

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (“Agreement”) is made and entered into between the CITY OF LITTLETON (“Littleton”), a home rule municipal corporation of the State of Colorado, the CITY AND COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF WATER COMMISSIONERS (“Board” or “Denver Water”), also a home rule municipal corporation of the State of Colorado, and URBAN DRAINAGE AND FLOOD CONTROL DISTRICT doing business as MILE HIGH FLOOD DISTRICT (“MHFD”), a multijurisdictional flood control district established by the State of Colorado. Littleton, Denver Water, and MHFD are referred to herein collectively and together as the “Parties” and individually as a “Party.”

RECITALS

A. Denver Water owns and operates the High Line Canal (“Canal”), an irrigation ditch, which diverts water from its headgate on the South Platte River in Douglas County, Colorado.

B. Littleton is a home rule municipality located in Douglas, Jefferson and Arapahoe Counties.

C. MHFD is established pursuant to C.R.S. § 32-11-201 for the purpose of addressing water, flood control, and drainage within those portions of the Denver metropolitan area including the City and County of Denver, City and County of Broomfield, Adams, Boulder, Jefferson, Douglas, and Arapahoe Counties which fall within the territorial limits of MHFD.

D. The primary purpose of the Canal is to make irrigation water deliveries to certain Denver Water customers who hold High Line Canal and Antero Reservoir contracts. Portions of the Canal right-of-way are also open to the public as a recreational trail.

E. Littleton seeks to obtain approval of the existing Storm Water discharges to the Canal through the basins contributing to the Canal channel segment of Windermere Street to the Lee Gulch Flume, and of the proposed 24” Storm Sewer Discharge from a portion of

Basin WQ218, all which is described in further detail in the High Line Canal Stormwater and Operations Master Plan, dated October 2018 (“Stormwater Master Plan”).

F. The Parties anticipate based on studies performed by MHFD that the Canal has the potential to treat and/or convey Storm Water discharged to the Canal. Based upon modeling, MHFD has determined that the Authorized Area, as defined below, has the capacity to treat and convey Storm Water from a 100-year storm event from the contributing basins quantified and described in the Stormwater Master Plan.

G. Denver Water and Littleton desire to formalize Littleton’s use of the Canal for the discharge and conveyance of Littleton’s Storm Water through the issuance of a license under this Agreement.

H. As fair and reasonable consideration for a license to discharge Storm Water to the Canal, Littleton is willing to assume maintenance obligations for the Authorized Area in which it is authorized to discharge, treat and convey Storm Water.

I. Denver Water’s Board of Water Commissioners has a policy adopted May 4, 1999 (“Storm Water Policy”) of not accepting surface drainage that has been modified in quality, quantity or manner of flow into the High Line Canal.

J. Denver Water is willing to make an exception to its Storm Water Policy in the interest of exploring future additional uses for the Canal and testing its efficiency for Storm Water treatment.

AGREEMENT

NOW, THEREFORE, Littleton, Denver Water, and MHFD agree as follows:

1. Recitals Incorporated. Recitals set forth in paragraphs A through J are incorporated into the Agreement.

2. Purpose of Agreement. Denver Water enters into this Agreement with Littleton for the purpose of authorizing Littleton to discharge Storm Water into the Canal for treatment and conveyance to the nearest downstream tributary intersecting the Canal. MHFD is a party to this Agreement only for the purpose of providing technical expertise to Littleton and Denver Water, and is a party to this Agreement only for the purposes of paragraphs 6.1, 6.2, 6.3, 6.10, 6.12, 6.14, 17, and the miscellaneous provisions referencing the rights of a Party or the Parties, generally.

3. Definitions.

3.1. The “Authorized Area” is a segment of the Canal extending from the Canal 25 feet west of Windermere bridge west face to Lee Gulch Flume waste gate as generally depicted in **Exhibit A**.

3.2. “High Line Canal” or “Canal” refers to and includes Denver Water’s right-of-way as described in **Exhibit B** (also depicting the Authorized Area), and the Canal channel, vegetation, and all appurtenant facilities including signs, paths, roads, siphons, flumes, laterals, gates including ditch headgate and turnouts, trash racks and screens, wasteways, and water measurement devices.

3.3. “Lee Gulch Flume and Wasteway” means a flume at the intersection of the High Line Canal and Lee Gulch and wasteway used to bypass water to Lee Gulch through a 47” x 47” manually operated slide gate.

3.4. “Storm Water” means Storm Water runoff, snow melt runoff, and surface runoff and drainage and has the same meaning as the term defined in 40 CFR 122.26(b)(13) and Regulation 5 CCR 1002-61 61.2(103).

LICENSE, MAINTENANCE AND OPERATIONS

4. License. Subject to the terms of this Agreement, Denver Water hereby licenses Littleton, its employees, agents, and contractors to use and access the Canal and Canal right-of-way within the Authorized Area for the following purposes:

4.1. constructing, installing, operating and maintaining Storm Water discharges to the Canal;

4.2. constructing, installing, operating and maintaining Storm Water berms in the Canal and for the conveyance of Storm Water therein; and

4.3. performing the maintenance activities within the Authorized Area, as described in section 7 below.

5. Term of License. The license shall run concurrent with this Agreement and shall not be terminable absent the mutual agreement of the Parties or termination of this Agreement under section 14.

6. License Terms and Conditions.

6.1. Size and Number of Storm Water Outfalls and Berms. Littleton may install Storm Water outfalls into the Canal and berms within the Canal channel (collectively, the “Installation(s)”) within the Authorized Area so as not to exceed MHFD’s determination that the number and capacity of the outfalls and berms appropriate for the Authorized Area. Before constructing the Installations within the Authorized Area, MHFD will review and approve Littleton’s design of the Storm Water outfalls and berms. Littleton shall provide MHFD with, at a minimum, a description of the Installations, including their capacities, design, and location (“Design Specifications”). After MHFD approves the Design Specifications, Littleton shall provide written notice to Denver Water. The notice shall include the Design Specifications with any changes requested by MHFD and confirmation that MHFD has determined that the capacities of the Installations are appropriate. If Denver Water does not raise objections within thirty-five (35) days after receiving Littleton’s written notice, the Design Specifications shall be automatically made an exhibit to this Agreement and Littleton may proceed to construct the Installations, which shall become a licensed Installation subject to this Agreement. If Denver Water raises objections, the Design Specifications will not be made an exhibit to this Agreement and Littleton will refrain from beginning work to construct the Installations until the objections have been resolved as confirmed in writing by Denver Water.

6.2. Capacity of Outfalls. Total Storm Water runoff volume conveyed to the Canal, as authorized under this Agreement, whether conveyed in storm sewer outfalls or by overland flow, shall not be increased beyond that which has been modeled and verified by MHFD during a 100-year storm event. The water quality berms may retain stormwater in the Canal, provided Canal improvements are designed and implemented to release the retained volume within 72 hours.

6.3. Construction Activities to Conform to Design Specifications. Any construction or activity initiated under this Agreement shall comply with and shall be performed and completed according to and within the tolerances submitted on the Design Specifications unless otherwise approved in writing by Denver Water and MHFD.

6.4. Denver Water Reserves Right to Make Full Use of Property. Denver Water reserves the right to make full use of the Canal as may be necessary or convenient in the operation of the water plant and system under the control of Denver Water. Denver Water retains all rights to operate, maintain, repair, remove, relocate, or install any of Denver Water's facilities within the Authorized Area at any time and in such a manner as Denver Water deems necessary or convenient. Denver Water may exercise this right by giving Littleton a minimum of thirty-five (35) calendar days' prior written notice.

6.5. City Responsible for Expenses. All work authorized by this Agreement shall be performed by Littleton at no expense to Denver Water. Except as otherwise set forth herein, Littleton shall own and maintain its Installation(s) thereafter. This Agreement shall, in no way, imply that ownership of the land underlying or surrounding the licensed Installation(s) or activity is being conveyed.

6.6. Notice of Work. Littleton shall notify Denver Water at least 48 hours prior to commencing work on the Canal. In the event of an emergency, Littleton shall notify Denver Water at (303) 628-6801 ("Dispatch"). During regular working hours, Littleton shall notify Denver Water's High Line Canal District Foreman, or other designated representative, at (303) 634-3400.

6.7. Minimization of Loss. Littleton will use reasonable means to prevent any loss or damage to Denver Water or to others resulting from the construction, operation, maintenance, repair, modification, replacement, or removal of Littleton's Installation(s). Any reasonable repair or replacement of any of Denver Water's facilities on its property made necessary, in the opinion of the Denver Water's representative, because of the construction, operation, maintenance, repair, modification, replacement, or removal of Littleton's Installation(s), shall be made only by Denver Water's representative and at the sole expense of Littleton.

6.8. Hazardous Waste Materials. Littleton understands and agrees that it is fully responsible for compliance with all rules and regulations relating in any way to the use, storage, treatment, or disposal of hazardous materials, including, but not limited to, chemicals and petroleum products. Littleton agrees to strictly comply with all federal, state, and local regulations that in any way relate to hazardous materials. If, as a result of

Littleton's occupancy of the premises and its operations, any such law, ordinance, rule, or regulation is violated, Littleton shall assume all liability, insofar as the violation was caused by, or resulted from, Littleton's operations.

6.9. Payment of Materials and Work. Littleton shall pay for all materials joined or affixed by Littleton to the Canal and shall pay in full all persons who perform labor upon Denver Water property for Littleton and obtain lien releases for all such materials and labor, which shall be provided to Denver Water, and shall not permit any mechanic's or material man's lien of any kind or nature to be enforced against Denver Water property for any work done and materials furnished thereon at the instance, request, or on behalf of Littleton.

6.10. Work to be Performed in Accordance with Denver Water Engineering Standards. All trenches and excavations, backfill and tamping by Littleton shall be in accordance with Denver Water's Engineering Standards and subject to approval by Denver Water's representative unless otherwise included and approved by Denver Water and MHFD in the Design Specifications.

6.11. Restoration of Canal. Within twenty-one (21) calendar days from the date of completion of work required to construct the Installation(s), Littleton shall clear the Canal and surrounding property of all construction debris caused by Littleton and shall restore the Canal and surrounding property, including any damaged roads and fencing to their pre-existing condition as nearly as may be possible with the exception of the Installation(s). Restoration and clearance of the surface shall include replacement of the topsoil in cultivated and agricultural areas, removal of any excess earth resulting from such work, and re-seeding to the satisfaction of Denver Water's representative. Restoration of the roads shall include, but is not limited to, resurfacing. Any future disturbance of the Canal, roads or fencing, which are disturbed by the reconstruction, operation, maintenance, repair, modification, replacement, or removal of Littleton's Installation(s), shall immediately be restored by Littleton to a condition satisfactory to Denver Water's representative. Littleton shall at no time obstruct Denver Water roadways, ingress to, or egress from such roadways. If restoration of the Canal, roads and fences is not accomplished by Littleton within the twenty-one (21) days, Denver Water at its election may perform such restoration at

Littleton's expense. Littleton shall conduct all construction, operation, maintenance, repair, modification, replacement, or removal of its Installation(s) in such a manner that Denver Water at all times shall have full and complete access to its property.

6.12. MHFD Monitoring and Inspection. Upon completion of construction of the outfall and berms, MHFD may access the Canal within the Authorized Area to (1) monitor the volume of Storm Water lost in carriage; (2) monitor the water quality of stormwater within the Authorized Area; and (3) to assess maintenance needs of outfalls and berms. MHFD agrees to share with Littleton and Denver Water, monitoring data, maintenance assessments, and any reports produced by MHFD regarding the use of the Canal to treat and convey Storm Water.

6.13. Canal As-is. Littleton acknowledges that Denver Water is making the Canal available "as is". Denver Water is under no obligation to make any improvements to the Canal to accommodate, carry, bypass Littleton's Storm Water or the Storm Water of others. Denver Water is also under no obligation to measure, track, record, or account for Littleton's Storm Water.

6.14. Denver Water's Delivery of Irrigation Water. Littleton shall assume all risks to its own operations resulting from the presence of water in the Canal. Denver Water continues to have customers on the High Line Canal and may continue to make water deliveries to its customers via the Canal to meet its customers contractual rights. The irrigation season is from April 1st until October 31st each year and diverted water may be flowing in the Canal during this time. Additionally, water may be flowing in the Canal at other times during the year. MHFD has developed an operational model to understand Storm Water and irrigation flows in the Canal. Littleton will continue to coordinate with MHFD to understand how Storm Water flows discharged to the Canal, including within the Authorized Area, interact with other flows in the Canal as represented by the model.

6.15. Insurance. Littleton and any of its contractors performing work authorized hereunder shall maintain commercial general liability insurance with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate in full force and effect while performing work within the Authorized Area under this Agreement. Such insurance shall include Littleton and County of Denver, acting by and through its Board of Water

Commissioners, and MHFD as additional insureds and shall be primary and non-contributing with respect to any insurance or self-insurance program of Denver Water and MHFD. Littleton shall provide to Denver Water and MHFD certificates of insurance (and renewals thereof) demonstrating that the foregoing and following insurance requirements have been met. In addition, any of Littleton's design professionals providing services related to the authorized work shall maintain professional liability insurance with a limit of not less than \$2,000,000 per claim for licensed professional services such as, but not limited to, architectural, engineering, or survey services.

6.16. Abandonment of License. If Littleton does not use the licensed rights herein granted or its Installation(s) for a period of two (2) years, Denver Water may, at its election, revoke the license issued under this Agreement by written notice to Littleton's representative as set forth in paragraph 35. If the license is revoked, Littleton will remove its Installation(s) in accordance with paragraph 14.3 below and upon Denver Water's written approval this Agreement shall be terminated.

7. Maintenance.

7.1. Maintenance Activities. Except as provided in section 8 below, Littleton shall assume responsibility for the following "maintenance activities" within the Authorized Area. These obligations will begin upon the effective date of this Agreement, and will be undertaken by Littleton as consideration for Denver Water's issuance of a license to Littleton for the use of the Canal to convey Storm Water.

7.1.1. Littleton will perform inspections of the condition of trees within the Authorized Area no less than once annually, and perform tree maintenance, including pruning and limbing of trees, and cutting and removing dead trees to prevent the presence of a dangerous condition of the trees within the Canal right-of-way or an obstruction of the Canal within the Authorized Area. In performing tree maintenance, Littleton will review the current High Line Canal tree inventory maintained by Denver Water and remove any Priority 1 and 2 trees on an annual basis. For the purpose of this Agreement, "Priority 1" refers to trees that have defects that cannot be cost-effectively or practically treated, have a high amount of deadwood, and pose an immediate hazard to property or person. "Priority 2" refers to trees that are the same as Priority 1 trees except that they do not

pose a risk of liability to property or person due to their relative size as compared to Priority 1 trees.

7.1.2. Littleton will spray for noxious weeds and control insects to minimize presence within the Authorized Area and avoid creating nuisance conditions in accordance with state and federal regulations, including the Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act, 8 CCR 1206-2, and Administration and Enforcement of the Pesticide Act, 8 CCR 1203-1.

7.1.3. Littleton will maintain vegetation within the Canal right-of-way within the Authorized Area at a low enough level to observe the water flow in the Canal from the recreational trail, but not lower.

7.1.4. Littleton will maintain, repair, and keep the Canal channel within the Authorized Area in a condition capable of conveying Storm Water to the intersection of the Canal and Lee Gulch.

7.1.5. Littleton will maintain its Installations so as to keep the Installations in a safe and operable condition.

8. Denver Water's Maintenance and Operational Responsibilities.

8.1. Debris from Irrigation Runs. When Denver Water runs water down the Canal for irrigation deliveries, Denver Water will be solely responsible for any debris pushed down the Canal by the irrigation deliveries. If Denver Water's irrigation deliveries results in an obstruction of debris within the Canal within the Authorized Area, no later than five calendar days after receiving written notice from Littleton, Denver Water will remove and dispose of debris obstructing the Canal. Denver Water shall be responsible for any damage caused to the Authorized Area due solely to its irrigation deliveries.

8.2. Maintenance of Canal Structures. Except as provided in paragraph 8.4s below, so long as Denver Water continues to make irrigation deliveries using the segment of the Canal located within the Authorized Area, Denver Water will retain maintenance responsibility for all Ancillary Canal Structures located within the Authorized Area. Ancillary Canal Structures refers to any siphons, flumes, laterals, gates including ditch headgate and turnouts, trash racks and screens, wasteways, and water measurement devices

(collectively “Ancillary Canal Structures”), but exclusive of any Installations and the Canal channel within the Authorized Area.

8.3. Lee Gulch Wasteway. The Lee Gulch Flume and Wasteway is used to bypass Storm Water and any other non-irrigation water flows from the Canal to Lee Gulch. Denver Water will be responsible for operating and maintaining the Lee Gulch Flume and Wasteway for the purpose of bypassing Storm Water, including Storm Water from the Authorized Area, from the Canal to Lee Gulch. Denver Water will operate the Lee Gulch Flume and Wasteway by leaving the wasteway open when Denver Water is not making irrigation deliveries to its Canal customers so that Storm Water may be bypassed to Lee Gulch. When Denver Water is making irrigation deliveries to its Canal customers, Denver Water will adjust the Lee Gulch Flume and Wasteway to a level sufficient to bypass Storm Water from the Authorized Area while retaining water diverted at the headgate of the Canal for irrigation deliveries to Canal Customers.

8.4. Cost to Maintain Ancillary Canal Structures. If Denver Water permanently discontinues irrigation deliveries using the segment of the Canal located within the Authorized Area, at Denver Water’s written request, Littleton will assume responsibility for the operation and maintenance of any necessary Ancillary Canal Structures within the Authorized Area required for continued Storm Water conveyance except for the Lee Gulch Flume and Wasteway; provided, however, Denver Water may assess a fee to Littleton to cover the annual cost of continued operation of the Lee Gulch Flume and Wasteway or, at Littleton’s expense, install a self-operating structure capable of bypassing Storm Water to Lee Gulch.

9. No Assessment of Fees or Rates. In consideration of Littleton undertaking the maintenance obligation in section 7 above, Denver Water will not charge Littleton any fees or rates to use the Canal for Storm Water treatment and conveyance except as provided in sections 8.4 and 29. Littleton may not assess any fees or rates to Denver Water or make any demand of payment for the maintenance, upkeep and/or operation of the Canal for Littleton’s authorized uses set forth above except as otherwise provided in section 8 above.

PERMITTING, LIABILITY AND TERMINATION

10. Responsibility for Environmental Permits. Certain Denver Water properties may contain habitat for listed “threatened” or “endangered” species under the Endangered Species Act (“ESA”). Littleton shall be responsible for determining the presence of such habitat and taking measures to comply with the ESA. In addition, the U.S. Army of the Corps has determined that certain segments of the Canal are jurisdictional waters of the United States. Certain segments of the Canal may also contain or be connected to State Waters. Littleton shall be solely responsible for obtaining all environmental permits for activities which it is authorized and/or obligated to carry out under this Agreement, including the: (1) construction, operation, maintenance, and repair of the Canal Channel within the Authorized Area; (2) maintenance of vegetation within the Authorized Area; and (3) the discharge and conveyance of Storm Water in the Canal. Such permits may include permits required under § 404 of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, the Colorado Water Quality Control Act, 25 U.S.C. §§ 25-8-101 *et seq.*, and wastewater discharge permits required under Regulation No. 5 CCR 1002-61. Littleton may also be required to comply with the National Historic Preservation Act, 16 U.S.C. §§ 470 *et seq.* Littleton shall supply Denver Water with documentation proving that such authority has been obtained or that such permission is not required by the regulatory authority.

11. Discharge of Storm Water. Littleton’s discharges of water to the Canal shall at all times be in accordance with its municipal separate storm sewer systems (“MS4”) permit. Littleton shall apply Best Management Practices (“BMPs”) to Storm Water as required under Littleton’s MS4 permit before Storm Water is discharged to the Canal.

12. Responsibility for Compliance with State Water Law. Littleton will be solely responsible for complying with State water law when discharging Storm Water to the Canal. To ensure that its use of the Canal is in compliance with State water law, Littleton will release Storm Water conveyed down the Canal under this Agreement to the nearest stream intersected by the Canal within 72 hours or such other policy or requirement that may be adopted by the Office of the State Engineer in the future.

MISCELLANEOUS PROVISIONS

13. Liability. To the extent allowed by Colo. Const. art. XI, §1, Littleton agrees to be liable for:

13.1. property damage, bodily injury or death resulting from an act or omission related to the design, construction, Installation, operation or maintenance of Littleton's Installations;

13.2. any regulatory action by governmental authority or citizen suit related to governmental permitting, including permitting under the Clean Water Act or other environmental law or regulation, required for the construction, maintenance or repair of Littleton's Storm Water discharges into the Canal; and

13.3. property damage, bodily injury or death resulting from an act or omission related to Littleton's maintenance activities performed within the Authorized Area under section 7.

14. Termination.

14.1. Termination by Denver Water. Denver Water may terminate or seek specific performance under this Agreement forty-nine (49) days after providing advance written notice to Littleton or its designee if:

14.1.1. Littleton breaches a material term of this Agreement and fails to cure within thirty-five (35) days of written notice by Denver Water of the alleged breach;

14.1.2. Littleton's use of the Canal to convey Storm Water conflicts with Denver Water's irrigation water delivery obligations to its High Line Canal customers and the parties are unable to develop a mutually agreeable solution to reconcile such conflict; or

14.1.3. Denver Water is required by governmental authority to obtain a discharge permit for Storm Water discharges into the Canal or a plan for augmentation to replace depletions from the discharge of Storm Water into the Canal.

14.2. Termination by Littleton. Littleton may terminate this Agreement after providing forty-nine (49) days advance written notice to Denver Water.

14.3. Removal of Outfall in the Event of Termination. After written notice of termination is received by the other party under paragraphs 14.1 or 14.2 above, within

forty-nine (49) days or, if necessary, according to a schedule mutually agreed to between the parties, Littleton shall be solely responsible for plugging and/or removal of the Storm Water outfall(s) into the Canal installed under this Agreement, and redirection of Storm Water away from the Canal. If a schedule cannot be agreed upon by the parties, or if City fails to timely secure an alternative viable means of conveying Storm Water other than through the Canal, Denver Water may design and construct an alternative means of Storm Water conveyance at Littleton's sole expense, which alternative means of Storm Water conveyance must be at a reasonable cost. This paragraph shall survive termination of this Agreement.

15. High Line Canal Conservancy. Denver Water and Littleton will take into consideration the mission and goals of the High Line Canal Conservancy when performing work in the Canal or the Canal right-of-way.

16. New Canal Segments. Littleton and Denver Water acknowledge Storm Water from Littleton currently enters other Canal segments, has the potential to be introduced to the Canal in the future, and/or has the potential to be introduced in modified amounts within the Authorized Area. The parties agree to continue to explore, cooperate and formalize the expanded use of the Canal as a Storm Water treatment and conveyance system with the goal of utilizing the length of the Canal located within Littleton as a facility devoted exclusively to Storm Water conveyance and treatment.

17. Formation of Storm Water Management Entity. The parties commit to cooperate in the formation of a Storm Water management authority for the purpose of overseeing use of the Canal for Storm Water management purposes across multiple municipal jurisdictions. If a Storm Water management authority is formed, Littleton agrees, unless Denver Water otherwise objects, to relinquish any rights or responsibilities that it has under this Agreement to the Storm Water management entity.

18. Agreement Subject to Prior Agreements. The rights and privileges granted in this license are subject to prior agreements, licenses, and conveyances, recorded or unrecorded, and it shall be Littleton's sole responsibility to determine the existence of any rights, uses, or Installations conflicting with Littleton's use of Denver Water's property hereunder and to resolve any conflict.

19. Recreational Activities. Denver Water and South Suburban Park District entered into a Lease Agreement for Recreational Use of the High Line Canal (“Lease”) in 2007. This Agreement is not intended to terminate or modify the Lease and shall be construed harmoniously with the Lease. In event of a conflict with, or inconsistent with, any provision in the Lease, this Agreement shall govern and control.

20. No Real Property Interest Granted. Denver Water makes no grant of real property rights or interests in the Canal under this Agreement. All rights to the Canal channel, right-of-way, and water right are retained by Denver Water.

21. Governmental Parties Acting in a Legislative Capacity. Denver Water and Littleton are both acting in their respective legislative capacities in entering into this Agreement, and not a proprietary capacity.

22. No Operating Obligation. Nothing herein shall be deemed or construed as creating any obligation on Denver Water to operate its facilities in any particular manner, so long as Denver Water complies with the express terms of this Agreement.

23. Denver Charter Provisions. This Agreement is made under and conformable to Article X of the Charter of the City and County of Denver. Insofar as applicable, the Charter provisions are incorporated herein and made a part hereof and shall supersede any apparently conflicting provisions otherwise contained in this Agreement.

24. Operating Rules. This Agreement is made under and conformable to Denver Water’s Operating Rules and Engineering Standards applicable to the delivery of water within Littleton.

25. Governmental Immunity Act. The Parties agree that they are relying upon, and have not waived, the monetary limitations, rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as it may be amended from time to time.

26. No Assignment. No right hereunder shall be assigned by either party, except with the written consent of Denver Water.

27. Successors and Assigns. This Agreement will be binding upon the parties’ successors and, if approved by Denver Water and Littleton, their respective assigns.

28. Waiver. No party shall waive its rights hereunder by failing to exercise its rights; any such failure shall not affect the right of such party to exercise at some future time the rights not previously exercised.

29. Remedies. None of the remedies provided for under this Agreement need to be exhausted or exercised as a prerequisite to either party's pursuit of further relief to which it may be entitled. However, in the event a party fails to meet its obligations hereunder, the other party may suspend performance of its obligations until the parties can confer regarding how and when the first party will meet its obligations.

30. No Exclusive Right. Nothing in this Agreement shall be construed as a grant by either party of any exclusive right or privilege.

31. Venue. Venue for any dispute over any issue resulting from this Agreement shall be in the District Court for Littleton and County of Denver.

32. Integration. This Agreement shall be construed and enforced as the fully integrated expression of the parties' contract with respect to the matters and subjects addressed herein. No express or implied covenant not specifically set forth herein shall be deemed to be a part of this Agreement.

33. Effect on Prior Contracts. Except as specifically referenced and altered herein, any other agreements between the parties shall remain in full force and effect.

34. Electronic Signatures & Records. The parties consent to the use of electronic signatures. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically. The parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

35. Notice and Representatives. The parties shall contact the persons listed below for all matters related to administration of this Agreement. All notices required or given under this Agreement shall be in writing and shall be deemed effective: (a) when delivered personally to the other party; or (b) seven (7) days after posting in the United States mail,

first-class postage prepaid, properly addressed as follows; or (c) when sent by e-mail. If notice is provided by e-mail, the notifying party must follow up with a hard copy of the notice sent by United States mail; however, the notice will be effective as of the original e-mail date.

Denver Water:

Tom Roode
Chief Operations and Maintenance Officer
Denver Water
1600 W. 12th Avenue
Denver, CO 80204
Email: tom.roode@denverwater.org

CC:

Office of General Counsel
Denver Water
1600 W. 12th Avenue
Denver, CO 80204

City of Littleton:

Keith Reester
Public Works Director
2255 W Berry Avenue
Littleton, CO 80120
Email: kreester@littletongov.org

CC:

Reid Betzing
City Attorney
2255 W Berry Avenue
Littleton, CO 80120
Email: rbetzing@littletongov.org

MHFD:

Kenneth A. MacKenzie
Executive Director
2480 W. 26th Ave. Suite 156-B
Denver, CO 80211
Email: kmackenzie@udfcd.org

CC:

Edward J. Krisor
Attorney At Law
3900 S. Wadsworth Blvd., Suite 320
Denver, CO 80235
Email: ejkrisor@iCloud.com

Or such other persons or addresses as the parties may have designated in writing.

36. Subject to Appropriation. Littleton's payment obligation, whether direct or contingent, extends only to funds appropriated annually by Littleton of Littleton City Council, and encumbered for the purpose of the Agreement. Littleton does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of Littleton.

37. Effective Date. This Agreement will become effective ("Effective Date") upon execution by all required signatories below.

ATTESTED:

**CITY AND COUNTY OF DENVER,
acting by and through its
BOARD OF WATER COMMISSIONERS**

By: _____
Secretary

By: _____
President

DATE: _____

APPROVED:

REGISTERED AND COUNTERSIGNED:
CITY AND COUNTY OF DENVER

By: _____
Chief Operations & Maintenance
Officer

By: _____
Timothy M. O'Brien, CPA
Auditor

By: _____
Chief Engineering Officer

By: _____
Chief External Affairs Officer

APPROVED AS TO FORM:

By: _____
Office of General Counsel

MILE HIGH FLOOD DISTRICT

By: _____
Ken MacKenzie, Executive Director

CITY OF LITTLETON

By: _____
Debbie Brinkman, Mayor

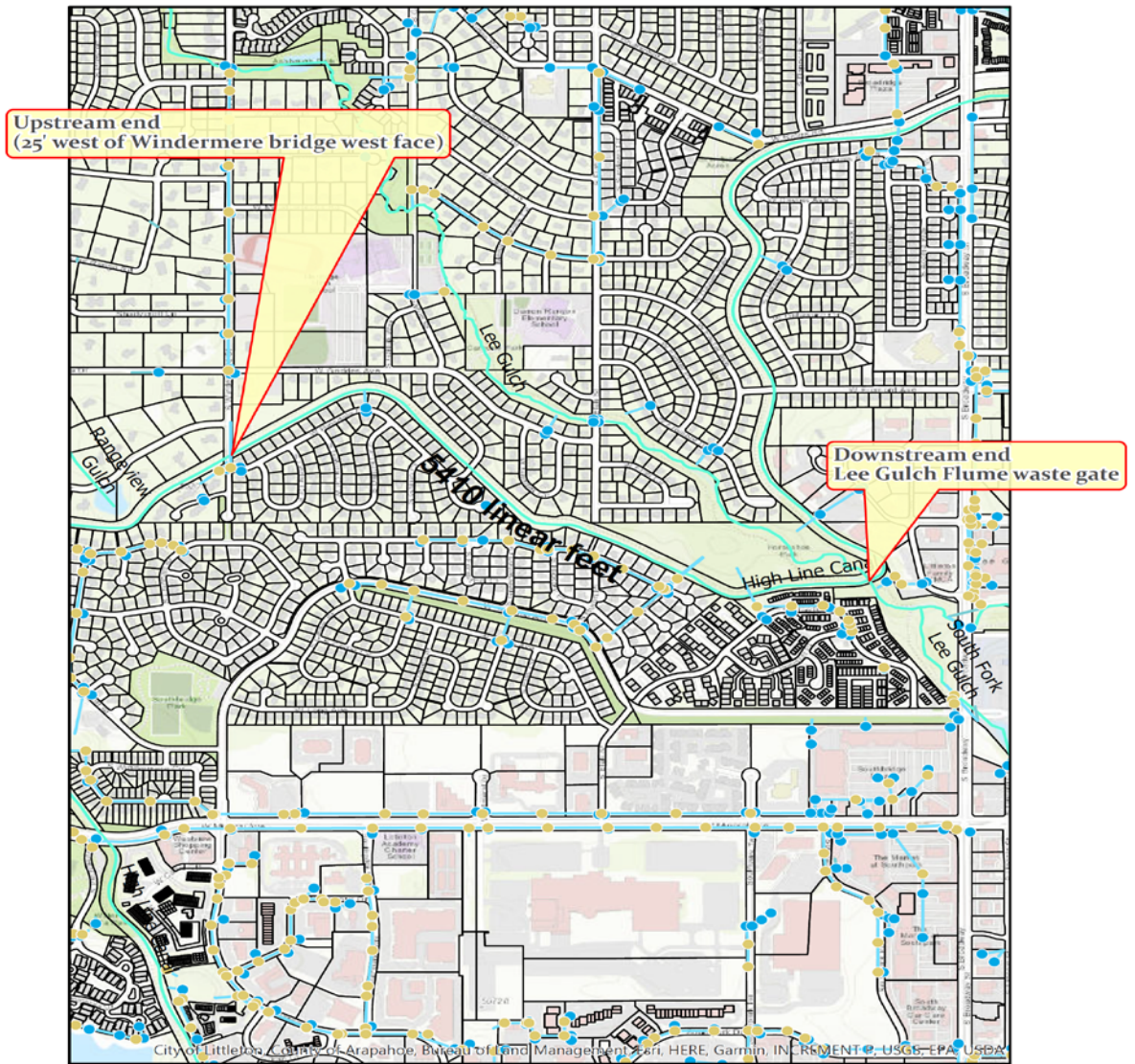
ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A AUTHORIZED AREA



0 0.1 0.2 0.4 Miles



**Highline Canal
EXHIBIT A**

EXHIBIT B

