

EXHIBIT A TO RESOLUTION 2024-138

Account No. 121910

FORT COLLINS-LOVELAND WATER DISTRICT MEMORANDUM OF AGREEMENT FOR PURCHASE OF WATER TAP

THIS AGREEMENT is made and entered into between the FORT COLLINS-LOVELAND WATER DISTRICT (hereinafter "District") by its Board of Directors through its designated manager, and the **CITY OF FORT COLLINS, COLORADO, a municipal corporation**, with an address of **300 Laporte Ave. Fort Collins, CO 80521** (hereinafter "Purchaser").

IN CONSIDERATION OF THE COVENANTS, PROMISES, TERMS AND CONDITIONS HEREINAFTER STATED, THE PARTIES AGREE AS FOLLOWS:

1. Purchaser agrees to purchase and pay for a one and a half-inch irrigation water tap from District. Purchaser agrees to pay the sum of **\$430,480.00** for said tap, water resource fee, infrastructure plant investment fee, new meter fee, payable concurrently with the execution of this Agreement. This payment amount reflects a credit for an existing three-quarter inch residential tap. Under no circumstances will any services be provided by the District until full payment is made, nor shall any of the tap fees paid be refunded to the Purchaser. This tap cannot be transferred from one lot to another, unless the transfer is made within the same District-approved subdivision for which it was originally purchased.
2. Purchaser agrees to pay all assessments and service charges as may be established and modified by the District from time to time. In the event the purchaser fails to pay such levies, assessments and charges upon demand, the District shall then immediately terminate service, assess penalties, and assert its lien rights, to the extent legally permissible, and any other remedies available to it pursuant to its Rules and Regulations and to the laws of the State of Colorado.
3. In the event that the above described real property is conveyed or transferred to an individual or entity by the Customer, such water tap shall be deemed transferred with the real property whether such conveyance or transfer is the result of a voluntary or involuntary transfer, including judicial order or decree, public trustee's sale, sheriff's sale, treasurer's sale, or otherwise. Upon any such transfer of the real property, the District may recognize such transferee as the "owner of said water tap" without having first obtained an assignment of water tap executed by the Customer to the new owner. In no event may the Customer retain ownership of said tap upon the voluntary or involuntary transfer of the property.
4. The legal description for the real property for which this tap is being purchased is as follows:

Lot 1, Lehman-Timberline Minor Land Division.
A portion of the south half of the northwest quarter of Section 8, Township 6 North, Range 68 West, of the 6th P.M., County of Larimer, State of Colorado.

Street Address: 5830 S. Timberline Road
5. Purchaser agrees to execute and deliver such easement or Easement Agreements as are needed by the District for the purpose of constructing and maintaining water lines across any of the real property of the Purchaser. Such easements shall be executed and delivered by separate legal document and in compliance with requirements established by the Purchaser's City Code and other applicable law, at the sole expense of Purchaser, and such expenses shall include, but not be limited to, survey expenses, and recording expenses.
6. Pursuant to the terms of this Agreement, Purchaser shall have the right to tap into the District's line at a point designated by the District. Tapping procedures shall be in accordance with the District's specifications, and shall be under the control and supervision of the District or its representative. The costs of tapping, including the connection, the tap and service line, and all other expenses thereof, shall be paid by Purchaser. Purchaser agrees to pay all expenses for any line extension (s) from the District's main line to the connection of the premises of the Purchaser.
7. Purchaser agrees to pay to the District a monthly service charge for the use of the District's treatment and distribution system. The District expressly reserves the right to increase or decrease the monthly rate assessed at any time upon reasonable notice to its users.
8. The District reserves the right, through its representatives, to inspect and approve all lines connecting Purchaser's premises to the District's system. The Purchaser shall comply with the District's Rules and Regulations, as modified from time to time, and with District's construction specifications before and after Purchaser's connection to the District's system. In the event the District incurs expenses for labor or materials for repair and maintenance of Purchaser's line and connection with District's water system, Purchaser shall be liable for payment for costs incurred by the District for such labor and/or materials, provided such repair and maintenance is required through no fault of the District.
9. Appropriation. To the extent this Agreement, or any provision in it, requires payment of any nature in fiscal years subsequent to the current fiscal year and constitutes a multiple fiscal year debt or financial obligation of the Purchaser, it shall be subject to annual appropriation by the Fort Collins City Council as required in Article V, Section 8(b) of the City Charter, City Code Section 8-186, and Article X, Section 20 of the Colorado Constitution. The Purchaser shall have no obligation to continue this Agreement in any fiscal year for which there are no present cash reserves or supporting appropriations pledged irrevocably for purposes of payment obligations herein. Non-appropriation by the City shall not be construed as a breach of this Agreement.
10. Governmental Immunity. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* and under any other applicable law.

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Signed this _____ day of _____ 20_____

By:

City of Fort Collins, Colorado

A Municipal Corporation

Authorized

Purchaser: Kelly DiMartino

City Manager

Mailing Address: 215 N. Mason Road

Fort Collins, CO 80522

FORT COLLINS-LOVELAND WATER DISTRICT

By: _____ Amanda Proctor

Date: _____ Finance Director

Payment **\$430,480.00**

*City of Fort Collins, Colorado
A Municipal Corporation*

By:

Kelly DiMartino, City Manager

ATTEST:

City Clerk

Date

APPROVE AS TO FORM:

Assistant City Attorney