
 - Provisions regulating message content have been removed. These include regulations concerning color, "permitted" content, and use of graphic symbols or letters.
 - Revisions for consistency and to clarify approval criteria.
- New Section 5 Private Party Signs on City Property and in Public Rights-of-Way
 - Temporary Private Party Signs
 - May not be displayed or posted on city property or in public rights of way.
 - Includes, but is not limited to, real estate signs, contractor signs, campaign/candidate

- signs, garage sale signs, and sandwich boards/a-frame signs.
- Personally Held Signs
 - Establishes regulations for personally-held signs in traditional public forums such as city streets, parks, sidewalks and the exterior of the Littleton Center.
 - For safety reasons, includes limited restrictions concerning sign size, time and location.
- City Placed Signs
 - Reinforces that traffic control signs and other signs expressing the city's own message (i.e., government speech) are allowed.
 - Establishes regulations for placement of banners and way-finding signage.
- Title 3 Marijuana Signage
 - Removes content restrictions on dispensary signage.

FISCAL IMPACTS:

There are no anticipated fiscal impacts.

STAFF RECOMMENDATION:

Staff recommends approval of the ordinance.

PROPOSED MOTION:

I move to approve on first reading the ordinance amending chapter 3 of title 4 and chapter 20 of title 3 of the city code concerning the regulation of signs and to schedule a public hearing on July 5, 2016 at 6:30 p.m. in the council chamber.

1 **CITY OF LITTLETON, COLORADO**

2 **ORDINANCE NO. 7**

3 **Series, 2016**

4 **INTRODUCED BY COUNCILMEMBERS:**

5 **AN ORDINANCE OF THE CITY OF LITTLETON,**
6 **COLORADO, AMENDING CHAPTER 3 OF TITLE 4 AND**
7 **CHAPTER 20 OF TITLE 3 OF THE CITY CODE**
8 **CONCERNING THE REGULATION OF SIGNS**

9 **WHEREAS,** On June 18, 2015 the United States Supreme Court issued its
10 decision in the case of *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218 (2015);

11 **WHEREAS,** in *Reed v. Town of Gilbert, Ariz.* the Supreme Court addressed the
12 requirement of content-neutrality when analyzing government regulations that implicate the First
13 Amendment to the United States Constitution;

14 **WHEREAS,** the city council has determined that it is in the best interest to
15 amend the city code to remove regulations that are content-based and to establish regulations for
16 the placement of signs on city property and in public rights-of-way;

17 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF**
18 **THE CITY OF LITTLETON, COLORADO, THAT:**

19 **Section 1:** Section 1 of Chapter 3 of Title 4 of the City Code is hereby revised as
20 follows:

21 **4-3-1: GENERAL PROVISIONS:**

22 **4-3-1-1: ~~PURPOSE~~**

23 ~~It is the purpose of this legislative enactment to promote, preserve and protect the health, safety~~
24 ~~and general welfare of the present and future inhabitants of the City by providing reasonable~~
25 ~~regulations and standards relating to signs as hereinafter set forth, to lessen congestion in the~~
26 ~~streets, provide for the promotion of traffic safety and the orderly movement of traffic, provide~~
27 ~~adequate light and air, protect and enhance the overall appearance of the community, and to~~
28 ~~conserve the value of buildings and encourage the most appropriate use of land throughout this~~
29 ~~Municipality. This Chapter recognizes and subscribes to the right of those in business to~~
30 ~~advertise upon their own premises; subject to the reasonable regulations herein set forth for the~~
31 ~~purposes and reasons heretofore indicated.~~

32 **4-3-1-2: TITLE:**

33 This Chapter shall be known and may be cited as the *SIGN CODE OF THE CITY OF*
34 *LITTLETON.*

35 **4-3-1-3: RULES OF CONSTRUCTION:**

1
2 The words and terms, defined, interpreted or further described in this Chapter shall be construed
3 as follows:

4 ~~(A) The particular controls the general.~~

5 ~~(B) The present tense includes the future tense.~~

6 ~~(C) Words used in the singular number include the plural, and words used in the plural number~~
7 ~~include the singular, unless the context clearly indicates to the contrary.~~

8 ~~(D) The word "shall" is mandatory and the word "may" is permissive.~~

9 ~~(E) The word "person" includes firm, association, organization, partnership, trust, company or~~
10 ~~corporation as well as an individual. (Ord. 10, Series of 1975)~~

11 12 **4-3-1-2: SCOPE, INTENT AND PURPOSES**

13 14 A. SCOPE

15
16 THIS CHAPTER REGULATES SIGNS, AS DEFINED HEREIN, WHICH ARE LOCATED
17 WITHIN THE CORPORATE LIMITS OF THE CITY OF LITTLETON COLORADO
18 (“CITY”) AND OVER WHICH THE CITY HAS LAND USE REGULATORY AUTHORITY.
19

20 B. INTENT

21
22 BY ADOPTION OF THIS CHAPTER, THE CITY COUNCIL INTENDS TO CREATE AND
23 IMPLEMENT A COMPREHENSIVE SYSTEM FOR THE REGULATION OF SIGNS
24 WITHIN THE SCOPE OF THIS CHAPTER, WITH A REGULATION SYSTEM THAT: 1)
25 ACCOMMODATES THE EXPRESSION RIGHTS OF THE FIRST AMENDMENT TO THE
26 U.S. CONSTITUTION AND THE COROLLARY PROVISIONS OF THE COLORADO
27 CONSTITUTION; AND 2) COMPORTS WITH ALL APPLICABLE PRINCIPLES OF
28 FEDERAL AND STATE CONSTITUTIONAL, STATUTORY AND ADMINISTRATIVE
29 LAW.
30

31 C. PURPOSES AND INTERESTS SERVED

32
33 THE PURPOSES OF THIS CHAPTER INCLUDE, BUT ARE NOT LIMITED TO: 1)
34 SERVING THE GOVERNMENTAL AND PUBLIC INTERESTS IN CONTROLLING
35 VISUAL CLUTTER, PROTECTING COMMUNITY ESTHETICS, AND SAFETY OF
36 DRIVERS, PASSENGERS, AND PEDESTRIANS; 2) AIDING IN THE IDENTIFICATION
37 OF PROPERTIES, LAND USES, AND ESTABLISHMENTS; 3) ENHANCING THE
38 GENERAL APPEARANCE AND ESTHETICS OF THE URBAN ENVIRONMENT; AND 4)
39 PROTECTING THE NATURAL BEAUTY OF THE CITY.
40

41 **4-3-1-3 BASIC PRINCIPLES**

42 43 A. MESSAGE NEUTRALITY POLICY

44

1 IT IS THE POLICY OF THE CITY TO REGULATE SIGNS IN A MANNER THAT DOES
2 NOT FAVOR COMMERCIAL SPEECH OVER NONCOMMERCIAL SPEECH AND DOES
3 NOT REGULATE PROTECTED NONCOMMERCIAL SPEECH BY MESSAGE CONTENT.

4
5 B. MESSAGE SUBSTITUTION POLICY

6
7 A CONSTITUTIONALLY PROTECTED NONCOMMERCIAL MESSAGE MAY BE
8 SUBSTITUTED, IN WHOLE OR IN PART, FOR ANY ALLOWED COMMERCIAL
9 MESSAGE OR ANY OTHER PROTECTED NONCOMMERCIAL MESSAGE, PROVIDED
10 THAT THE SIGN STRUCTURE OR MOUNTING DEVICE IS LEGAL. ANY
11 SUBSTITUTION SHALL REQUIRE THE PRIVATE PROPERTY OWNER'S CONSENT.
12 THE PURPOSE OF THIS PROVISION IS TO PREVENT ANY FAVORING OF
13 COMMERCIAL SPEECH OVER NON-COMMERCIAL SPEECH, OR FAVORING OF ANY
14 PARTICULAR PROTECTED NONCOMMERCIAL MESSAGE OVER ANY OTHER
15 PROTECTED NONCOMMERCIAL MESSAGE. THIS MESSAGE SUBSTITUTION POLICY
16 DOES NOT: 1) CREATE A RIGHT TO INCREASE THE TOTAL AMOUNT OF SIGN
17 DISPLAY AREA ON A SITE OR PARCEL; 2) CREATE A RIGHT TO SUBSTITUTE AN
18 OFF-SITE COMMERCIAL MESSAGE IN PLACE OF AN ONSITE COMMERCIAL
19 MESSAGE OR IN PLACE OF A NONCOMMERCIAL MESSAGE; 3) AFFECT THE
20 REQUIREMENT THAT A SIGN STRUCTURE OR MOUNTING DEVICE MUST BE
21 PROPERLY PERMITTED; 4) AUTHORIZE CHANGING THE PHYSICAL METHOD OF
22 IMAGE PRESENTATION (SUCH AS DIGITAL OR NEON DISPLAY) WITHOUT A
23 PERMIT; OR 5) AUTHORIZE A PHYSICAL CHANGE TO THE SIGN STRUCTURE
24 WITHOUT COMPLIANCE WITH APPLICABLE BUILDING CODES, SAFETY CODES,
25 AND NEUTRALLY-APPLICABLE RULES FOR SIGN SIZE, HEIGHT, ORIENTATION,
26 SETBACK, SEPARATION OR ILLUMINATION.

27
28 C. ENFORCEMENT AUTHORITY

29
30 THE COMMUNITY DEVELOPEMNT DIRECTOR IS AUTHORIZEDAND DIRECTED TO
31 ADMINISTER AND ENFORCE THIS CHAPTER.

32
33 D. ADMINISTRATIVE INTERPRETATIONS

34
35 INTERPRETATIONS OF THIS CHAPTER ARE TO BE MADE BY THE COMMUNITY
36 DEVELOPMENT DIRECTOR AND ARE TO BE EXERCISED IN LIGHT OF THE
37 FOREGOING MESSAGE NEUTRALITY AND MESSAGE SUBSTITUTION POLICIES.

38
39 E. RESPONSIBILITY FOR COMPLIANCE

40
41 THE RESPONSIBILITY FOR COMPLIANCE WITH THIS CHAPTER RESTS JOINTLY
42 AND SEVERALLY UPON THE SIGN OWNER, THE PERMIT HOLDER, ALL PARTIES
43 HOLDING THE PRESENT RIGHT OF POSSESSION AND CONTROL OF THE PROPERTY
44 WHEREON A SIGN IS LOCATED, MOUNTED OR INSTALLED, AND THE LEGAL

1 OWNER OF THE LOT OR PARCEL, EVEN IF THE SIGN WAS MOUNTED, INSTALLED,
2 ERECTED OR DISPLAYED WITHOUT THE CONSENT OR KNOWLEDGE OF THE
3 OWNER AND/OR OTHER PARTIES HOLDING THE LEGAL RIGHT TO IMMEDIATE
4 POSSESSION AND CONTROL.

5
6 F. ONSITE-OFFSITE DISTINCTION

7
8 WITHIN THIS CHAPTER, THE DISTINCTION BETWEEN ONSITE SIGNS AND OFFSITE
9 SIGNS APPLIES ONLY TO COMMERCIAL MESSAGES. IT DOES NOT APPLY TO NON-
10 COMMERCIAL MESSAGES.

11
12 **4-3-1-4: DEFINITIONS:**

13
14 The following listed specific words and terms are defined as follows:

15
16 ANIMATED SIGN: Any sign or part of a sign which changes physical position by movement or
17 rotation, or gives the illusion of such change of position, or any changeable copy sign.

18
19 ARCADE SIGN: A wall or projecting sign attached to the roof or wall of an arcade and totally
20 within the outside limits of the structural surfaces which are delineating the arcade.

21
22 AWNING: A movable shelter supported entirely from the exterior wall of a building and of a
23 type which can be retracted, folded or collapsed against the face of the supporting building.

24
25 BANNER: ANY FLEXIBLE MATERIAL, SUCH AS CLOTH, PLASTIC, VINYL, PAPER,
26 CARDBOARD OR THIN METAL, WITH OR WITHOUT A MESSAGE, ATTACHED
27 OUTDOORS TO A BUILDING, STRUCTURE OR MOUNTING DEVICE, OR ATTACHED
28 INDOORS TO A BUILDING, STRUCTURE OR MOUNTING DEVICE SO AS TO BE
29 VISIBLE FROM THE EXTERIOR OF A BUILDING OR STRUCTURE, AND USED FOR
30 THE PURPOSE OF ATTRACTING ATTENTION.

31
32 BILLBOARD: ~~A flat surface, as of a panel, wall or fence on which signs are posted advertising~~
33 ~~a business, product or service not available on the premises.~~ A PERMANENT SIGN
34 STRUCTURE IN A FIXED LOCATION WHICH MEETS ANY ONE OR MORE OF THE
35 FOLLOWING CRITERIA: (1) IT IS USED FOR THE DISPLAY OF OFF-SITE
36 COMMERCIAL MESSAGES; (2) THE MESSAGE DISPLAY AREA, OR ANY PART
37 THEREOF, IS MADE AVAILABLE TO MESSAGE SPONSORS OTHER THAN THE
38 OWNER(S) OR OPERATOR(S) OF THE SIGN, TYPICALLY FOR A FEE OR OTHER
39 CONSIDERATION, *I.E.*, GENERAL ADVERTISING FOR HIRE; (3) THE SIGN IS A
40 PRINCIPAL OR SECONDARY USE OF THE LAND, RATHER THAN APPURTENANT,
41 ACCESSORY OR AUXILIARY USE SERVING SOME OTHER PRINCIPAL USE OF THE
42 LAND.

BUILDING CODE: The Building Code of the City of Littleton as adopted by the City Council, including such codes as may be in the future so adopted. (See [Chapter 1](#) of this Title.)

BUILDING FRONT: The horizontal, linear dimension of that side of a building which abuts a street, a parking area, a mall, or other circulation area open to the general public; and having either a main window display of the enterprise or a public entrance to the building. (In industrial districts a building side with an entrance open to industrial employees shall also qualify as a building frontage.)

BUILDING OFFICIAL: The City Manager or his authorized representative charged with the administration of this Chapter.

BULLETIN BOARD: ~~A sign used for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar event.~~ A DEVICE WHERE MEMBERS OF THE PUBLIC MAY POST NOTICES OF PUBLIC EVENTS.

CHANGEABLE COPY SIGN: ~~A sign on which the copy changes automatically on a lampbank or through mechanical means, e.g., electronic time and temperature units.~~ A SIGN DISPLAYING A MESSAGE THAT MAY BE CHANGED BY MEANS OF MOVEABLE LETTERS, SLATS, LIGHTS, LIGHT EMITTING DIODES, OR MOVEABLE BACKGROUND MATERIAL. SIGNS UTILIZING DIGITAL OR DYNAMIC DISPLAY OR CHANGEABLE ELECTRONIC VARIABLE MESSAGE (CEVM) ARE ALL WITHIN THIS DEFINITION.

COMMERICAL MASCOT: A PERSON OR ANIMAL COSTUMED OR DECORATED TO FUNCTION AS A COMMERCIAL ADVERTISING DEVICE. INCLUDES "SIGN TWIRLERS", "SIGN CLOWNS", "HUMAN SANDWICH BOARDS", AND PERSONS OR ANIMALS HOLDING OR SUPPORTING ANY SIGN OR ADVERTISING DEVICE DISPLAYING COMMERCIAL SPEECH OR CONVEYING A COMMERCIAL MESSAGE. THE DEFINITION ALSO APPLIES TO ROBOTIC DEVICES INTENDED TO SIMULATE A LIVE PERSON AND/OR ANIMAL

COPY: THE VISUALLY COMMUNICATIVE ELEMENTS, INCLUDING BUT NOT LIMITED TO WORDS, LETTERS, NUMBERS, DESIGNS, FIGURES OR OTHER SYMBOLIC PRESENTATION INCORPORATED INTO A SIGN WITH THE PURPOSE OF ATTRACTING ATTENTION TO THE SUBJECT MATTER OR MESSAGE.

DEVELOPER DIRECTION SIGN: A third party sign used to give directions to a residential development area, which shall mean more than a single lot development.

DIRECTIONAL SIGN: Any sign that directs the movement or placement of pedestrian or vehicular traffic on a lot.

DISPLAY SURFACE OR FACE: The display surface is the area made available by the sign structure for the purpose of displaying, ~~the advertising message, or which is intended to draw~~

~~attention to the advertising message~~ OR DRAWING ATTENTION TO, THE
COMMUNICATIVE IMAGE.

DISTANCE OF SIGN PROJECTION: The distance from the exterior wall surface of the building to the outer extremity of a sign attached to a building.

DIGITAL OR DYNAMIC DISPLAY: DISPLAY METHODS UTILIZING LED (LIGHT EMITTING DIODE), LCD (LIQUID CRYSTAL DISPLAY), PLASMA DISPLAY, PROJECTED IMAGES, OR ANY FUNCTIONALLY EQUIVALENT TECHNOLOGY, AND WHICH IS CAPABLE OF AUTOMATED, REMOTE OR COMPUTER CONTROL TO CHANGE THE IMAGE, EITHER IN A "SLIDE SHOW" MANNER (SERIES OF STILL IMAGES), OR FULL MOTION ANIMATION, OR ANY COMBINATION OF THEM.

ESTABLISHMENT: ANY LEGAL USE OF LAND, OTHER THAN LONG-TERM RESIDENTIAL, WHICH INVOLVES THE USE OF STRUCTURES SUBJECT TO THE BUILDING CODE. BY WAY OF EXAMPLE AND NOT LIMITATION, THIS DEFINITION INCLUDES BUSINESSES, SCHOOLS, HOSPITALS, HOTELS AND MOTELS, OFFICES AND LIBRARIES, BUT DOES NOT INCLUDE SINGLE-FAMILY HOMES OR MOBILE HOMES. MULTI-UNIT HOUSING DEVELOPMENTS ARE CONSIDERED ESTABLISHMENTS DURING THE TIME OF CONSTRUCTION BUT INDIVIDUAL MULTI-FAMILY UNITS ARE NOT WITHIN THE MEANING OF ESTABLISHMENT ONCE A CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED AND RESIDENCY BEGINS.

EXTERIOR WALL SURFACE: The most exterior part of a wall, sun screen or any screening or material covering a building.

FEATHER BANNER (ALSO KNOWN AS QUILL BANNER, FEATHER FLAG, QUILL FLAG, OR OTHER SIMILAR NAMES): AN ATTENTION ATTRACTING DEVICE CONSISTING OF A POLE WITH FABRIC ATTACHED, GENERALLY IN THE SHAPE OF A FEATHER OR QUILL. THE DEFINITION APPLIES REGARDLESS OF WHETHER THERE IS ANY SYMBOL, TEXT OR LOGO PRINTED ON THE FABRIC.

FLAG: A PIECE OF FABRIC OR OTHER FLEXIBLE MATERIAL, USUALLY RECTANGULAR, OF DISTINCTIVE DESIGN, USED AS A SYMBOL.

FLAGPOLE: A FREE-STANDING STRUCTURE OR A STRUCTURE ATTACHED TO A BUILDING/STRUCTURE OR TO THE ROOF OF A BUILDING/STRUCTURE AND USED FOR THE PURPOSE OF DISPLAYING FLAGS.

FLASHING SIGNS: Any directly or indirectly illuminated sign either stationary or animated which exhibits changing natural or artificial light or color effects by any means whatsoever.

GRADE: The average elevation of the ground at the common boundary line of the street, and the property or sidewalk and property lines, not including common boundary lines with freeways.

1
2 GROUND SIGN: A sign supported by poles, uprights or braces extending from the ground or an
3 object on the ground but not attached to any part of any building.

4
5 ILLUMINATED SIGN: A sign lighted by or exposed to artificial lighting either by lights on or
6 in the sign or directed toward the sign.

7
8 JOINT IDENTIFICATION SIGN: A sign which serves a common or collective identification for
9 two (2) or more ~~business or industrial uses~~ ESTABLISHMENTS on the same lot OR
10 ADJOINING LOTS WHICH USE COMMON ENTRANCES OR PARKING FACILITIES.
11 ~~Such sign may contain a directory to said uses as an integral part thereof, or may serve as general~~
12 ~~identification only for such developments as shopping centers, industrial parks and the like.~~

13
14 LOT: A tract, building site, parcel or portion of land separated from other parcels or portions by
15 descriptions as on a subdivision or record of survey map, or by metes and bounds, for the
16 purpose of sale, lease or separate use.

17
18 MARQUEE: A permanently-roofed structure attached to and supported by a building, and
19 projecting from the building.

20
21 MARQUEE SIGN: A sign attached to, painted on, erected against or extending from a marquee.

22
23 NEW BUSINESS ESTABLISHMENT SIGN: A third party type sign used to advertise and give
24 directions to a new or relocated business ESTABLISHMENT which has been located or
25 established, within thirty (30) days of the request for the sign.

26
27 ~~OUTDOOR GENERAL ADVERTISING DEVICE: A sign relating to products, services or uses~~
28 ~~not on the same lot.~~

29
30 ~~PERMANENT ATTACHMENT OF SIGNS: Roof, marquee, arcade, wall, projecting and OR~~
31 ~~ground signs shall be considered permanently attached signs.~~

32
33 PORTABLE SIGN: A sign that is not permanently affixed to a building, structure or the ground.

34
35 PROJECTING SIGN: A sign other than a wall sign which projects from a wall or roof and is
36 supported by a wall or roof of a building.

37
38 ROOF LINE: The highest point on any building where an exterior wall encloses usable floor
39 area including roof area provided for housing mechanical equipment.

40
41 ROOF SIGN: ~~Roof sign shall mean~~ A sign erected upon or above the roof line or parapet of the
42 building or structure, INCLUDING ALL SIGNS FOR WHICH ANY PORTION OF THE
43 SUPPORT STRUCTURE IS ATTACHED TO A ROOF.

44
45 SAFETY CODES: THOSE CODES, ADOPTED BY THE CITY, WHICH STATE RULES
46 FOR SAFE CONSTRUCTION, INCLUDING BY WAY OF EXAMPLE AND NOT
47 LIMITATION, BUILDING, ELECTRICAL, GRADING, AND DEMOLITION.

SIGN: A sign is any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, fixtures, designs, symbols, fixtures, colors, motion, illumination or projected images. Signs do not include the following:

- ~~(A) Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes or to identify streets or to warn of danger.~~
- ~~(B) Works of fine art which in no way identify or advertise a product or business.~~
- ~~(C) Temporary decoration or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration.~~
- ~~(D) Temporary or permanent signs erected by public utility companies or construction companies to warn of dangerous or hazardous conditions.~~
- ~~(E) Merchandise, pictures or models of products or services which are incorporated in a window display.~~
- ~~(F) Scoreboards located on athletic fields which in no way identify a product or business.~~
- ~~(G) Traffic control signs and devices privately owned and containing messages such as "exit only", "restricted for ", and the like, the sole purpose of which is to direct and control traffic and which does not exceed twenty feet (20') in height nor contain more than twelve (12) square feet per face.~~
- ~~(H) Signs located on vehicles which are merely incidental to the use of the vehicle such as the name of a business appearing on an automobile or truck.~~
- ~~(I) Clocks or digital time devices which are installed in towers or similar structures and are part of the building structure itself. Any such movement of said devices shall be restricted to the changing of time.~~

SIGN: ANY VISUALLY COMMUNICATIVE IMAGE PLACED ON PUBLIC DISPLAY AND VISIBLE FROM THE EXTERIOR OF ANY PORTION OF THE PUBLIC RIGHT OF WAY OR PLACE OPEN TO PASSAGE BY THE PUBLIC. FOR THE PURPOSE OF DEFINING THE REGULATORY SCOPE OF THIS CHAPTER. THE TERM "SIGN" DOES NOT INCLUDE:

- (A) ARCHITECTURAL FEATURES: DECORATIVE OR ARCHITECTURAL FEATURES OF BUILDINGS (NOT INCLUDING LETTERING, TRADEMARKS OR MOVING PARTS) WHICH DO NOT PERFORM A COMMUNICATIVE FUNCTION, SUCH AS STRIPES AROUND A BUILDING;
- (B) NEWS RACKS, NEWSPAPER VENDING DEVICES, NEWSSTANDS, AUTOMATED TELLER MACHINES (ATMS) AND SELF-SERVE GASOLINE DISPENSING DEVICES;
- (C) CORNERSTONES AND FOUNDATION STONES;
- (D) THE LEGAL USE OF FIREWORKS, CANDLES AND ARTIFICIAL LIGHTING NOT OTHERWISE REGULATED BY THIS CHAPTER;
- (E) GRAVE MARKERS, GRAVESTONES, HEADSTONES, MAUSOLEUMS, SHRINES, AND OTHER MARKERS OF THE DECEASED;

- (F) INTERIOR GRAPHICS: VISUAL COMMUNICATIVE DEVICES THAT ARE LOCATED ENTIRELY WITHIN A BUILDING OR OTHER ENCLOSED STRUCTURE AND ARE NOT VISIBLE FROM THE EXTERIOR THEREOF;
- (G) MANUFACTURERS' MARKS: MARKS ON TANGIBLE PRODUCTS, WHICH IDENTIFY THE MAKER, SELLER, PROVIDER OR PRODUCT, AND WHICH CUSTOMARILY REMAIN ATTACHED TO THE PRODUCT EVEN AFTER SALE;
- (H) DOOR MATS, FLOOR MATS, WELCOMING MATS AND SIMILAR DEVICES;
- (I) PERSONAL APPEARANCE: MAKEUP, MASKS, WIGS, COSTUMES, JEWELRY, APPAREL AND THE LIKE, UNLESS IT CONSTITUTES A COMMERCIAL MASCOT;
- (J) SEARCHLIGHTS USED AS PART OF A SEARCH AND RESCUE OR OTHER EMERGENCY SERVICE OPERATION (THIS EXCLUSION DOES NOT APPLY TO SEARCHLIGHTS USED AS ATTENTION ATTRACTING DEVICES FOR COMMERCIAL OR SPECIAL EVENTS);
- (K) SHOPPING CARTS, GOLF CARTS, HORSE DRAWN CARRIAGES, BICYCLES AND SIMILAR DEVICES, AND PROPERLY LICENSED MOTORIZED VEHICLES THAT LEGALLY PASS THROUGH THE CITY.

SIGN PERMIT: A building permit ~~issued for~~ THAT AUTHORIZES the erection, construction, enlargement, alteration, repair, moving, improvement, removal, conversion or demolition of any sign, issued pursuant to the building code of the City AND THIS CHAPTER.

SIGN STRUCTURE: ~~Sign structure shall mean any~~ ALL supports, uprights, braces and framework of the sign ~~which does not include any portion of the sign which does not include any portion of the sign message~~ BUT NOT INCLUDING THE COMMUNICATIVE IMAGE.

SIGN WITH BACKING: ~~Any sign that is displayed upon, against, or through any material or color surface or backing that forms an integral part of such display and differentiates the visually communicative image from the background against which it is placed.~~

SIGN WITHOUT BACKING: ~~Any work, letter, emblem, insignia, figure of similar character or group thereof, that is neither backed by, incorporated in or otherwise made part of any larger display area.~~

STREET FRONT: Any boundary line of a lot or parcel of land that runs parallel to and within twenty feet (20') of the right of way of a street or highway designated and assigned an individual name or number by the legislative action of the ~~municipality~~ CITY.

STREET PROPERTY LINE: A common boundary between private property and a dedicated street or alley.

SUBDIVISION IDENTIFICATION SIGN: ~~A sign identifying a subdivision wherein only the name of the subdivision is specified.~~

SUBDIVISION ENTRANCE SIGN: A PERMANENT SIGN INSTALLED AT OR NEAR A

1 PUBLIC ENTRANCE TO A DEVELOPMENT.

2
3 TEMPORARY SIGN: ~~a sign which is not permanently affixed to the structural portion of a~~
4 ~~building and which shall not remain in place for a period in excess of six (6) months.~~ A SIGN
5 THAT IS CONSTRUCTED OF LIGHTWEIGHT OR FLIMSY MATERIAL, AND IS EASILY
6 INSTALLED AND REMOVED USING ORDINARY HAND TOOLS. ANY SIGN THAT
7 QUALIFIES AS A “STRUCTURE” UNDER THE BUILDING CODE IS NOT WITHIN THIS
8 DEFINITION.

9
10 ~~THIRD PARTY SIGN: Any sign which advertises or directs attention to a business, commodity,~~
11 ~~service or activity conducted, sold or offered elsewhere than on the lot on which said sign is~~
12 ~~located.~~

13
14 TIME AND/OR TEMPERATURE DEVICES: Signs consisting of devices which provide time
15 and/or temperature information ~~only~~.

16
17 USE BY RIGHT: The primary permitted use or accessory use as defined by the Zoning
18 Ordinance of the City. (See [Title 10](#) of this Code.)

19
20 WALL SIGN: A sign attached to, painted on or erected against a wall of a building and whose
21 display surface is parallel to the face of the building upon which the sign is attached.

22
23 WIND SIGN: Any sign in the nature of a series of two (2) or more banners, flags, pennants or
24 other objects or material ~~which call attention to a project or service,~~ fastened in such a manner as
25 to move upon being subjected to pressure by wind, ~~or~~ breeze, OR FORCED AIR. BY WAY OF
26 EXAMPLE ONLY, INCLUDES DEVICES KNOWN BY COMMERCIAL NAMES SUCH AS
27 WIND DANCER AND AIRCROW.

28
29 WINDOW: For purposes of this Chapter, a window shall be an opening in the wall of a building.
30 Said opening to be covered with glass or similar material for the purpose of admitting light
31 and/or air.

32
33 WINDOW SIGN: A sign ~~of a temporary nature~~ which is applied or attached to the interior of a
34 window only, which sign can be seen through the window from the exterior of the structure.

35
36 **Section 2:** Section 2 of Chapter 3 of Title 4 of the City Code is hereby revised as
37 follows:

38
39 **4-3-2: REGULATION OF SIGNS:**

40
41 **4-3-2-1: SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT:**

42
43 The following signs may be erected and maintained in all districts without a permit and without
44 being deducted from other permitted sign face areas:

- 1 (A) Bulletin Boards: One bulletin board per street frontage not over twenty (20) square feet
2 in area. ~~for public, charitable or religious institutions where the same are located on the~~
3 ~~premises of said institutions.~~
- 4 (B) ~~Contractor Signs: Not more than twelve (12) square feet in area naming the contractors~~
5 ~~engaged in the construction on the property where the sign is located, but only during~~
6 ~~such period in which actual construction is taking place.~~
- 7 (B) CONSTRUCTION SITE SIGNS: A SIGN MOUNTED ON A SITE WHERE DULY
8 PERMITTED, ACTUAL CONSTRUCTION IS CURRENTLY IN PROGRESS, NOT
9 EXCEEDING TWELVE (12) SQUARE FEET IN IMAGE DISPLAY AREA.
- 10 (C) ~~Credit Card Type Signs: These signs shall be allowed only if nonilluminated or~~
11 ~~illuminated by a concealed light source, and shall show items such as credit cards~~
12 ~~accepted, redemption stamps offered, menus, or prices. Such signage for each primary~~
13 ~~use by right shall not exceed a total of four (4) square feet per face or eight (8) square~~
14 ~~feet for double faced signage. Such signs may be attached to the building as projecting~~
15 ~~or wall signs; placed in a window of said business suspended from a canopy; or~~
16 ~~included as an integral part of a freestanding sign.~~
- 17 (C) Directional Signs: Directional signs shall not promote the use or sale of any product or
18 service, and shall not exceedING seven (7) square feet in size per sign.
- 19 (D) Flags: Flags bearing the copyrighted insignia or symbol of the user of the primary
20 permitted use shall be permitted only when flown in conjunction with the national and
21 State flags. Said flag shall be on a separate flagpole, and shall not exceed the individual
22 sizes of the national and State flags which are flown adjacent thereto. AND
23 FLAGPOLES
- 24 (F) ~~Memorial Signs: Memorial signs or tablets, names of buildings and date of erection~~
25 ~~when cut into any masonry surface, or inlaid so as to be part of the building when~~
26 ~~constructed of bronze or other incombustible material.~~
- 27 (G) ~~Occupant Signs: Signs limited in content to name of occupant, address of premises, and~~
28 ~~signs of danger or of a cautionary nature which are limited to wall and ground signs~~
29 ~~which shall consist of no more than two (2) per street front and shall be no more than~~
30 ~~three (3) square feet per sign in area nor more than ten feet (10') in height above grade.~~
31 ~~Said signs shall not be animated, and may be illuminated only from a concealed light~~
32 ~~source which shall not flash, blink or fluctuate.~~
- 33 (H) ~~Political Signs: Political signs shall be allowed in windows in occupied buildings in~~
34 ~~business and industrial zoning districts and shall be subject to the height and the area~~
35 ~~restrictions therein. They shall be signs of a temporary nature, for a specified election~~
36 ~~and shall be removed within ten (10) days after the election to which these signs~~
37 ~~pertain.~~
- 38 (I) ~~Professional Signs: Nameplate signs not more than two (2) square feet in area which~~
39 ~~are fastened directly to the building and do not project more than six inches (6") beyond~~
40 ~~the property line.~~
- 41 (J) ~~Public Signs: Signs required or specifically authorized for a public purpose by any law,~~
42 ~~statute or ordinance; which may be of any type, number, area, height above grade,~~
43 ~~location illumination or animation, and authorized by the law, statutes or ordinances~~
44 ~~under which the signs are erected.~~
- 45 (K) ~~Real Estate Signs: A sign may be placed only on the offered property and shall be not~~
46 ~~more than seven (7) square feet in size per face for residential property and twenty four~~
47 ~~(24) square feet per face for commercial and industrial property. Said sign may~~

advertise the sale, rental or lease of the premises upon which said sign is located. Said sign must be located entirely within the property line of the advertised property and shall not contain more than two (2) faces.

(E) SIGNS ON RESIDENCES: FOR EACH DWELLING UNIT, A TOTAL SIGN DISPLAY AREA OF TEN (10) FEET IS ALLOWED. SUCH SIGNS MAY NOT BE USED AS GENERAL ADVERTISING FOR HIRE. THIS PROVISION DOES NOT OVERRIDE TERMS OF PRIVATE AGREEMENTS, CONTRACTS AND LEASES BETWEEN LANDLORDS AND TENANTS.

(F) Signs In Display Windows: Window signs and temporary signs in the display window of a business use AN ESTABLISHMENT, which are incorporated with a display of merchandise or a display relating to services or products offered. ~~Said signs shall not be illuminated or animated.~~

~~(M) Signs Within Buildings: Any sign placed inside a building may be erected without a permit but shall be subject to the safety regulations of the building code, provided that any sign permanently attached to the interior of the structure and visible from the exterior thereof shall comply with the provisions of this chapter.~~

~~(N) Subdivision Identification Sign: A permanent subdivision sign may be allowed at the entrance to any subdivision only after application to and review and approval by the director of community development.~~ SUBDIVISION ENTRANCE SIGN: ONE PERMANENT SUBDIVISION ENTRANCE SIGN SHALL BE ALLOWED. In residential subdivisions, such signs shall be limited to a maximum size of twenty (20) square feet per DISPLAY face and shall not exceed two (2) faces per sign. In commercial and industrial subdivisions, such signs shall be limited to a maximum size of fifty (50) square feet, per DISPLAY face and shall not exceed two (2) faces per sign. ~~Such signs shall complement the architectural style of the subdivision with regard to their coloration, design and materials.~~

(G) DECORATIONS THAT ARE ON DISPLAY FROM OCTOBER 1 TO JANUARY 31. SUCH DECORATIONS MAY NOT BE USED AS GENERAL ADVERTISING FOR HIRE.

4-3-2-2: SIGNS PROHIBITED AND SIGNS ALLOWED BY SPECIAL PERMIT:

(A) Signs Prohibited: The following signs shall not be permitted in any zone district:

1. Rotating signs;
2. Portable or wheeled advertising devices, except as specifically permitted in subsection [4-3-2-5\(D\)](#) of this chapter;

3. Roof signs;

4. ~~Third party signs, billboards, poster board~~ BILLBOARDS, AS DEFINED IN THIS CHAPTER, except as specifically permitted in subsections [4-3-2-6\(H\)](#) and (I) of this chapter;

5. Price signs at gasoline service stations except as authorized by subsection 4-3-2-5(G)4 of this chapter.

6. Other signs: No person shall erect any sign except as authorized by this chapter or other ordinance of the city and then only in accordance with the provisions thereof.

(B) Signs Allowed By Special Permit: The following signs ~~may~~ SHALL be allowed in any business, transitional, CA, or industrial zone district by special permit ~~issued by the city manager or his designated representative for a specific event such as a special~~

~~sale, national holiday, anniversary date or grand opening.~~ Not more than two (2) permits may be issued each calendar year for a cumulative period of not more than sixty (60) days. ~~Any such requested permit shall be issued if the purposes of the sign code, as specified in section 4-3-1-1 of this chapter, have been met.~~

1. Hot air balloons and other types of lighter than air objects.

2. Banners, pennants, valances, or wind SIGNS powered devices.

~~3. Searchlights.~~

4. ~~Other sales promotion devices or signs which are within the intent of the sign code.~~

4-3-2-3: SIGNS PERMITTED IN SINGLE-FAMILY RESIDENCE ZONES:

Upon application to and issuance by the building official of a permit therefor, the following signs may be erected and maintained in single-family residentially zoned districts:

(A) General: Signs may be erected, altered and maintained only for and by a use by right in the district in which the signs are located AND shall be located on the same lot as the use by right ~~and shall be clearly incidental, customary and commonly associated with the operation of the use by right.~~

(B) ~~Permitted Contents: Identification by letter, numeral, symbol or design of the use by right by name, use, hours of operation, services offered and events.~~

(C) Permitted Sign Types: Wall, window.

(D) Permitted Maximum Number: One sign for each front line of the lot on which the use by right is located.

(E) Permitted Maximum Sign Area: Three (3) square feet PER DISPLAY FACE.

(F) Permitted Location: Permitted signs shall be set back from the boundary lines of the lot on which they are located, the same distance as a structure containing a use by right; provided, however, wall signs may project into the required setback space eighteen inches (18").

(G) Permitted Illumination: None.

(H) Animation: Shall not be animated.

~~(I) Prohibited Signs: Signs advertising home occupations shall be prohibited.~~

4-3-2-4: SIGNS PERMITTED IN MULTI-FAMILY RESIDENCE ZONES AND TRANSITIONAL ZONED DISTRICTS:

Upon application to and issuance by the building official of a permit therefor, the following signs may be erected and maintained in multi-family residentially zoned districts and in transitionally zoned T districts which in the case of such T districts are used for the following purposes: residential use, club or lodge, library or reading room, tourist home.

(A) General: Signs may be erected, altered and maintained only for and by a use by right in the district in which the signs are located AND shall be located on the same lot as the use by right ~~and shall be clearly incidental, customary and commonly associated with the operation of the use by right;~~ provided, however, that no sign of any type shall be erected or maintained for or by a single dwelling unit.

~~(B) Permitted Contents: Identification by letter, numeral, symbol or design of the use by right by name, use, hours of operation, services offered and events.~~

(B) Permitted Sign Types: Wall, window and ground.

- (C) Permitted Maximum Number: One wall or window and one ground sign for each front line of the lot on which the use by right is located.
- (D) Permitted Maximum Sign Area: Three (3) square feet per unit not to exceed twenty (20) square feet total.
- (E) Permitted Maximum Height Above Grade:
 1. Wall and Window Signs: Twenty feet (20').
 2. Ground Signs: Twelve feet (12').
- (F) Permitted Location:
 1. Wall and window signs shall be set back from the boundary lines of the lot on which it is located, the same distance as a structure containing a use by right; provided, however, wall signs may project into the required setback space eighteen inches (18").
 2. Ground signs shall be set back ten feet (10') from the boundary lines of the lot on which it is located, provided that a clear area be maintained to a height of seventy two inches (72"), within fifty five feet (55') of the intersection of two (2) streets, a railroad right of way and a street or a driveway and a street.
- (G) Permitted Illumination: May be illuminated but only from a concealed light source and shall not flash, blink or fluctuate.
- (H) Animation: Shall not be animated.

4-3-2-5: SIGNS PERMITTED IN BUSINESS, TRANSITIONAL AND CA ZONES AND INDUSTRIAL ZONES:

Upon application to and issuance by the building official of a permit therefor, the following signs may be erected and maintained in business, and transitionally zoned T districts which in the case of such T districts are used for a commercial parking garage or lot, correctional institution, hospital, medical service center, mortuary, office, post office, studio, restaurant, motel and hotel, and savings and loan association and in industrially zoned districts.

- (A) General: Signs may be erected, altered and maintained only for and by a use by right in the district in which the signs are located and shall be located on the same lot as the use by right ~~and shall be clearly incidental, customary and commonly associated with the operation of the use by right.~~
- ~~(B) Permitted Contents: Identification by letter, numeral, symbol or design of the uses by right by name, use, hours of operation, services and products offered, events and prices of products and services.~~
- (B) Permitted Sign Types: Wall, window, ground, arcade, marquee, projecting, time and temperature signs and portable signs as described herein.
- (C) Permitted Maximum Number: The following table shall be used to determine the maximum number of signs allowed for a use by right. IN THE FOLLOWING TABLE, THE CENTER COLUMN INDICATES THE TOTAL NUMBER OF ALLOWED PERMANENT SIGNS, WHILE THE FAR RIGHT COLUMN INDICATES HOW MANY OF THE SIGNS LISTED IN THE CENTER COLUMN MAY BE GROUND SIGNS. FOR EXAMPLE, IN THE FIRST ROW, THE TOTAL NUMBER OF PERMANENT SIGNS IS THREE (3), AND OF THOSE THREE (3), NOT MORE THAN ONE (1) MAY BE A GROUND SIGN.

Linear Front	No. Of Permanent	No. Of Ground
--------------	------------------	---------------

<u>Feet Of Lot</u>	<u>Signs Allowed</u>	<u>Signs Allowed</u>
151 ft. or less	3	1
151 ft. to 301 ft.	3	2
301 ft. to 451 ft.	4	3
451 ft. to 600 ft.	5	4
601 ft. or more	5	5

In addition, not more than one portable sign shall be allowed for each street front line on the lot for which the use by right is located. Such portable signs shall be constructed of wood or metal and shall contain no more than twelve (12) square feet per DISPLAY face. ~~Signs where advertising is permanently attached to tools or vending devices incidental to, customary or commonly associated with the use by right shall not be included when computing the permitted maximum number of area of signs.~~ No permitted portable sign, tool or vending device shall be located in any public right of way.

(D) Permitted Maximum Sign Area:

1. Each use by right shall be allowed the greater of thirty two (32) square feet, or one square foot of sign area for each one and one-half (1½) linear feet of street frontage with a maximum total area per sign of one hundred (100) square feet per DISPLAY, two hundred (200) square feet per sign and three hundred (300) square feet per use; provided, however, that in computing the area of such signs, the measurement of not more than two (2) contiguous front lot lines shall be used. If a lot has two (2) or more uses by right, the same limitations shall apply. However, the basis for measurement of signage for each use by right shall be one square foot of sign area for each one and one-half (1½) horizontal linear feet of that portion of building frontage occupied by the use by right.

When the lot size shall allow only thirty two (32) square feet of signage, an additional one square foot of signage shall be allowed for each two feet (2') of setback of the primary structure on that lot, up to a maximum allowable area of fifty (50) square feet. These building setback provisions shall not apply to those lots which ~~shall~~ allow signs in excess of fifty (50) square feet due to the amount of linear front footage on that lot.

In addition to the maximum size sign area allowed by this subsection, the maximum size of wall signs may be increased by twenty five percent (25%) for each ten feet (10') of height above thirty feet (30'), not to exceed two hundred (200) square feet per sign. Example: thirty feet (30') equals one hundred (100) square feet of allowable sign area; forty feet (40') equals one hundred twenty five (125) square feet; fifty feet (50') equals one hundred fifty (150) square feet; etc. Signs shall be limited to one per building face.

2. On those buildings which are not set back from the public right of way, one projecting sign not exceeding eighteen (18) square feet per DISPLAY face or thirty six (36) square feet per sign shall be allowed for each use by right; provided, however, that the sign shall

not project into the public right of way more than three feet (3'), shall not be lower than eight feet (8') above grade, nor higher than twenty feet (20') of the roof line or parapet wall of the building, whichever is less.

(E) Permitted Maximum Height Above Grade:

1. Wall Or Window Signs: Shall be permitted to the maximum height of the wall structure. Buildings with flat roof: signs may not project above the parapet wall.

Buildings with peaked roof: signs may not project above the top plate of the wall.

Buildings with a mansard roof: signs may not project above fifty percent (50%) of the height of the mansard.

2. Ground, Arcade, Projecting and Marquee Signs: Twenty five feet (25').

3. Signs Projecting Into The Public Right Of Way As Provided In Subsection (G) Of This Section: Twenty five feet (25') or not higher than the top plate or parapet of the building, whichever is less.

(F) Permitted Location:

1. Any projecting marquee or wall sign shall be set back from the boundary lines of the lot on which it is located the same distance as a structure containing a use by right; provided, however, that projecting marquee signs may project into the public right of way a maximum of forty eight inches (48"). Wall signs may project into the public right of way a maximum of twelve inches (12").

2. Ground signs shall be located in such a manner so that a clear area is maintained to a height of seventy two inches (72") within fifty five feet (55') of the intersection of the edges of rights of way of two (2) streets, a railroad right of way and a street, or a driveway and a street. No ground sign may project into public rights of way.

3. Projecting signs shall be located in such a manner that there is a clear ~~ANCE area maintained~~ OF AT LEAST to a height of eight feet (8') above the public right of way.

4. Price signs at gasoline service stations shall be limited to the gasoline pumps and to the allowed ground sign provided that they are made a part of the ground sign and the price portion of the sign does not exceed twenty five (25) square feet per DISPLAY face.

(G) Permitted Illumination: May be illuminated but only from a concealed light source.

(H) Animation: Shall not be animated except for changeable copy signs ~~which may be approved by the director of community development~~ when the following conditions are met:

1. Traffic And Pedestrian Safety: The sign is located in such manner that it does not interfere with traffic or pedestrian safety. The minimum setback from the front property line shall be twenty feet (20'). At a signalized intersection the minimum setback shall be twenty five feet (25').

2. ~~Message: The message portion~~ THE DISPLAY FACE of the sign must be limited in area to less than thirty two (32) square feet. ~~The message~~ AND must be stationary with a change sequence of not more than one change each two (2) seconds. ~~The message shall consist of letters, numerals, grammatical and mathematical symbols. Graphic symbols may be utilized provided they meet the following limitations:~~

(a) ~~the graphic symbols do not change position or travel on the face of the sign; and~~

(b) ~~the graphic symbols shall be used in conjunction with a lettered message.~~

3. Constant Light Intensity: Such signs shall maintain a constant light intensity and color during the entire copy display. Mode changes such as reverse, flashing, and inverse flashing are prohibited.

- (I) Joint Identification Signs: Subject to the conditions hereinafter set forth and upon application to and issuance by the building official of a permit therefor, joint identification signs are permitted for two (2) or more uses by right on the same lot as the sign, excluding parking. The following joint identification signs are in addition to all other permissible signs and must comply with all of the following conditions:
1. Permitted Sign Types Of Joint Identification Signs: Wall and ground.
 2. Permitted Maximum Number Of Joint Identification Signs: One sign for each front line of the lot or for each five hundred (500) linear feet of street frontage.
 3. Permitted Maximum Sign Area Of Joint Identification Signs: The total overall size of any joint identification sign shall not exceed one hundred (100) square feet per DISPLAY face. The allocation of space on the joint identification sign shall be determined by the landlord and the tenants ~~with all tenants having access to the use of a portion of the sign.~~
 4. Permitted Maximum Height Above Grade Of Joint Identification Signs: Twenty five feet (25').
 5. Permitted Location Of Joint Identification Signs:
 - (a) Wall signs shall be set back from the boundary lines of the lot on which it is located the same distance as a structure containing the use by right. Wall signs may project into the public right of way a maximum of twelve inches (12").
 - (b) Ground signs shall be located in such a manner so that a clear area is maintained to a height of seventy two inches (72") within fifty five feet (55') of the intersection of two (2) streets, railroad right of way and a street, or a driveway and a street. No ground sign may project into the public right of way.
 6. Permitted Illumination Of Joint Identification Signs: May be illuminated but shall not flash, blink or fluctuate.
 7. Animation Of Joint Identification Signs: Shall not be animated except for changeable copy signs ~~which may be approved by the director of community development~~ when the following conditions are met:
 - (a) Location: The sign is located in such manner that it does not interfere with traffic safety. At a signalized intersection the minimum setback shall be twenty five feet (25').
 - (b) ~~Message: The message portion~~ THE DISPLAY FACE of the sign must be limited in area to less than thirty two (32) square feet. ~~The message~~ AND must be stationary with a change sequence of not more than one change each two (2) seconds. ~~The message shall consist of letters, numerals, grammatical and mathematical symbols only.~~
 - (c) ~~CONSTANT Light Intensity And Color:~~ Such sign shall maintain a constant light intensity and color during the entire copy display. MODE CHANGES SUCH AS REVERSE, FLASHING, AND INVERSE FLASHING ARE PROHIBITED.

4-3-2-6: TEMPORARY SIGNS:

~~Subject to the conditions hereinafter set forth and~~ Upon application to and issuance by the building official of a permit therefor, THE FOLLOWING TEMPORARY SIGNS MAY BE ERECTED AND MAINTAINED ~~AND signs on parcels currently offered for rent, lease, sale, or exchange in the real estate market identifying or advertising development, sale, lease or rental of either a use by right or a designated land area;~~ each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods at the same location:

- (A) Permitted Sign Types Of Temporary Signs: Wall and ground.
- (B) Permitted Number Of Temporary Signs: A minimum of one sign for each lot or designated land area on which the signs are to be located. The maximum number of permitted signs shall be determined by the total sign area permitted as defined in subsection (C) of this section.
- (C) Permitted Sign Area Of Temporary Signs: Fifty (50) square feet plus one square foot per acre of the designated land area, with no single sign exceeding one hundred (100) square feet per DISPLAY face.
- (D) Permitted Maximum Height Above Grade Of Temporary Signs: Twelve feet (12').
- (E) Permitted Location Of Temporary Signs: Wall signs shall be set back from the boundary lines of the lot on which it is located, the same distance as a structure containing a use by right; provided, however, wall signs may project into the required setback space eighteen inches (18"). Ground signs may project into the required setback space eighteen inches (18"), provided that a clear area be maintained to a height of seventy two inches (72"), within fifty five feet (55') of the intersection of two (2) streets, a railroad right of way and a street or a driveway and a street. No ground sign may project into public right of way.
- (F) Permitted Illumination Of Temporary Signs: Temporary signs may not be illuminated in a single-family residential zone, but may be illuminated from a concealed light source only in other zones so long as they do not flash, blink or fluctuate OR USE INTERMITTENT LIGHT OR DIGITAL DISPLAY.
- (G) Animation Of Temporary Signs: Shall not be animated.
- (H) Developer Direction Signs: Developer direction signs ~~may be erected only after review and approval by the director of community development and only for time periods, locations and designs as set by the director.~~ Such signs shall meet the following criteria:
1. Shall not exceed thirty two (32) square feet per DISPLAY face or sixty four (64) square feet per sign.
 2. Shall not exceed twelve feet (12') in height.
 3. ~~Contents of the sign shall be limited to a directional message or project location.~~
 4. Signs allowed shall be limited to not more than two (2) signs for each project.
 5. ~~The location of the sign shall be at the direction of the director of community development, and~~ shall be located on the nearest major arterial street only. No sign shall be allowed for a development which is located on a completed and through major arterial or on lesser streets when the traffic count on said streets exceeds that for a minor arterial street.
 6. A building permit shall be required which makes the sign valid for a period not to exceed twenty four (24) months or the duration of the project whichever occurs first. The expiration date of the permit shall be affixed on the sign.
 7. When two (2) or more developers utilize the same sign, the size of the sign may be increased by a factor equal to the number of users except that no such sign shall exceed one hundred (100) square feet per DISPLAY face or two hundred (200) square feet per sign.
 8. ~~Time limits, location and design as established by the director of community development shall be determined in accordance with the following criteria:~~
 - ~~(a) Time limits:~~
 - ~~(1) Proposed build-out period; and~~
 - ~~(2) Number of lots available.~~
 - ~~(b) Location:~~

- 1 ~~(1) Existence of other signs within one hundred feet (100').~~
2 ~~(2) Whether the sign will be mounted alone or in conjunction with and as~~
3 ~~part of another sign already existing on the site.~~
4 ~~(3) SHALL BE ARRANGED SO AS TO MINIMIZE IMPACTS ON~~
5 Traffic safety and visibility ~~including a consideration of curb cuts and safety to~~
6 ~~pedestrians.~~
7 ~~(4) Arrangement so as to minimize impact AND on adjacent residential~~
8 areas.

9 ~~(c) Design:~~

- 10 ~~(1) 9. Shall not be sandwich BOARD or portable signs.~~
11 ~~(2) 10. Shall be affixed in a manner to eliminate MINIMIZE the~~
12 possibility that the forces of nature will destroy or remove said sign.
13 ~~(3) 11. Shall be made of materials which will not deteriorate over the life~~
14 of the sign.
15 ~~(4) Colors shall be limited to black, white and earth tones.~~
16 (I) New ~~Business~~ ESTABLISHMENT Signs: New ESTABLISHMENT ~~business~~ direction
17 signs may be erected only after ~~review and~~ approval by the director of community
18 development. ~~Such signs shall meet~~ APPROVAL IS AUTOMATIC WHEN SIGNS
19 MEET all of the following criteria:
20 1. Shall not exceed thirty two (32) square feet per DISPLAY face or sixty four (64)
21 square feet per sign.
22 2. Shall not exceed twelve feet (12') in height.
23 3. ~~Content of the sign shall be limited to the business name, address, and directional~~
24 ~~message.~~
25 4. Number of signs is limited to one sign per ~~business~~ ESTABLISHMENT.
26 5. ~~Location of the sign shall be at the direction of the director of community development~~
27 ~~but need not be placed on the premises of the subject business.~~ A new ~~business~~
28 ESTABLISHMENT sign shall be located no nearer than one hundred feet (100') from
29 any other sign unless they are placed on an existing pedestal. No sign shall be allowed for
30 a new or relocated ESTABLISHMENT ~~business~~ which is located on a completed and
31 through major arterial or on such lesser street when the traffic on said street exceeds the
32 traffic level normally established for a minor arterial.
33 6. A building permit shall be required which makes the sign valid for a period of not to
34 exceed six (6) months. The expiration date of the permit shall be affixed on the sign.
35 7. ~~Location and design shall be determined by the director of community development in~~
36 ~~accordance with the following criteria;~~

37 ~~(a) Location:~~

- 38 ~~(1) Existence of other signs within one hundred feet (100').~~
39 ~~(2) Whether the sign will be mounted alone or in conjunction with and part of~~
40 ~~another sign already existing on the site.~~
41 ~~(3) SHALL BE ARRANGED SO AS TO MINIMIZE IMPACTS ON Traffic~~
42 safety and visibility ~~including a consideration of curb cuts and safety to~~
43 ~~pedestrians.~~
44 ~~(4) Arrangement so as to minimize impact AND on adjacent residential areas.~~

45 ~~(b) Design:~~

- 46 ~~(1) 8. Shall not be sandwich BOARD or portable signs.~~

- (2) 9. Shall be affixed in a manner to ~~eliminate~~ MINIMIZE the possibility of the forces of nature will destroy or remove said sign.
- (3) 10. Shall be made of materials which will not deteriorate over the life of the sign.
- (4) ~~Colors shall be limited to black, white and earth tones.~~

4-3-2-7: LOW PROFILE SIGNS:

Signs of a low profile planter type design which are not more than six feet (6') in height ~~and designed in such a manner as to complement and reflect the architectural design of the building on the premises,~~ may exceed the maximum area regulations for that specific lot, provided that an application is submitted to and approved by the board of adjustment and the location of the sign is not in conflict with subsections [4-3-2-5](#)(G)2 and (J)5 of this chapter.

4-3-2-8: SHOPPING CENTERS, SIGNS PERMITTED:

Upon application to and issuance by the building official of a permit therefor, the following signs may be erected and maintained in shopping centers:

- (A) General: Signs may be erected, altered and maintained only for and by a use by right at the shopping center in which the ESTABLISHMENT ~~business is located and such signs shall be located in the same general frontage area as the use by right. Such signs shall be clearly incidental, customary to and commonly associated with the operation of the use by right.~~
- (B) ~~Permitted Contents: Signs shall identify the business by letter, numeral, name, symbol or design; or by use, hours of operation, services and products offered, events, and prices of products and services.~~
- (C) Permitted Sign Types: Sign types shall be wall, window, arcade, or marquee signs. Ground signs shall be allowed only as the shopping center identifier or as a joint identification sign as specified in subsection [4-3-2-5](#)(J) of this chapter. Individual pads within the shopping center may be allowed a low profile monument type sign upon application to and approval by the director of community development if the conditions of section [4-3-2-7](#) of this chapter have been met.
- (D) Permitted Maximum Number: The maximum number of signs allowed to a use by right shall be three (3).
- (E) Permitted Maximum Sign Area: Each use by right shall be allowed fifty (50) square feet of sign area or one square foot of sign area for each one and one-half (1½) linear feet of building frontage or one square foot of sign area for each thirty (30) square feet of gross floor area whichever is greater. The maximum total sign area allowed shall be limited to two hundred (200) square feet per use by right.
- (F) Permitted Maximum Height Above Grade:
1. Wall or window signs: Forty feet (40').
 2. Ground signs used as shopping center identifiers: Thirty feet (30').
 3. Low profile monument signs: Six feet (6').
- (G) Permitted Location:
1. Any projecting marquee or wall sign shall be located upon the structure in the same general area as the use by right. Projecting signs may project into the

public right of way a maximum of thirty six inches (36"). Wall signs may project into the public right of way a maximum of twelve inches (12").

2. Ground signs shall be located in such a manner so that a clear area is maintained below them to a minimum height of seventy two inches (72") if said signs are located within fifty five feet (55') of the intersection and the edges of the rights of way of two (2) streets, a railroad right of way and a street, or a driveway and a street. No ground sign may project into any public right of way.

(H) Permitted Illumination: Shopping center signs may be illuminated but only from a concealed light source.

(I) Animation: Shall not be animated except for changeable copy signs ~~which may be approved by the director of community development~~ when the following conditions are met:

1. Location: The sign is located in such a manner that it does not interfere with traffic or pedestrian safety. The minimum setback from the front property line shall be twenty feet (20'). At a signalized intersection the minimum setback shall be twenty five feet (25').

2. ~~Message: The message~~ THE DISPLAY FACE must be limited in area to less than sixty (60) square feet. ~~The message~~ AND must be stationary with a change sequence of not more than one change each two (2) seconds. ~~The message shall consist of letters, numerals, grammatical and mathematical symbols. Graphic symbols may be utilized provided they meet the following limitations:~~

~~(a) The graphic symbols do not change position or travel on the face of the sign; or~~

~~(b) The graphic symbols shall be used in conjunction with a lettered message.~~

3. ~~CONSTANT Light Intensity And Color:~~ Such sign shall maintain a constant light intensity and color during the entire copy display. Mode changes such as reverse, flashing and inverse flashing are prohibited.

4-3-2-9: SIGNS FOR AREAS DEVELOPED AS PLANNED DEVELOPMENTS OR PLANNED DEVELOPMENT OVERLAYS:

Such signs shall be as specified on the approved planned development plan. Further, they shall comply with the purposes of this sign code as specified in section [4-3-1-1](#) of this chapter ~~and shall complement the architectural style of the development with regard to its coloration, design, and materials.~~

Section 3: A new Section 5 shall be added to Chapter 3 of Title 4 of the City Code as follows:

4-3-5: PRIVATE PARTY SIGNS ON CITY PROPERTY AND IN PUBLIC RIGHTS-OF-WAY

4-3-5-1: PURPOSE AND INTENT

1 (A) PURPOSE

2
3 THE PURPOSE OF THIS SECTION IS TO IDENTIFY WHAT TYPES OF
4 PRIVATE PARTY SIGNS ARE ALLOWED TO BE DISPLAYED ON CITY
5 PROPERTY AND IN THE PUBLIC RIGHT-OF-WAY, AND THE SPECIFIC
6 STANDARDS UNDER WHICH THEY MAY BE DISPLAYED.
7

8 (B) INTENT

9
10 THE CITY DECLARES ITS INTENT THAT ALL CITY PROPERTY SHALL NOT
11 FUNCTION AS A DESIGNATED PUBLIC FORUM, UNLESS SOME SPECIFIC
12 PORTION OF CITY PROPERTY IS DESIGNATED HEREIN AS A PUBLIC
13 FORUM OF ONE PARTICULAR TYPE; IN SUCH CASE, THE DECLARATION
14 AS TO PUBLIC FORUM TYPE SHALL APPLY STRICTLY AND ONLY TO THE
15 SPECIFIED AREA AND THE SPECIFIED TIME PERIOD, IF ANY.
16

17 **4-3-5-2: PRIVATE PARTY SIGNS**

18
19 PRIVATE PARTIES MAY NOT DISPLAY OR POST SIGNS ON CITY PROPERTY OR IN
20 PUBLIC EASEMENTS OR RIGHTS-OF-WAY, EXCEPT AS SPECIFICALLY ALLOWED
21 IN THIS CHAPTER.
22

23 **4-3-5-3: PERSONALLY HELD SIGNS IN TRADITIONAL PUBLIC FORUM AREAS**

24
25 IN AREAS QUALIFYING AS TRADITIONAL PUBLIC FORUMS, SUCH AS THE
26 SURFACES OF CITY STREETS, PARKS AND SIDEWALKS, AS WELL AS THE
27 SURFACE OF EXTERIOR AREAS IMMEDIATELY AROUND LITTLETON CENTER
28 (AND NOT INCLUDING INTERIOR AREAS OF THE LITTLETON CENTER), PERSONS
29 MAY DISPLAY SIGNS, SUBJECT TO ALL OF THE FOLLOWING:
30

- 31 (A) EACH SIGN MUST BE PERSONALLY HELD BY A PERSON, OR PERSONALLY
32 ATTENDED BY ONE OR MORE PERSONS. "PERSONALLY ATTENDED"
33 MEANS THAT A PERSON IS PHYSICALLY PRESENT WITHIN THREE FEET OF
34 THE SIGN AT ALL TIMES.
- 35 (B) THE SIGNS MAY BE DISPLAYED ONLY DURING THE TIME PERIOD OF
36 SUNRISE TO SUNSET, EXCEPT ON EVENINGS WHEN A PUBLIC MEETING IS
37 BEING HELD AT LITTLETON CENTER AND ON DAYS WHEN THE POLLS ARE
38 OPEN; ON SUCH OCCASIONS, THE DISPLAY MAY CONTINUE UNTIL ONE
39 HOUR AFTER THE CLOSE OF THE PUBLIC MEETING OR ONE HOUR AFTER
40 THE CLOSE OF THE POLLS.
- 41 (C) THE MAXIMUM AGGREGATE SIZE OF ALL SIGNS HELD BY A SINGLE
42 PERSON IS TEN (10) SQUARE FEET.
- 43 (D) THE MAXIMUM SIZE OF ANY ONE SIGN, WHICH IS PERSONALLY ATTENDED
44 BY TWO OR MORE PERSONS, IS FIFTY (50) SQUARE FEET.

- (E) IN ORDER TO SERVE THE CITY'S INTERESTS IN TRAFFIC FLOW AND SAFETY, PERSONS DISPLAYING SIGNS UNDER THIS SECTION MAY NOT STAND IN ANY VEHICULAR TRAFFIC LANE OR PARKING SPACE OR IN A WAY THAT INTERFERES WITH VEHICLE SIGHT DISTANCE AT INTERSECTIONS OR CROSSWALKS, AND PERSONS DISPLAYING SIGNS ON PUBLIC SIDEWALKS MUST GIVE AT LEAST FIVE FEET (5') WIDTH CLEARANCE FOR PEDESTRIANS TO PASS BY.
- (F) THIS SECTION DOES NOT OVERRIDE THE MUNICIPAL ELECTION CODE OR UNIFORM ELECTION CODE, WHICH PROHIBITS SIGN DISPLAY AND ELECTIONEERING NEAR POLLING PLACES ON ELECTION DAY.

4-3-5-4: CITY PLACED SIGNS

- (A) THE FOLLOWING SIGNS MAY BE PLACED BY THE CITY OR OTHER GOVERNMENTAL UNIT ON CITY PROPERTY OR IN THE PUBLIC RIGHT OF WAY:
1. TRAFFIC CONTROL, TRAFFIC DIRECTIONAL, WARNING OR STREET IDENTIFICATION SIGNS ERECTED BY THE CITY, ANOTHER GOVERNMENTAL UNIT OR PUBLIC UTILITY;
 2. OFFICIAL NOTICES REQUIRED BY LAW;
 3. SIGNS OR NOTICES PLACED BY THE CITY OR OTHER GOVERNMENTAL UNIT IN FURTHERANCE OF ITS GOVERNMENTAL FUNCTIONS OR PROPRIETARY CAPACITY;
 4. SIGNS EXPRESSING THE CITY'S OWN MESSAGE TO THE PUBLIC.
- (B) BANNERS MAY BE PLACED BY THE CITY ON CITY PROPERTY OR IN THE PUBLIC RIGHT-OF-WAY FOR ANY MESSAGE, EVENT OR PROGRAM.
- (C) WAY FINDING DIRECTIONAL SIGNS MAY BE PLACED BY THE CITY ON CITY PROPERTY OR IN THE PUBLIC RIGHT-OF-WAY, BASED UPON SELECTION, LOCATION, AND DESIGN CRITERIA ESTABLISHED BY THE CITY MANAGER, OR DESIGNEE. SUCH WAY FINDING DIRECTIONAL SIGNAGE SHALL BE PERMITTED FOR THE FOLLOWING:
1. PUBLIC AND QUASI-PUBLIC BUILDINGS AND FACILITIES, SUCH AS CITY, COUNTY, STATE AND FEDERAL BUILDINGS AND LIGHT RAIL FACILITIES;
 2. CITY AND SOUTH SUBURBAN PARKS AND RECREATION FACILITIES, SUCH AS PARKING LOTS, RECREATION CENTERS, PARKS AND TRAILS;
 3. CULTURAL/HISTORICAL/TOURIST DESTINATIONS, SUCH AS MUSEUMS, LIBRARIES, AND COURTHOUSES;
 4. POINTS OF PUBLIC INTEREST, SUCH AS HUDSON GARDENS;
 5. CITY ENTRIES AND NEIGHBORHOOD ENTRIES;
 6. LOCATIONS OR DESTINATIONS WHERE WAY-FINDING SIGNAGE WOULD BE OF PUBLIC BENEFIT; AND
 7. LOCAL ESTABLISHMENTS.
- (D) ALL CITY-PLACED SIGNS SHALL BE INSTALLED BY THE CITY.

1
2 **4-3-5-5: REMEDIES AND PENALTIES**
3

4 ANY SIGN POSTED ON CITY PROPERTY, CONTRARY TO THE PROVISIONS OF THIS
5 CHAPTER, WHICH POSES AN IMMEDIATE THREAT TO PUBLIC SAFETY MAY BE
6 SUMMARILY REMOVED AS A TRESPASS AND A NUISANCE BY THE CITY. UPON
7 REMOVAL OR WITH RESPECT TO SIGNS THAT DO NOT POSE AN IMMEDIATE
8 THREAT TO PUBLIC SAFETY, THE CITY SHALL MAKE REASONABLE EFFORTS TO
9 CONTACT THE SIGN OWNER AND INFORM THE OWNER OF THE REASON FOR THE
10 REMOVAL OR NONCONFORMANCE. ANY SIGN, WHICH HAS BEEN PROPERLY
11 REMOVED UNDER THIS CHAPTER, SHALL BE RETURNED TO THE OWNER UPON
12 REQUEST, PROVIDED, HOWEVER THAT IF NO REQUEST IS MADE FOR THE
13 RETURN OF THE SIGN, THE COMMUNITY DEVELOPMENT DIRECTOR, OR
14 DESIGNEE, IS AUTHORIZED TO DESTROY OR DISPOSE OF THE REMOVED SIGN
15 NOT EARLIER THAN THIRTY (30) DAYS AFTER THE REMOVAL OF SUCH SIGN.
16

17 **Section 4:** Section 19 of Chapter 20 of Tittle 3 is hereby revised as follows:
18

19 **3-20-19 SIGNAGE**
20

21 All signage for a medical marijuana center shall comply with the requirements of this
22 code. ~~In addition, no licensee shall display a sign for a medical marijuana center that~~
23 ~~contains the word "marijuana", "cannabis", or any other word or phrase commonly~~
24 ~~understood to refer to marijuana or a graphic/image of any portion of a marijuana plant,~~
25 ~~or paraphernalia associated with medicinal marijuana use.~~
26

27 **Section 5:** Severability. If any part, section, subsection, sentence, clause or
28 phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the
29 validity of the remaining sections of this ordinance. The City Council hereby declares that it
30 would have passed this ordinance, including each part, section, subsection, sentence, clause or
31 phrase hereof, irrespective of the fact that one or more parts, sections, subsections, sentences,
32 clauses or phrases may be declared invalid.
33

34 **Section 6:** Repealer. All ordinances or resolutions, or parts thereof, in
35 conflict with this ordinance are hereby repealed, provided that this repealer shall not repeal the
36 repealer clauses of such ordinance nor revive any ordinance thereby.
37
38

39 INTRODUCED AS A BILL at a regularly scheduled meeting of the City Council
40 of the City of Littleton on the 7th day of June, 2016, passed on first reading by a vote of ____ FOR
41 and ____ AGAINST; and ordered published by posting at Littleton Center, Bemis Library, the
42 Municipal Courthouse and on the City of Littleton Website.

43 PUBLIC HEARING on the Ordinance to take place on the ____ day of

_____, 2016, in the Council Chambers, Littleton Center, 2255 West Berry Avenue,
Littleton, Colorado, at the hour of 6:30 p.m., or as soon thereafter as it may be heard.

PASSED on second and final reading, following public hearing, by a vote of _____FOR
and _____ AGAINST on the ____ day of _____, 2016 and ordered published by
posting at Littleton Center, Bemis Library, the Municipal Courthouse and on the City of Littleton
Website.

ATTEST:

Wendy Heffner
CITY CLERK

Bruce O. Beckman
MAYOR

APPROVED AS TO FORM:

Kristin Schledorn
CITY ATTORNEY



Staff Communication

File #: Resolution 28-2016, **Version:** 2

Agenda Date: 06/07/2016

Subject:

A resolution authorizing an agreement regarding funding of a conceptual plan to repurpose a portion of the High Line Canal for stormwater collection, treatment and conveyance of treated stormwater to vegetation adjacent to the canal.

Presented By: Mark Relph, Public Works and Utilities Director

POLICY QUESTION:

Does city council support an intergovernmental agreement to fund a conceptual plan to repurpose a portion of the High Line Canal for possible stormwater improvements?

BACKGROUND:

The High Line Canal is an irrigation and water supply canal meandering through Littleton from about C-470 to South Grant Street. It is owned and operated by Denver Water, who diverts water from the South Platte River and delivers it to customers in the metro area. Denver Water is considering a change to its operations that may include discontinuing the canal for irrigation and water supply; in part, due to excessive water losses caused by evaporation and seepage. The canal was the historic water source to fill Ketring Lake.

The Urban Drainage and Flood Control District (UDFCD), along with many local governments, completed the High Line Canal Feasibility Study for Stormwater Runoff Reduction and Treatment in August, 2014. The study determined it may be possible to collect stormwater runoff within portions of the canal. This water may be passively treated and utilized to support the diverse vegetation, wildlife and other uses along its banks.

It is proposed to enter into an intergovernmental agreement with UDFCD to prepare a conceptual plan to utilize the canal for stormwater collection and treatment. This plan would be focused on providing treated stormwater to vegetation adjacent to the canal, but it also may identify additional opportunities in the general area.

UDFCD would manage the project with Littleton assistance.

STAFF ANALYSIS:

The High Line Canal is not efficient for water conveyance; however, the water losses to seepage support the many cottonwood trees and other plant species along its banks. If the river water is cut off and the canal dries up, the trees and related vegetation, along with the wildlife that uses it, may suffer and decline.

There are several locations in Littleton where stormwater runoff either flows under or into the canal. The 2014 feasibility study determined it may be viable to collect some of this stormwater within the canal and improve its quality through means such as extended detention, bioretention, infiltration and similar forms of passive treatment. This treated stormwater may then support and sustain the current environmental and recreational

uses of the canal. Treated stormwater for the vegetation adjacent to the canal would be the primary goal, but it might also be considered as a supplemental source of water to convey to Ketring Lake and surrounding area.

The plan will consider hydrology, storm inflow locations, drainage or flooding problems, right-of-way, wetlands, legal issues, in particular water rights, and other factors. The end result of this effort would be a report listing specific improvements that could be constructed, along with phasing and costs. Implementation of the plan would eventually require Denver Water approval.

Implementation of the plan has the potential of reducing the city's larger stormwater infrastructure needs. This may be especially true since the canal lies in some of the higher elevations of Littleton's drainage basins, thereby reducing the size of downstream infrastructure. This plan would create a methodology to measure the success of both a reduction of water quantity into Littleton's system and an improvement in the water quality of the stormwater. Using these measures along with the cost to build the plan, could aid the city in future decisions regarding the cost effectiveness of this approach.

FISCAL IMPACTS:

The city's contribution would come from the Storm Drainage Fund. UDFCD has agreed to contribute funding for this project in 2016. There are no funds at this time for construction. If the plan is ultimately supported by council, it is anticipated there might be a multi-year project(s), requiring additional contributions from both the city and UDFCD for future construction. The 2014 feasibility study indicated final design and construction costs, in general, could be about \$4 million dollars.

UDFCD and the city contribution amounts and percentages to fund the plan are proposed as follows:

	Percentage	Contribution
	Share	
UDFCD	28.571%	\$20,000
City of Littleton	<u>71.429%</u>	<u>\$50,000</u>
TOTAL	100.00%	\$70,000

STAFF RECOMMENDATION:

Staff recommends the city council approve the intergovernmental agreement with the UDFCD for the High Line Canal Plan.

PROPOSED MOTION:

I move to approve the resolution authorizing an agreement regarding funding of a conceptual plan to repurpose a portion of the High Line Canal for stormwater collection, treatment and conveyance of treated stormwater to vegetation adjacent to the canal.

47 CITY CLERK

MAYOR

48

49 APPROVED AS TO FORM:

50

51

52 Kristin Schledorn

53 CITY ATTORNEY

AGREEMENT REGARDING FUNDING OF A CONCEPTUAL PLAN TO REPURPOSE
A PORTION OF THE HIGH LINE CANAL FOR STORMWATER COLLECTION, TREATMENT
AND CONVEYENCE INTO KETRING LAKE

Agreement No. 16-02.09
Project No. 106025

THIS AGREEMENT, made this _____ day of _____, 2016, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and CITY OF LITTLETON (hereinafter called "LITTLETON"); (hereinafter LITTLETON shall be known as "PROJECT SPONSOR" and DISTRICT and PROJECT SPONSOR shall be collectively known as "PARTIES");

WITNESSETH THAT:

WHEREAS, DISTRICT in a policy statement previously adopted (Resolution No. 14, Series of 1970), expressed an intent to assist public bodies which have heretofore enacted floodplain zoning measures; and

WHEREAS, DISTRICT has previously established a Work Program for 2016 (Resolution No. 56, Series of 2015) which includes master planning and water quality research; and

WHEREAS, PARTIES now desire to proceed with development of a conceptual plan to repurpose a segment of the High Line Canal from approximately County Line Road to Caley Avenue for stormwater collection, treatment, and conveyance into Ketring Lake (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT's Board of Directors has authorized DISTRICT financial participation for PROJECT (Resolution No. 61, Series of 2015); and

WHEREAS, PARTIES desire to acquire mapping needed to conduct the engineering studies for PROJECT; and

WHEREAS, PARTIES desire to engage an engineer to render certain technical and professional advice and to compile information, evaluate, study, and recommend design solutions to such drainage problems for PROJECT which are in the best interest of PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. SCOPE OF AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. PROJECT AREA

DISTRICT shall engage an engineer and obtain mapping as needed to perform or supply necessary services in connection with and respecting the planning of PROJECT of the area and watershed shown on the attached Exhibit A dated January 2016, (hereinafter called "AREA").

3. SCOPE OF PROJECT

The purpose of PROJECT is to develop a conceptual plan to repurpose the High Line Canal once Denver Water has decommissioned it for irrigation water delivery, including hydrologic

information and the locations, alignments, and sizing of inflow points, outflow channels and/or pipes, flow control structures, emergency spillways, and other facilities and appurtenances needed to provide efficient stormwater management within AREA. The proposed work shall include, but not be limited to, mapping; compilation of existing data; necessary field work; and development and consistent evaluation of all reasonable alternatives so that the most feasible plan can be determined and justified for AREA. Consideration shall be given to costs, existing and proposed land use, existing and proposed drainage systems, known drainage or flooding problems, known or anticipated erosion problems, stormwater quality, right-of-way needs, existing wetlands and riparian zones, open space and wildlife habitat benefits, legal requirements, and particularly to water rights issues associated with the goals of the PROJECT. Schematic alternative plans shall be developed such that comparison with other alternatives can be made.

Drainage system planning shall be done in three phases by the engineer engaged by DISTRICT, culminating in a conceptual plan report. During the first phase, the selected engineer shall perform all data gathering and modeling needed to prepare the baseline hydrology section of the report containing an introduction, study area description and hydrologic analysis description. During the second phase, the engineer shall perform all studies and data gathering needed to prepare the alternatives analysis section of the report containing a hydraulic analysis discussion, schematics of alternatives developed and their costs along with a discussion of the pros and cons of each alternative and a recommended plan. A single alternative will be selected by PARTIES after the review and evaluation of the alternatives analysis report. During the third phase, the engineer shall be directed to prepare a conceptual design for the selected alternative and prepare the conceptual design section of the conceptual plan report.

4. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of PARTIES and to their property therein.

5. PROJECT COSTS

PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of, and be limited to, mapping, conceptual planning, and related services and contingencies mutually agreeable to PARTIES. Project costs are estimated not to exceed \$70,000.

6. FINANCIAL COMMITMENTS OF PARTIES

PARTIES shall each contribute the following percentages and maximum amounts for PROJECT costs as defined in Paragraphs 5:

	Conceptual Plan	Maximum
	<u>Percentage Share</u>	<u>Contribution</u>
DISTRICT	28.571%	\$20,000
<u>LITTLETON</u>	<u>71.429%</u>	<u>\$50,000</u>
TOTAL	100.00%	\$70,000

7. MANAGEMENT OF FINANCES

Payment by DISTRICT of \$20,000 and by LITTLETON of \$50,000 shall be made to DISTRICT subsequent to execution of this Agreement and within thirty (30) calendar days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to PROJECT SPONSOR of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT and will not require an amendment to this Agreement. In the event that it becomes necessary and advisable to change the scope of work to be performed, the need for such changes shall first be discussed with PARTIES, and their general concurrence received before issuance of any amendments or addenda. No changes shall be approved that increase the costs beyond the funds available in the PROJECT fund unless and until the additional funds needed are committed by PARTIES by an amendment to this Agreement.

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or dispersed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

8. PROJECT MAPPING

No new mapping is anticipated under this Agreement for PROJECT. Upon execution of this Agreement, PROJECT SPONSOR shall provide copies of the most recent mapping within their jurisdictional area in digital format to DISTRICT to the extent such mapping is available without additional cost.

9. CONCEPTUAL PLANNING

Upon execution of this Agreement, PARTIES shall select an engineer mutually agreeable to PARTIES. DISTRICT, with the approval of PROJECT SPONSOR, shall contract with the selected engineer, shall administer the contract, and shall supervise and coordinate the planning for the development of alternatives and of conceptual design.

10. PUBLISHED REPORTS AND PROJECT DATA

DISTRICT will provide to PROJECT SPONSOR access to the draft and final electronic report files.

Upon completion of PROJECT, electronic files of all mapping, drawings, and hydrologic and hydraulic calculations developed by the engineer contracted for PROJECT shall be provided to PROJECT SPONSOR upon request.

11. TERM OF THE AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate two years after the final conceptual plan report is delivered to DISTRICT and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 7 herein.

12. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

13. CONTRACTING OFFICERS

- A. The contracting officer for PROJECT SPONSOR shall be the Public Works and Utilities Director, 2255 W, Berry Ave., Littleton, CO 80120.
- B. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.
- C. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT or PROJECT SPONSOR. Said representatives shall have the authority for all approvals, authorizations, notices, or concurrences required under this Agreement. However, in regard to any amendments or addenda to this Agreement, said representative shall be responsible to promptly obtain the approval of the proper authority.

14. RESPONSIBILITIES OF PARTIES

DISTRICT shall be responsible for coordinating with PROJECT SPONSOR the information developed by the various consultants hired by DISTRICT and for obtaining all concurrences from PROJECT SPONSOR needed to complete PROJECT in a timely manner. PROJECT SPONSOR agrees to review all draft reports and to provide comments within 21 calendar days after the draft reports have been provided by DISTRICT to PROJECT SPONSOR. PROJECT SPONSOR also agrees to evaluate the alternatives presented in the alternatives analysis sections of the report, to select an alternative, and to notify DISTRICT of their decision(s) within 30 calendar days after the alternatives analysis report is provided to PROJECT SPONSOR by DISTRICT.

15. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

16. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

17. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Jurisdiction for any and all legal actions regarding this Agreement shall be in the State of Colorado and venue for the same shall lie in the County where the Project is located.

18. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

19. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

20. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

21. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) days' written notice by any party to this Agreement, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions.

22. PUBLIC RELATIONS

It shall be at PROJECT SPONSOR's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical information shall be presented to the public by the selected engineer. In any event DISTRICT shall have no responsibility for a public relations program, but shall assist PROJECT SPONSOR as needed and appropriate.

23. GOVERNMENTAL IMMUNITIES

The PARTIES hereto intend that nothing herein shall be deemed or construed as a waiver by any PARTY of any rights, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (§ 24-10-101, *et seq.*, C.R.S.) as now or hereafter amended or otherwise available at law or equity.

24. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified on the basis of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agrees to insert the foregoing provision in all subcontracts hereunder.

25. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of PROJECT SPONSOR and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of PROJECT SPONSOR and/or DISTRICT.

26. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than PROJECT SPONSOR or DISTRICT receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

27. ILLEGAL ALIENS

PARTIES agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 *et seq* C.R.S. The following language shall be included in any contract for public services: "The Consultant or Contractor shall not and by signing this Agreement certifies that it does not knowingly employ or contract with an illegal alien to perform work under this Agreement.

Consultant or Contractor shall not enter into a subcontract with a subcontractor that fails to certify to the Consultant or Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services. Consultant or Contractor affirms that they have verified or attempted to verify through participation in the Employment Eligibility Verification Program (E-Verify) previously known as the Basic Pilot Program (created in Public Law 208, 104th Congress, As Amended, and expanded in Public Law 156, 108th Congress, As Amended, that is administered by the United States Department of Homeland Security that Consultant or Contractor does not employ illegal aliens.

Consultant or Contractor shall not use the E-Verify procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

In the event that the Consultant or Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant or Contractor shall be required to:

- A. Notify the subcontractor and PARTIES within three days that the Consultant or Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- B. Terminate the subcontract with the subcontractor if within three days of receiving the notice required if the Subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant or Contractor shall not terminate the contract with the Subcontractor if during such three days the Subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Consultant or Contractor is required under this Agreement to comply with any reasonable request by the Colorado Department of Labor and Employment (CDL) made in the course of an investigation the CDL is undertaking pursuant to §8-17.5-102(5) C.R.S.

DISTRICT may terminate this agreement for a breach of contract if Consultant or Contractor does not fully and completely comply with these conditions. If this Agreement is so terminated, the Consultant or Contractor shall be liable for actual and consequential damages to PARTIES.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatures as of the date and year above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

Signature_____

Printed Name Paul A. Hindman

ATTEST:

Title Executive Director

CITY OF LITTLETON

(SEAL)

Signature_____

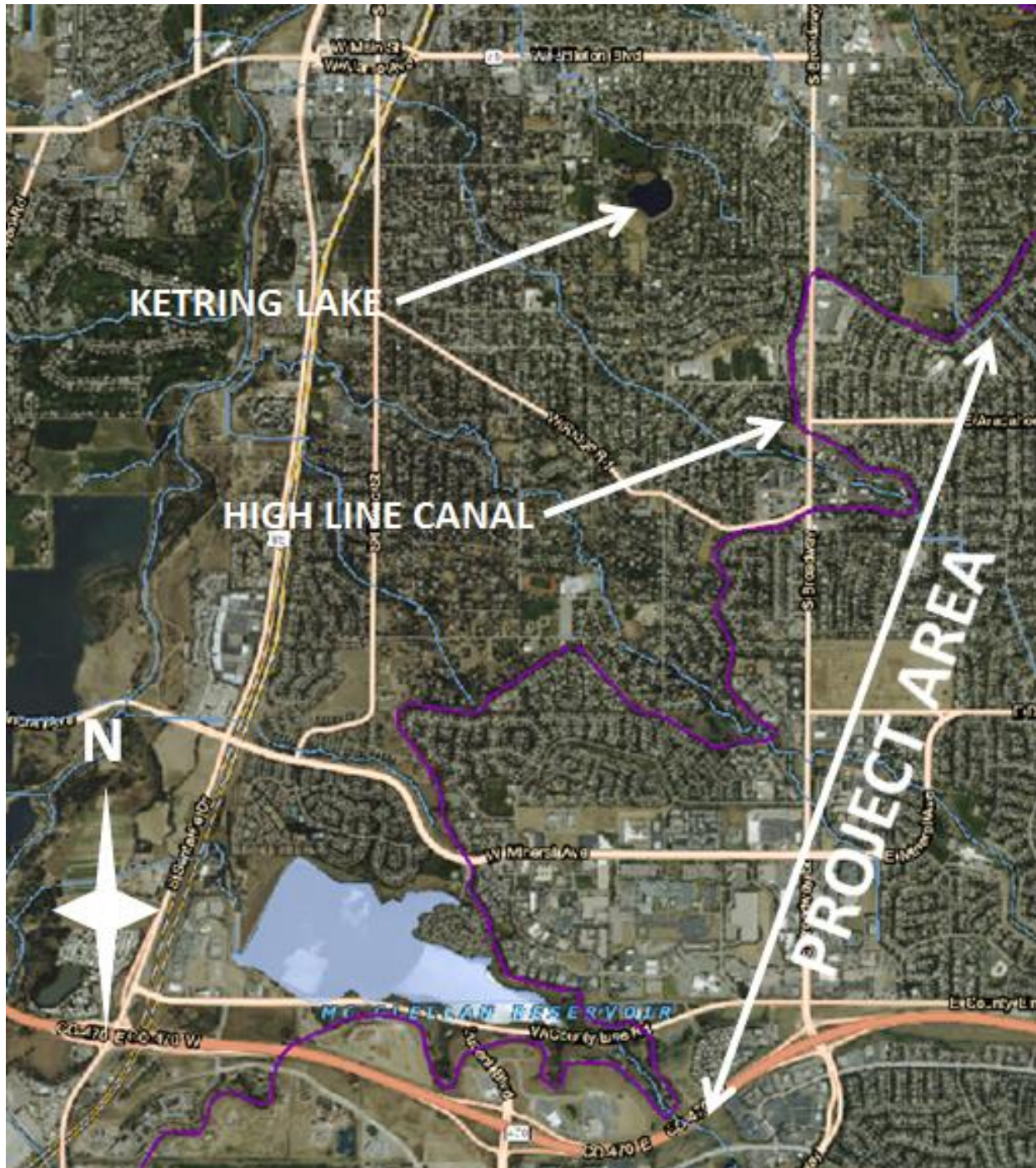
Printed Name_____

ATTEST:

Title_____

APPROVED:

Agreement No. 16-02.09
Project No. 106025
EXHIBIT A (JANUARY 2016):





Staff Communication

File #: ID# 16-111, **Version:** 1

Agenda Date: 06/07/2016

Subject:

Certification of the May 17, 2016 regular meeting minutes

Presented By: Wendy Heffner, City Clerk

RECORDING SECRETARY'S CERTIFICATION:

I hereby certify that I have reviewed the video recording for the May 17th regular meeting of the Littleton City Council and that the video recording is a full, complete, and accurate record of the proceedings and there were no malfunctions in the video or audio functions of the recording

PROPOSED MOTION:

I move to approve, based on the recording secretary's certification, the May 17th video as the minutes for the May 17, 2016 regular meeting of the City Council.



City of Littleton

Littleton Center
2255 West Berry Avenue
Littleton, CO 80120

Meeting Journal

City Council

Tuesday, May 17, 2016

6:30 PM

Council Chamber

Regular Meeting

1. Roll Call

Council Member Clark arrived at 6:35 p.m.

Present: 6 - Mayor Pro-Tem Brinkman, Council Member Cernanec, Mayor Beckman, Council Member Clark, Council Member Cole and Council Member Valdes

Absent: 1 - Council Member Hopping

2. Pledge of Allegiance

3. Approval of Agenda

Consent agenda item 6b was removed from the agenda by staff for further review

4. Recognition of CERT graduates, instructors and volunteers

[ID# 16-105](#)

Mayor's Presentation - Community Emergency Response Team (CERT) Graduates, Trainers and Volunteers

5. Public Comment

Public Comment on Consent Agenda and General Business items

Don Bruns - Parks, Recreation, and Trails Master Plan

Joseph Trujillo - Program at Littleton Cemetery

Karina Elrod - Pull Resolution 30-2016 regarding retail marijuana fees

Francis Pearson - Transparency / The Grove

Barbara Fullder - Changing Zoning Laws

Carol Brzeczek - Minutes

Pam Chadbourne - Parking Spaces / Parks, Recreation, and Trails Master Plan

6. Consent Agenda Items

- c) [Resolution 25-2016](#) A resolution approving the assignment of interest in the deed of conservation easement on the city-owned property adjacent to the Ensor property

This Resolution was approved

- d) [Resolution 26-2016](#) A resolution approving the assignment of interest in the deed of conservation easement on the city-owned property at Lee Gulch.

This Resolution was approved

Approval of the Consent Agenda

Council Member Cernanec moved and Mayor Pro Tem Brinkman seconded to approve consent agenda items c and d. The motion carries.

Aye: 6 - Mayor Pro Tem Brinkman, Council Member Cernanec, Mayor Beckman, Council Member Clark, Council Member Cole and Council Member Valdes

Absent: 1 - Council Member Hopping

- a) [Resolution 27-2016](#) A resolution adopting the Parks, Recreation, and Trails Master Plan

Mayor Pro Tem Brinkman moved and Mayor Beckman seconded to adopt the Parks and Rec and Trails Master Plan. The motion carries.

Aye: 4 - Mayor Pro Tem Brinkman, Council Member Cernanec, Mayor Beckman and Council Member Valdes

Nay: 2 - Council Member Clark and Council Member Cole

Absent: 1 - Council Member Hopping

- b) [Resolution 28-2016](#) A resolution authorizing an agreement regarding funding of a conceptual plan to repurpose a portion of the High Line Canal for stormwater collection, treatment and conveyance of treated stormwater to vegetation adjacent to the canal.

Consent agenda item 6b was removed from the agenda by staff for further review.

- e) [Resolution 30-2016](#) A resolution establishing operating fees for retail marijuana establishments

Council Member Clark moved and Mayor Pro Tem Brinkman seconded to table consent agenda item 6b until after 7b. City Attorney Schledorn made a point of clarification that the item was 6e, not 6b. Council Member Clark moved and Mayor Pro Tem Brinkman seconded the point of clarification. Motion to table item 6e until after item 7b. The motion carries.

Aye: 6 - Mayor Pro Tem Brinkman, Council Member Cernanec, Mayor Beckman, Council Member Clark, Council Member Cole and Council Member Valdes

Absent: 1 - Council Member Hopping

- f) [Ordinance 06-2016](#) An ordinance amending section 9 of chapter 4 of title 10 of the city code concerning parking space dimensions, drive aisle widths, and accessibility references

Mayor Pro Tem Brinkman moved and Council Member Cernanec seconded to approve the ordinance amending section 9 of chapter 4 of title 10 of the city code concerning parking space dimensions, drive aisle widths, and accessibility references on first reading and schedule the public hearing for June 7, 2016 at 6:30 p.m. in the council chamber. The motion fails.

Aye: 3 - Mayor Pro Tem Brinkman, Council Member Cernanec and Mayor Beckman

Nay: 3 - Council Member Clark, Council Member Cole and Council Member Valdes

Absent: 1 - Council Member Hopping

- g) [ID# 16-102](#) Certification of the May 3, 2016 regular meeting minutes

Mayor Pro Tem Brinkman moved and Council Member Cernanec seconded to approve, based on the recording secretary's certification, the May 3rd video as the minutes for the May 3, 2016 regular meeting of the City Council. The motion carries.

Aye: 5 - Mayor Pro Tem Brinkman, Council Member Cernanec, Mayor Beckman, Council Member Cole and Council Member Valdes

Nay: 1 - Council Member Clark

Absent: 1 - Council Member Hopping

7. Ordinances for Second Reading and Public Hearing

- a) [Ordinance 01-2016](#) An ordinance to approve a Service Agreement with the Meadowbrook-Fairview Metropolitan District for fire and emergency medical response services

Mayor Beckman opened the public hearing at 7:44 p.m.

Pam Chadbourne

Mayor Beckman closed the public hearing at 7:46 p.m.

Mayor Pro Tem Brinkman moved and Council Member Cernanec seconded to approve an ordinance on second reading to approve a service agreement with the Meadowbrook-Fairview Metropolitan District for fire and emergency medical response services.

Aye: 5 - Mayor Pro Tem Brinkman, Council Member Cernanec, Mayor Beckman, Council Member Cole and Council Member Valdes

Nay: 1 - Council Member Clark

Absent: 1 - Council Member Hopping

- b) [Ordinance](#) An ordinance concerning the regulation and licensing of retail marijuana
[04-2016](#) establishments

Mayor Beckman opened the public hearing at 8:10 p.m.

David Downs - opposed
Don Bruns - opposed
Christian Thurstone - opposed
Patricia Ross - opposed
Marcus Fauth - in favor
Kyle Speidell - in favor
Hayden Robins - in favor
Karina Elrod - opposed
Ron Kanstania - opposed
Nick Speidell - in favor
Holly Keen - in favor
Mary Harpole - opposed
Sam Grantham - in favor
David Metcalf - in favor
Brad Speidell - in favor
Eric Speidell - in favor
Robin Swartzbacker - opposed
James Thomas - in favor
David Penn - opposed
Sara Catron - in favor
Nick Moore - in favor
Colin Madden - in favor
Nathan Roche - in favor
Hana - in favor
Mikayla Moreno - in favor
Val Watson - in favor
John Watson - in favor
Kathy Messenger - opposed
Carl Paulson - opposed
Rachel Hartway - in favor
Tom Caristo - in favor
Pam Chadbourne - concern with locations
Robin Hackett - in favor
Christopher Mote - opposed
Bob Doyle - opposed
Henny Lasley - opposed
Jennifer Mote - opposed
Tyler Hanson - in favor
Tyler Kolden - opposed
Garrett Graff - in favor
Stan Zislis - in favor
Jerry Hill - in favor

Mayor Beckman closed the public hearing at 10:21 p.m.

Mayor Pro Tem Brinkman moved and Council Member Cole seconded to table Ordinance 4-2016 indefinitely. The vote is 3-3, with Council Members Beckman, Clark, and Valdes voting no. The motion fails

Council Member Clark moved and Council Member Valdes seconded to approve the ordinance on second reading concerning the regulation and licensing of retail marijuana establishments. The vote is 1-5, with Council Members Beckman, Brinkman, Cernanec, Cole, and Valdes voting no. The motion fails.

Aye: 1 - Council Member Clark

Nay: 5 - Mayor Pro Tem Brinkman, Council Member Cernanec, Mayor Beckman, Council Member Cole and Council Member Valdes

Absent: 1 - Council Member Hopping

c) Resolution 30-2016 (moved from Consent Agenda item e) to after item 7b): A resolution establishing operating fees for retail marijuana establishments

Council Member Cernanec moved and Mayor Pro Tem Brinkman seconded that council not consider the resolution establishing operating fees for retail marijuana establishments at this stage. The motion carries.

Aye: 6 - Mayor Pro Tem Brinkman, Council Member Cernanec, Mayor Beckman, Council Member Clark, Council Member Cole and Council Member Valdes

Absent: 1 - Council Member Hopping

8. General Business

9. Public Comment

*Don Bruns - The Grove
Cora Devlin - The Grove
Leah Burkett - The Grove
Lou Sullivan - The Grove
Cathy Messenger - The Grove
Gloria Shone - The Grove
Pam Chadbourne - The Grove
Karen Matuszek - The Grove
Jeannie Erickson - The Grove
Carol Brzeczek - The Grove
Kay Watson - The Grove
Kim Connley - The Grove*

10. Comments / Reports

a) City Manager

b) Council Members

Council Member Clark moved and Council Member Valdes seconded that (we) Council instruct staff to withdraw the site development plan and the currently issued building permits for the Grove.

Council Member Cernanec moved and Mayor Pro Tem Brinkman seconded to table the motion to June 7, 2016 regular meeting. The vote is 6-0. The motion carries.

c) Mayor

11. Adjournment

The public is invited to attend all regular meetings or study sessions of the City Council or any City Board or Commission. Please call 303-795-3780 at least forty-eight (48) hours prior to the meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting. For any additional information concerning City meetings, please call the above referenced number.



City of Littleton

Littleton Center
2255 West Berry Avenue
Littleton, CO 80120

Staff Communication

File #: ID# 16-114, **Version:** 1

Agenda Date: 06/07/2016

Subject:

Council Member Clark moved and Council Member Valdes seconded that (we) Council instruct staff to withdraw the site development plan and the currently issued building permits for the Grove.



Matthew Rork
(303) 894-4433
mrork@fwlaw.com

May 25, 2016

VIA EMAIL

Kristin Schledorn
City Attorney
City of Littleton
2255 West Berry Avenue
Littleton, CO 80120

Re: Potential Vote by Littleton City Council Regarding Building Permit # B15-0899 Issued to Zocalo Construction

Dear Ms. Schledorn:

This firm represents Zocalo Community Development Corporation ("Zocalo"), the holder of the above referenced building permit ("Building Permit"). The purpose of this letter is to express our grave concerns surrounding a proposed motion to rescind the Building Permit offered by Councilman Clark and seconded by Councilman Valdes at a public meeting of the Littleton City Council (collectively "Council" or individually as "Council Members") on May 17, 2016. At your urging, the vote was tabled; however, it is our understanding that the issue will be revisited at the public hearing on June 7, 2016.

As you will undoubtedly recall, the Building Permit was issued on April 27, 2016, after a careful, thorough, and protracted review by the Community Development Department staff. Our client reasonably relied on the Building Permit, and assumed substantial financial liabilities by closing on a loan, ordering the generation of additional construction and engineering plans, and commencing construction.

Let me be clear. A direct Council vote or order by the Council to any other party to rescind, revoke, or otherwise impair the full force and effect of the Building Permit in any way is blatantly *ultra vires*, devoid of any legal authority, and will be viewed as a willful and wanton act against my client.¹ Moreover, and perhaps of particular interest to your client, a vote to rescind the Building Permit will expose not only the City, but Council members individually and personally to financial liability for damages, attorney's fees, and other legal remedies which my client intends to pursue to the fullest extent allowable by law should the Council proceed down this illegal path. Given the scope of the approved project, the damages could well exceed \$30,000,000.

These damages are not speculative. They are based on a proven track record on the part of our client for delivery of financial returns with the same equity partner. Our client has multiple, realized

¹ See e.g., *Perlmutter Assocs., Inc. v. Northglenn*, 35 Colo. App. 355, 356 (1975); *Berman v. Denver*, 120 Colo. 218, 220 (1949).



examples that will justify the amount of this loss. Moreover, in addition to money damages, our client will also be entitled to attorney's fees, which continue to mount, and significant non-monetary damages.

Neither the City, nor members of Council are protected by governmental immunity in this case. While the Colorado Governmental Immunity Act protects municipalities and its elected officials under certain circumstances,² it provides no protection for *ultra vires* acts beyond the course, scope, or authority of the City or its Council Members. Nor does it apply to claims based on federal civil rights violations which are clearly implicated in this matter.³

The City's powers are limited by federal and state constitutions, state statutes, its charter ("Charter"), and other adopted codes. The charter or law by which the municipal body is created is to be strictly construed, and any doubt concerning the City's power must be resolved against it.⁴ The Colorado Constitution vests the people of a home rule city with the power to make, amend, add to or replace its charter, which shall be its organic law and extend to all its local and municipal matters.⁵ The Littleton Charter specifically provides under the heading "Council not to interfere with Administrative Service" that:

Except for purposes of inquiry, the Council and its members shall deal with the administrative service of the City solely through the City Manager, and neither the Council nor any member shall give orders to any subordinates of the City Manager either publicly or privately.⁶

The issuance of a building permit is an administrative service of the City.⁷ Thus, any dealings related to the building permit are reserved by law for the City Manager or his duly appointed representative.⁸ Because the Council is specifically mandated by Charter not to interfere with building permits, not only is there no grant of authority (under the Charter or the Littleton Municipal Code ("Code")) for Council to revoke a building permit, there is an express prohibition against Council doing so.

Both the Code and the Littleton Building Code ("Building Code") confirm the Charter's mandate. Only a building official, and not the Council, may suspend or revoke a permit under very particular circumstances.⁹ The Building Code provides that the building official, and not the Council, may revoke a building permit "whenever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information supplied by the applicant."¹⁰ The City has made no such

² C.R.S. §§ 24-10-101 *et seq.*

³ *Martinez v. El Paso County*, 673 F. Supp. 1030 (D. Colo. 1987 (holding that the Colorado Governmental Immunity Act does not apply to claims based on federal civil rights violations)); *Mucci v. Falcon Sch. Dist. No. 49*, 655 P.2d 422 (Colo. App. 1982) (holding conduct wrongful under § 1983 cannot be immunized, and conduct by persons acting under color of state law that is wrongful under 42 U.S.C. § 1983 cannot be immunized by state law).

⁴ *Central City Opera House Assoc. v. Central City*, 650 P.2d 1349, 1349 (Colo. App. 1982).

⁵ Colo. Const. art. XX, § 6; *Denver v. Blue*, 179 Colo. 351, 352 (1972).

⁶ Littleton Municipal Charter § 32, July 28, 1959; Amended, Election of 11-3-2015

⁷ *City of Colo. Springs v. Bull*, 143 P.3d 1127, 1130 (Colo. App. 2006) (actions that relate to subjects of a permanent or general character are legislative, while those that are temporary in operation and effect are not, and acts that are necessary to carry out existing legislative policies and purposes or which are properly characterized as executive are deemed to be administrative, while acts constituting a declaration of public policy are deemed to be legislative).

⁸ LMC § 4-1-2 (A),(B) (2015).

⁹ Littleton Building Code ("LBC") § 11-5-14(e).

¹⁰ *Id.*



allegation. In fact, under pending litigation¹¹ in which the City and our client are co-defendants, the City has confirmed the validity of the Building Permit's underlying site development plan, both in its Answer to the Complaint and in its Reply to Motion for Summary Judgment. Moreover, our client has substantially and reasonably relied upon the City's representations made under oath in the pending litigation as it moved forward with construction.

Not only does governmental immunity not apply to the City under these circumstances, it will not protect Council members from personal liability. The Colorado Governmental Immunity Act applies only to those City officials (elected or appointed) who are acting within their official capacity.¹² It is undeniable that officials who knowingly act in the face of an express prohibition are no longer serving a governmental function and have entered the dangerous purview of conduct that is *ultra vires* and the personal liability that attaches to it.¹³ The irony is that these same Council members who are sworn to protect and enforce the Charter and the Code now appear to be refusing to follow it when it does not serve their personal agendas to do so.

While we acknowledge that our client's development has a relatively small number of detractors, the City has acted in conformance with the Code requirements and our client has relied on those actions to its detriment. For City Council members to act in clear violation of its powers to pander to the interests of the detractors is appalling and in so doing will subject the City and its Council members to financial liability that would undermine the effectiveness of the City and its Council leadership in the eyes of its community and fundamentally place the City's ability to conduct its financial affairs in peril.

For the foregoing reasons, it is indisputable that Council is without authority to revoke or order the revocation of the Building Permit. I urge you to provide the strongest advice possible that adopting the ill-conceived motion would subject the City and Council members to litigation that will be vigorously advanced by my client. Of course, we remain hopeful that the Council will reject the pending motion thereby allowing my client to proceed with its development activities without unlawful interference.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rork', is written over the name Matthew Rork.

Matthew Rork

Fairfield and Woods, P.C.

cc:	David Zucker	Phil Cernanek	Debbie Brinkman
	Bruce Beckman	Doug Clark	Bill Hopping
	Peggy Cole	Jerry Valdes	Michael Penny

¹¹ District Court, Arapahoe County, Colorado, Case Number 2015CV32363.

¹² C.R.S. 24-12-105 (2015).

¹³ See e.g., *Tidwell v. City & County of Denver*, 62 P.3d 1020 (Colo. App. 2002), rev'd on other grounds, 83 P.3d 75 (Colo. 2003); *King v. U.S.*, 53 F. Supp. 2d (D. Colo. 1999).