

**AGREEMENT BETWEEN THE WATER SUPPLY AND STORAGE COMPANY AND
MUNICIPAL ENTITY STOCKHOLDERS**

THIS AGREEMENT (“Agreement”) made this ____ day of _____, 2026 (the “Effective Date”), by and between the City of Thornton (“Thornton”), City of Greeley (“Greeley”), City of Fort Collins (“Fort Collins”), East Larimer County Water District (“ELCO”), Fort Collins-Loveland Water District (“FCLWD”) and North Weld County Water District (“North Weld”), (collectively, the “Municipal Entities”) and the Water Supply and Storage Company (“WSSC”). WSSC and the Municipal Entities may be referred to collectively in this Agreement as the “Parties” and individually as a “Party”)

RECITALS

- A. WHEREAS**, WSSC is a Colorado non-profit mutual ditch company that owns and operates a water storage and delivery system including, without limitation, various ditches, canals and reservoirs for delivery of water from the Cache la Poudre River via the Larimer County Canal (“LCC”) to lands in Larimer and Weld counties (“LCC System”); and
- B. WHEREAS**, WSSC delivers water from the LCC to lateral ditches not owned or operated by WSSC (“Laterals”); and
- C. WHEREAS**, the Municipal Entities have obtained or intend to obtain in the future approval from the Water Court for the use of the water rights represented by their WSSC Shares for municipal and other beneficial uses (“Municipal Shares”) and will continue, over time, to remove water attributable to the Municipal Shares from the LCC system for use in their respective service areas; and
- D. WHEREAS**, pursuant to agreements with WSSC and water court decrees, each of the Municipal Entities’ use of their Municipal Shares is conditioned on WSSC’s ability to continue to deliver water to other stockholders who continue to receive water via the LCC, including, without limitation, along the Laterals (“Other Stockholders”), and on the Municipal Entities’ use and or removal of water associated with the Municipal Shares not increasing expenses, deliveries not altered in time or quantity, or other rights adversely affected for WSSC or the Other Stockholders; and
- E. WHEREAS**, in order for WSSC to continue delivery of water to Other Shareholders as the Municipal Entities increase the Municipal Shares removed from the LCC System, which will result in less water flowing in the LCC System, modifications to the LCC System are and will in the future be necessary. The Parties have initially identified check structures as a feasible modification to the LCC System to ensure that water may continue to be delivered to Other Stockholders even as the amount of water in the LCC System decreases; and
- F. WHEREAS**, the Parties intend to, on an ongoing basis, evaluate the effectiveness of installing check structures to ensure continued delivery of water to Other Stockholders and agree to work in good faith to identify whether other, more effective modifications or

solutions are feasible. Check structures, other modifications, or other solutions that are needed to ensure delivery of water to Other Stockholders are hereinafter called “System Modifications”; and

- G. WHEREAS**, the Municipal Entities acknowledge that, while it is their and WSSC’s collective intent to work together in good faith and to provide collaborative input on possible modifications, WSSC will make all determinations related to operation of the LCC System and System Modifications, in its sole discretion; and
- H. WHEREAS**, engineering, legal, staff, construction, maintenance, operation, and administrative costs and expenses have been and will be incurred by WSSC to identify, install, maintain, and repair the System Modifications, and the Municipal Entities will provide WSSC with funding for such costs for the same pursuant to the terms outlined herein; and
- I. WHEREAS**, the Municipal Entities intend to enter into a Cost Allocation Agreement, which, in addition to providing for the reimbursement to WSSC of costs and expenses and other items required by this Agreement, creates a Municipal Entities Committee, intended to represent the Municipal Entities and work with WSSC under this Agreement; and
- J. WHEREAS**, the Parties anticipate that other parties may be added, by amendment, to this Agreement, and that any such addition of a party to this Agreement must also be added by amendment to the Cost Allocation Agreement; and
- K. WHEREAS**, the Parties intend, with this Agreement, to set forth the terms and conditions for designing, constructing, operating, repairing, maintaining and replacing the System Modifications under this Agreement, as well as how costs and fees associated with the same shall be paid.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants of the Parties, it is agreed as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are incorporated into this Agreement.
2. **Annual Review and Analysis.** The Parties acknowledge that the need to install System Modifications on an annual basis will depend on the realities of operations, water sources, and fluctuations in the number of Municipal Shares being removed from the LCC System at any given time. Also, while check structures have been initially identified by the Parties as the currently preferred solution to ensure delivery of water to Other Stockholders, the Parties may be able to identify better solutions. To that end, the Parties agree that WSSC will engage, at the Municipal

Entities' expense unless otherwise agreed to in advance in writing by the Parties, a professional engineer to conduct annual updates to modeling or other engineering to accurately evaluate System Modifications to protect deliveries to Other Shareholders. The Parties will use such modeling as one type of information, in addition to field data and observational information, in working to find feasible solutions, whether those solutions are check structures or other structural or operational modifications. The Parties acknowledge that in seeking to find solutions, WSSC's priority will be identifying the most efficient, long-term solutions. WSSC will make all determinations as to any solutions, but WSSC will consult with the Municipal Entities on an annual basis to gather input and discuss potential solutions prior to making final determinations on the necessary modifications to take place during any subsequent fall/winter season. The Parties recognize, however, that there may be urgent issues related to System Modifications that WSSC may need to resolve in its sole discretion. Under such scenario, WSSC shall provide a written summary to the Municipal Entities describing its response to such urgent issues in a timely manner. In the event that such costs related to actions taken to address urgent issues are too high for the Municipal Entities to immediately reimburse WSSC, and in the event that WSSC is financially able to carry such costs, WSSC will carry such costs subject to WSSC's bank's prime interest rate plus 2% ("Interest Rate") until a subsequent Annual System Modification Assessment (defined below in paragraph 6.2) as reasonably agreed upon by the Parties. The Parties will work in good faith to find a solution to any financial barriers including the Municipal Entities' budgeting cycles and WSSC's ability to carry such costs.

3. General Schedule. By April 1st of each year, the Municipal Entities shall in writing to WSSC identify the Municipal Shares that the Municipal Entities intend to utilize for Changed Uses during the next four subsequent irrigation seasons (e.g. Municipal Shares identified by approximately April 1, 2026, for Municipal Shares to be utilized for Changed Uses during the 2026, 2027, 2028, 2029 irrigation seasons). With input from the Municipal Entities, WSSC will identify by approximately October 30th of each year the System Modifications that are appropriate for construction during the third subsequent fall/winter season (e.g., WSSC to determine by approximately October 30, 2026, the System Modifications to be constructed during the fall/winter season of 2028-2029). The Parties recognize that, practically, these deadlines may fluctuate based on annual circumstances, and as such, such deadlines may be altered by written notice to the other Parties.

4. Check Structures. Based on a preliminary engineering analysis, the Parties have identified certain check structures, shown on the map attached as **Exhibit A** ("Check Structures"), as likely being the most immediately necessary modifications for maintaining delivery of water to stockholders under the LCC System. The specific locations identified in **Exhibit A** are intended by the Parties to be guidance on future check structure locations and are not intended to be limitations on actual System Modifications to be installed pursuant to this Agreement.

4.1. Design and Construction of System Modifications. WSSC shall provide to the Municipal Entities the information that it uses to identify the next System Modifications to be constructed, including without limitation any modeling, engineering, and field observations or data. WSSC's Board shall review the System Modifications to be constructed. Unless otherwise agreed to in writing signed by WSSC and all the Municipal Entities, the number of System Modifications to be constructed during any fall/winter

season shall not exceed three structures. However, in the event that, with input from the Municipal Entities, WSSC determines that more than three System Modifications should be installed during any given fall/winter season in order to ensure delivery of water to Other Stockholders, and the Municipal Entities do not agree to those additional System Modifications, WSSC may reduce or limit the amount of water delivered under the Municipal Shares for changed purposes as identified in each respective change decree to ensure that Other Stockholders do not suffer a shortage of water, unless the Parties are able to mutually agree in writing on another solution to any shortage, including but not limited to in-system exchanges of Municipal Entities' water.

- 4.2. Design and Engineering Plans. With input from the Municipal Entities, WSSC will select engineering consultants, manage, oversee, and have final approval over the design and construction of any System Modifications. WSSC will provide the Municipal Entities with a reasonable opportunity to review and comment on the identification of and design and engineering specifications for any System Modifications before such specifications are finalized. WSSC agrees to make decisions related to any System Modifications in good faith and not to engage consultants, adopt design decisions, or take other related actions that would unreasonably increase the costs, obligations or liabilities of the Municipal Entities. With input from the Municipal Entities, WSSC will select the contractor(s) to construct any System Modifications in accordance with the plans and specifications approved by WSSC.

5. Lateral Company Agreements. The Parties acknowledge that the Parties must work collaboratively to negotiate and execute agreements with the companies that own and operate the Laterals ("Lateral Companies") prior to the design and construction of any System Modifications on the Laterals. WSSC reserves the right to require that it be a party to such agreements with the Lateral Companies.

6. Payment and Reimbursement for System Modifications Installation Costs. The Parties acknowledge that, while WSSC may incur some ongoing expenses for minor costs, like internal WSSC expenses, WSSC cannot provide any significant amount of funding for the up-front costs of any project under this Agreement, and therefore the Municipal Entities will provide a funding solution for WSSC with the intent of preventing WSSC from incurring any significant costs.

6.1. The Parties intend that the costs associated with the System Modifications constructed under this Agreement during the fall/winter seasons of 2025-2026 and 2026-2027 will initially be funded by cash paid up-front to the Company ("Cash Reserve") (pursuant to that certain Municipal Cash Reserve Funding Agreement Between the Water Supply and Storage Company and Fort Collins-Loveland Water District dated September 10, 2025). The Parties intend that, after the Effective Date of this Agreement, WSSC will enter into a loan contract with the Colorado Water Conservation Board ("CWCB") for loan funding approved by the CWCB for the System Modifications to be constructed during the fall/winter season of 2025-2026

(“CWCB Loan”). Such CWCB Loan funds will be utilized to reimburse funds expended from the Cash Reserve, and the Cash Reserve will then be used to pay for costs associated with System Modifications to be constructed during the fall/winter season of 2026-2027. Regardless of the repayment terms under the CWCB Loan, the Municipal Entities shall provide funds to the Company to repay the full loan amount of Two Million, Five Hundred Ninety Thousand, Six Hundred and Fifty Dollars (\$2,590,650.00) on an accelerated timeframe that will allow WSSC to pay the full amount of the CWCB Loan no later than January 31, 2031. At minimum, the Municipal Entities shall provide to the Company all funds to pay any annual principal and/or interest amounts required to be paid under the CWCB Loan.

6.2. The Parties intend that the costs associated with the System Modifications under this Agreement, including, without limitation, any loan repayment amounts but less any grant money received by WSSC will, beginning with the System Modification Structures to be constructed in the fall/winter season of 2027-2028, be covered by assessments on stock held by the Municipal Entities, unless the Municipal Entities and WSSC agree in writing to another funding option. Any assessments levied pursuant to this agreement would be set and approved by the WSSC Board based on anticipated costs and expenses under this Agreement or expenses and costs actually incurred. The Municipal Entities hereby agree to be bound by such assessments without further action or approval. These assessments are separate and apart from the stockholder assessment determined by WSSC under its Bylaws. WSSC may levy an up-front assessment to cover anticipated costs for the coming year (“Annual System Modification Assessment”). WSSC may also specially assess the stock held by the Municipal Entities more frequently throughout the year, but no more frequently than quarterly, to cover additional costs (“Special System Modification Assessment”).

6.2.1. In order to determine the amount to be assessed as an Annual System Modification Assessment on each of the Municipal Entities, WSSC will provide the total amount of anticipated costs as determined through the WSSC annual budgeting process to the Municipal Entities Committee by approximately January 31 each year. The Municipal Entities Committee will then provide to WSSC the breakdown of costs to be assessed to each Municipal Entity by approximately March 31 each year.

6.2.2. In order to determine the amount to be assessed as a Special System Modification Assessment on each of the Municipal Entities, WSSC will provide the total amount of anticipated costs to be reimbursed to the Municipal Entities Committee approximately ninety (90) days before such special assessment is to be issued. The Municipal Entities Committee will provide to WSSC the breakdown of costs to be assessed to each Municipal Entity approximately sixty (60) days thereafter. In the event that such Special System Modification Assessments are too high for the Municipal Entities to meet the above

schedule, and in the event that WSSC is financially able to carry such costs, WSSC will carry such costs subject to the Interest Rate until a subsequent Annual System Modification Assessment as reasonably agreed upon by the Parties. The Parties will work in good faith to find a solution to any financial barriers including the Municipal Entities' budgeting cycles and WSSC's ability to carry such costs.

6.2.3. In addition to any other remedies WSSC may have in law or equity, failure by one or more Municipal Entities to pay any assessments levied by WSSC under paragraph 6 may result in a reduction of water delivered for changed uses under the Municipal Shares for that Municipal Entity (or Entities), assessment of interest, and/or sale of stock for nonpayment of assessments, pursuant to WSSC's Bylaws and Policies and the Municipal Entity's (ies') respective agreement(s) with WSSC, as may be applicable.

6.3. Advanced Funding. Notwithstanding the foregoing, any Municipal Entity or group of Municipal Entities may fund any System Modification(s) or Check Structures on their own accord, by providing adequate funding as determined by WSSC to WSSC in advance of the construction of any System Modification(s). The cost allocation by the Municipal Entities for any such advanced funding may be the subject of a separate agreement by and among themselves.

6.4. Grant Funding. The Parties acknowledge that grant funding may be available to cover costs associated with any System Modification. However, the Parties agree that pursuing such funding should be beneficial to and protective of all Parties. In the event the Parties agree that grant funding is mutually beneficial, and in the event the Parties agree that WSSC is the most appropriate entity to seek such grant funding, WSSC will undertake or hire a third-party specialist to conduct the feasibility analysis, application, management, and any associated tasks for such grant funding at the Municipal Entities' expense and shall timely communicate all such expenses to the Municipal Entities Committee. In submitting any application for a grant pursuant to this paragraph, WSSC will comply with all application requirements, including, without limitation, any necessary WSSC Board or stockholder approvals related to the application. WSSC will, with reasonable diligence, prioritize the pursuit of such identified grant funding, and the Municipal Entities shall undertake any efforts reasonably necessary to support WSSC in the pursuit of such grant funding and in any post-award compliance. The Municipal Entities shall be responsible for any costs related to any grant.

6.5. Costs to Be Covered/Reimbursed. Regardless of whether such costs are covered by assessment or other up-front funding by the Municipal Entities or are reimbursed to WSSC, such costs to be covered, in addition to loan repayments, include, generally, but are not limited to:

- 6.5.1. Annual modeling updates and other engineering analyses determined by the Parties to be necessary in evaluating solutions;
- 6.5.2. Engineering, legal, and other work on the requisite feasibility study/analysis and application for grant and/or loan funding;
- 6.5.3. Plans and specifications for any System Modifications, which must be drawn and stamped by an engineer certified to complete such plans in the state of Colorado, which costs will include WSSC's review of and revisions to the same;
- 6.5.4. Surveying and property inspections;
- 6.5.5. Costs related to easements, including, without limitation, confirmation of easements and any necessary temporary construction easements;
- 6.5.6. Requisite permits;
- 6.5.7. Construction, material, structure, and related costs; and
- 6.5.8. WSSC's employee and equipment time spent in relation to its obligations in this Agreement, including, without limitation, WSSC's oversight of construction.

7. Operation, Maintenance, and Repair of System Modifications. WSSC shall own the System Modifications and shall be responsible for the operation, maintenance, and repair of the same, the costs for which shall be reimbursed by the Municipal Entities pursuant to the terms and conditions of this Agreement. Notwithstanding the foregoing, and outside of urgent circumstances, and for any project anticipated to cost more than \$50,000 (as reasonably adjusted from time to time to account for inflation), WSSC shall provide the Municipal Entities with the total amount of anticipated costs and a reasonable opportunity to review and comment on any necessary maintenance and repair costs for the System Modifications before such costs are incurred. WSSC shall coordinate in good faith and provide the Municipal Entities with a reasonable opportunity to review and comment on design and engineering specifications for operation, maintenance, and repair of the System Modifications. To the extent such costs can be anticipated, they will be included in Annual System Modification Assessments. Any other costs incurred will be reimbursed through Special System Modification Assessments, and such costs will include carrying costs of the Interest Rate.

8. System Modification Operational Information. At the end of the first season in which each System Modification is operational, WSSC will provide a summary of each new structure's operation and the operation of the relevant headgates. WSSC will provide as-built drawings of any System Modification to the Municipal Entities.

9. Permits and Approvals. WSSC shall undertake applications for any permits or approvals necessary for the installation and operation of the System Modifications and will maintain the same, all at the Municipal Entities' expense pursuant to the terms and conditions of

this Agreement. Such approvals shall include any jurisdictional determinations by the United States Army Corps of Engineers pursuant to Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, or any related federal, state, county, or municipal permit.

10. No Waiver of Governmental Immunity. Nothing in this Agreement is intended or shall be construed as a waiver by any of the Municipal Entities of the monetary limitations or any other rights, immunities, and protections to which they are entitled as public entities under applicable law, including, without limitation, under the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, et seq., as exists now or is hereafter amended.

11. No General Multiple-Year Fiscal Obligation or Indebtedness by Municipal Entities. Notwithstanding any provision of this Agreement to the contrary, the obligations of any Municipal Entity in fiscal years after the fiscal year in which this Agreement is executed shall be expressly contingent on the appropriation by that Municipal Entity of funds sufficient and intended for such purpose in the fiscal year in which the obligation is incurred. Nothing in this Agreement is intended or shall be construed to constitute a general obligation or other indebtedness of that Municipal Entity, or a multiple fiscal year direct or indirect debt or other financial obligation of that Municipal Entity, whether under the Constitution and laws of the State of Colorado or the respective charters and ordinances of the Municipal Entities. The determination of whether funds have been appropriated in sufficient amounts and intended for the purposes of this Agreement by any Municipal Entity shall be made in the sole discretion of that Municipal Entity.

12. Notices. Any notices allowed or required by this Agreement must be in writing and provided by email, with electronic confirmation the email has been delivered and read by the recipient with service deemed completed upon the electronic confirmation of delivery. Such notices shall be sent to the email addresses below. The Parties shall update their respective email addresses as necessary.

12.1. General Communications. General communications shall be directed to:

Municipal Entities Committee:

Thornton: Water Resources Division, Infrastructure Department
Water@Thorntonwater.com

With copy to: City Attorney, Legal Department
attorney@thorntonco.gov

Greeley: City of Greeley Water & Sewer Department, Water Resources Division
wsadmin@greeleygov

With copy to: City Attorney's Office, Environmental and Water Resources
cityattorney@greeleygov.com

Fort Collins: Fort Collins Utilities, Water Resources Division
jdial@fcgov.com

With copy to: City Attorney's Office
epotyondy@fcgov.com

ELCO: Mike Scheid, General Manager

Mikes@elcowater.org

With copy to: Bradley C. Grasmick, Esq., Lawrence Custer Grasmick
Jones & Donovan, LLP
Brad@lcwaterlaw.com

North Weld: Eric Reckentine, General Manager

ericr@nwcwd.org

With copy to: Scott E. Holwick, Esq., Lyons Gaddis, P.C.
sholwick@lyonsgaddis.com

WSSC:

With copy to:

FCLWD: Chris Pletcher, General Manager

cpletcher@fclwd.com

With a copy to: Scott E. Holwick, Esq., Lyons Gaddis, P.C.
sholwick@lyonsgaddis.com

- 12.2. Emergency Communications. Any emergency communications requiring a response within seventy-two (72) hours shall be directed to:

Thornton: Matt Stockton, Water Resources Division
matt.stockton@thorntonco.gov

Greeley: Cole Gustafson, Source Water Supply Manager
cole.gustafson@greeleygov.com

Fort Collins: Jen Dial, Water Resources Manager, jdial@fcgov.com

ELCO: Richard Raines, Water Resources Manager, rraines@scwtp.org

North Weld: Richard Raines, Water Resources Manager, rraines@scwtp.org

WSSC: Eric Westlind, General Manager, ewestlind@wtrsupply.com

FCLWD: Richard Raines, Water Resources Manager, rraines@scwtp.org

13. Term. The term of this Agreement is perpetual, unless terminated or modified by a duly authorized and executed written amendment signed by all Parties.
14. WSSC's Obligations. For all of its obligations under the Agreement, WSSC shall, in good faith, and with reasonable discretion, make decisions and selections of the engineers, contractors, materials and structures necessary to install, operate, maintain, and repair the System Modifications with the goal of achieving the most cost-effective solutions for accomplishing the tasks set forth in this Agreement.
15. Amendment and Waiver. This Agreement may only be amended in a writing duly authorized and executed by the Parties. Any waiver of a term, condition, or potential breach of this Agreement must be made in a writing duly authorized and executed by the waiving Party or Parties.
16. New Entities. In the event any entity that is not a party to this Agreement ("New Entity") enters into an agreement with WSSC whereby the use of that entity's WSSC shares is conditioned on the WSSC Board's approval by written agreement pursuant to Article VIII(3) of the WSSC Bylaws, WSSC shall include a term and condition in such agreement that the New Entity become a party to both this Agreement and the Cost Allocation Agreement. In such an event, the Parties consent to amending this Agreement and the Cost Allocation Agreement to add that municipal entity as a Party on terms and conditions that the existing Parties to those agreements at the time of amendment determine are equitable to past, current, and future financial costs and expense obligations of each Municipal Entity.
17. Restriction on Assignment. Neither WSSC nor the Municipal Entities may assign, delegate, or transfer their respective rights or obligations under this Agreement without the prior written consent of all other Parties. Such consent may be given or withheld in the sole discretion of the other Parties.
18. No Third-Party Beneficiaries. This Agreement is entered into between the Parties for the purposes set forth herein. It is the intent of the Parties that they are the only beneficiaries of this Agreement and the Parties are only benefitted to the extent provided under the express

terms and conditions of this Agreement. Any other party that realizes a benefit pursuant to this Agreement shall be deemed an incidental beneficiary only.

19. Successors and Assigns. The provisions of this Agreement are binding on the Parties and their respective successors and permitted assigns.
20. Governing Law. This Agreement is governed by and shall be construed in accordance with Colorado law, with proper venue in the District Court of the county in which the primary office of the defendant is located.
21. Severability. The invalidity or unenforceability of any provision of this Agreement, if found by a court of competent jurisdiction, shall not affect the validity or enforceability of any other provision of this Agreement unless the exclusion of such provision would frustrate the purpose of this Agreement.
22. Cumulative Remedies. The rights, remedies, powers, and privileges provided in this Agreement shall not exclude any other rights, remedies, powers, and privileges to which any Party may be entitled by law or in equity.
23. Entire Agreement. This Agreement constitutes the entire agreement among the Parties.
24. Headings. The headings in this Agreement are intended by the Parties for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
25. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts, which when combined shall constitute one and the same agreement. The Parties agree to be bound by electronic signatures.
26. Signatory Authority. The Parties represent that the individuals executing this Agreement below have the authority to bind the Party they are signing on behalf of to this Agreement.
27. Recording. This Agreement and all exhibits shall be recorded in the real property records of Weld and Larimer Counties, Colorado Clerk and Recorder's office at the Municipal Entities' expense. A copy of the recorded Agreement will be provided to each of the Parties.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Agreement, effective as of the date first set forth above.

CITY OF THORNTON

By: _____

CITY OF FORT COLLINS

By: _____

Date:

Kelly DiMartino, City Manager

ATTEST:

By: _____

City Clerk

APPROVED AS TO LEGAL FORM:

By: _____

Eric Potyondy

Senior Assistant City Attorney

NORTH WELD COUNTY WATER DISTRICT

By: _____

CITY OF GREELEY

By: _____

EAST LARIMER COUNTY WATER DISTRICT

By: _____

WATER SUPPLY AND STORAGE COMPANY

By: _____