

RESOLUTION 2026-001
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY MANAGER TO EXECUTE TWO
AGREEMENTS REGARDING USE OF THE CITY'S SHARES IN
THE WATER SUPPLY AND STORAGE COMPANY

A. The City owns and operates a Water Utility that provides water service to customers in its service area. The water supplies of the City Water Utility include shares in the Water Supply and Storage Company ("WSSC").

B. WSSC is a Colorado mutual ditch and reservoir company that operates a system of ditches and reservoirs on behalf of its shareholders ("WSSC System"). Historically, WSSC's shareholders used water from the WSSC System ("WSSC Water") for irrigation.

C. Over time, the City and others shareholders that provide treated water service, including the City of Thornton, the City of Greeley, the East Larimer County Water District, the Fort Collins-Loveland Water District, and the North Weld County Water District (collectively, "Water Provider Shareholders") have acquired WSSC shares to use the WSSC Water to provide water service to customers in their respective service areas ("Municipal Use").

D. The Water Provider Shareholders' use of their WSSC Water for Municipal Use generally results in less water being delivered through the ditches in the WSSC System. This is because the WSSC Water that was historically delivered down the WSSC System ditches to shareholders for irrigation is instead delivered into the Water Provider Shareholders' treatment systems and pipes. This reduced amount of water being delivered through the ditches in the WSSC System has the potential to injure WSSC Shareholders still using their WSSC Water for irrigation ("Irrigation Shareholders") because the WSSC System was not designed to operate with less water.

E. The Water Provider Shareholders' use of their WSSC Water for Municipal Use generally requires agreement(s) with WSSC and a decree from the District Court for Water Division 1 ("Water Court"). Both processes generally require that the new Municipal Use not injure other water rights owners, including the Irrigation Shareholders.

F. The Water Provider Shareholders, including the City, have entered into various agreements with WSSC for the Municipal Use of their WSSC Water ("Municipal Use Agreements"). The City's Municipal Use Agreements with WSSC include agreements dated June 18, 1985, April 22, 1988, July 6, 2015, and June 28, 2015. These various Municipal Use Agreements generally condition the Water Provider Shareholders' use of their WSSC Water for Municipal Use on the Irrigation Shareholders not being injured.

G. The Water Provider Shareholders and WSSC have negotiated how to implement the Municipal Use Agreements, particularly through physical modifications to

the WSSC System (“WSSC System Modifications”). These WSSC System Modifications primarily entail check structures in the ditches, which locally raise water levels in the ditch so water can be delivered from the ditch to Irrigation Shareholders. The Water Provider Shareholders and WSSC thus negotiated two agreements: one regarding the design and construction of the WSSC System Modifications; and another regarding how the Water Provider Shareholders will pay for the WSSC System Modifications.

H. The first agreement is an agreement between WSSC and the Water Provider Shareholders, including the City, regarding the design and construction of the WSSC System Modifications, entitled “Agreement Between the Water Supply and Storage Company and the Municipal Entity Stockholders,” a copy of which is attached hereto and incorporated herein by reference, as Exhibit A (“Structures Agreement”).

I. The second agreement is an agreement between the Water Provider Shareholder regarding how the Water Provider Shareholders will pay for the WSSC System Modifications, entitled “Cost Allocation Agreement for WSSC System Modifications,” a copy of which is attached hereto and incorporated herein by reference, as Exhibit B (“Cost Allocation Agreement”). As set forth in the Cost Allocation Agreement, costs for the WSSC System Modifications are generally allocated among the Water Provider Shareholders pro rata based on how many shares each entity owns.

J. The Structures Agreement and the Cost Allocation Agreement are necessary for the City Water Utility to be able to fully utilize its WSSC shares for the benefit of the ratepayers of the City Water Utility and the residents of Fort Collins.

K. The City’s financial obligations under the Structures Agreement and the Cost Allocation Agreement are subject to the appropriation of funds.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Manager is hereby authorized to execute the *Structures Agreement* in the form of Exhibit A, attached hereto and incorporated by this reference, with such modifications and additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Section 2. The City Manager is hereby authorized to execute the *Cost Allocation Agreement* in the form of Exhibit B, attached hereto and incorporated by this reference, with such modifications and additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Passed and adopted on January 6, 2026.

Mayor

ATTEST:

City Clerk

Effective Date: January 6, 2026

Approving Attorney: Eric Potyondy

Exhibit: Exhibit A – Agreement Between the Water Supply and Storage Company and the Municipal Entity Stockholders

 Exhibit B – Cost Allocation Agreement for WSSC System Modifications