

TWENTY-FIRST INTERIM AGREEMENT WITH THE  
NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE,  
FOR PARTICIPATION IN THE  
NORTHERN INTEGRATED SUPPLY PROJECT

This Agreement is made and entered into as of \_\_\_\_\_, 20\_\_, by and between the Northern Integrated Supply Project Water Activity Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 et seq., owned by the Northern Colorado Water Conservancy District, and whose address is 220 Water Avenue, Berthoud, Colorado 80513 (the "NISP Enterprise"), and the Town of Erie, acting by and through its Erie Water Activity Enterprise, a water activity enterprise and government-owned business within the meaning of Article X, Section 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 et seq., whose address is P.O. Box 750, Erie, CO 80516-0750 ("Participant").

Recitals

- A. The NISP Enterprise is developing a water project (the "Project") for the purpose of developing a new reliable water supply for the beneficial use of the Participant and other entities.
- B. Overall Project costs will be divided among the entities that participate in the Project.
- C. The First, Second, and Fourth Phases of the Project, and years one through six of the Third Phase, have been completed.
- D. The Third Phase, Years 7 through 20 (hereinafter referred to as "Phase 3A"), will consist of further agency consultation, permitting work with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work, and analysis for permitting, modeling, and other activities related to designing and permitting the Project.
- E. The Fifth Phase of the Project consists of the Glade Reservoir final design, Highway 287 relocation final design and CM/GC design involvement, and completion of the Galeton Dam preliminary design.
- F. The Sixth Phase involves continued NISP conveyance delivery refinement, South Platte Water Conservation Project negotiations, land and easement definition and purchase, and potential advancement of time-sensitive mitigation activities.
- G. The Seventh Phase involves the development of a NISP Allotment Contract, financial project planning, legal defense of the Project permits, and overall project administration.
- H. The Eighth Phase involves early pipeline construction, procurement of electrical materials for the Highway 287 relocation, and advancement of the option agreement for the Timnath Inlet Canal.

- I. It is necessary that the NISP Enterprise pursue Phases 3A, 5, 6, 7, and 8 of the Project at this time in order to be able to complete the Project on the time schedule desired by the participants.
- J. Pursuing these Phases 3A, 5, 6, 7, and 8 of the Project on behalf of the participants will require continued funding from the participants.

### Agreement

- 1. The Participant agrees to participate in Phases 3A, 5, 6, 7, and 8 of the Project, under and pursuant to the terms and conditions of this Agreement. The Participant acknowledges that it shares a common interest in development of the Project and that privileged material may be shared with the Participant from time to time. A description of Phase 3A, Phase 5, Phase 6, Phase 7 and Phase 8 is included in Exhibit A. Participation in this Agreement in no way obligates the Participant to participate in subsequent phases of the Project or to continue involvement in the Project in any manner.
- 2. For the purposes of cost allocation in Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 the cost is based upon the Participant's base requested capacity divided by the total requested base Project yield. The Participant's initial base requested capacity in the Project is 6,500 acre-feet of water yield. Attached hereto as Exhibit B is a table showing the currently anticipated permitted capacity in the Project and the pro rata share of the costs of the Project for 2025 for each Participant. The costs covered by this Agreement shall be separate from costs covered by the NISP Phase I Agreement between the NISP Enterprise and the Participant. The Participant may request a reduction or increase in base requested capacity, which will be implemented by the NISP Enterprise so long as any costs of design, environmental studies, permitting or other matters are paid by the Participant pursuant to its pro-rata cost basis. If a reduction in the Participant's base requested capacity is made, the formula for allocation of costs among the participants shall be changed accordingly so that all participants bear a pro rata share of the Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 costs of the Project after the change based on their final base requested capacities. For purposes of the environmental analysis for the Project, the Participant's permitted capacity in the Project is 6,500 acre-feet of water yield. In the event that the Participant's base requested capacity is increased or decreased, the Participant's permitted capacity shall be increased or decreased in the same percentage as the percentage increase or decrease of the base requested capacity.
- 3. The Participant agrees to provide to the NISP Enterprise funds for its pro rata share of the anticipated 2025 costs necessary for Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 of the Project. The NISP Enterprise estimates that the Participant's pro rata share of the costs of the Project is \$5,427,500 for 2025. The Participant will pay the NISP Enterprise its pro rata share of these 2025 costs on or before February 15, 2025. The NISP Enterprise will invoice the Participant for this payment. These estimated costs will not be increased or exceeded without the prior written approval of the Participant. Participant

funds that are not expended during Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 will be rebated back to each participant pro rata based on each participant's contribution of funds to the Project in Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8.

4. In the event that the Participant fails to make the payment set forth above at the specified time, the NISP Enterprise shall have the right to terminate this Agreement and cease all work on the Project for the benefit of the Participant. The NISP Enterprise shall give the Participant thirty (30) days' advance written notice of its intention to terminate this Agreement and cease work on the Project for the Participant's benefit under this paragraph. The Participant shall have until the end of said 30-day period in which to make all past due payments in full in order to cure its default hereunder. The Participant shall in any event be responsible for its pro rata share of the 2025 costs of Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 of the Project actually incurred by the NISP Enterprise up to the date of termination of this Agreement.
5. The NISP Enterprise agrees to diligently pursue Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 of the Project in good faith to the extent that funds therefor are provided by the Participant under this Agreement and by other participants under similar agreements. By entering into this Agreement and accepting payments from the Participant, the NISP Enterprise does not obligate itself to, nor does the NISP Enterprise warrant that it will, proceed with the Project beyond Phase 8 or that it will construct or operate the Project. At the end of the Eighth Phase, the NISP Enterprise will determine after consultation with the participants whether to proceed with the Project. The NISP Enterprise agrees that, if the participants provide all required funding, if the NISP Enterprise has the ability, and if the Project is feasible and practical, it will pursue the construction and operation of the Project if requested to do so by a sufficient number of participants to fully fund the Project. In the event that the NISP Enterprise decides not to proceed with the Project, it will so notify the Participant and this Agreement will immediately and automatically terminate upon the giving of such notice.
6. In the event of termination of the Project, the Participant shall not be entitled to any return of funds paid to the NISP Enterprise for the Project, unless payments by participants exceed the NISP Enterprise's costs as of the date the Project is terminated, in which case a pro rata refund will be made. In the event of such termination, the Participant shall be entitled to receive copies of any work products developed by the NISP Enterprise or its consultants on behalf of the Participant, and NISP Enterprise Board shall, in its sole discretion: (i) convey to the Participant, as a tenant in common with all other participants who have not been terminated under paragraph 4 above, a pro rata interest in all real and personal property acquired by the NISP Enterprise for the Project with funds provided under this Agreement or similar agreements with other participants; or (ii) disburse to the Participants the proceeds of any sale of assets in proportion to each Participant's Cost Share.
7. The Participant shall have the right to assign this Agreement and the Participant's rights hereunder, with the written consent of the NISP Enterprise, which consent shall not be unreasonably withheld, to any entity that is eligible to receive water deliverable through

the Project and that is financially able to perform this Agreement.

8. In the event that this Agreement is terminated for any reason, the Participant shall not be entitled to any return of any funds paid to the NISP Enterprise for the Project except as provided in Paragraphs 3 and 6 above for those participants who have not been terminated under Paragraph 4 above, and the NISP Enterprise shall have no further obligations to the Participant.
9. Notwithstanding any other provision of this Agreement to the contrary, the Participant's maximum financial obligation under this Agreement shall be the payment of \$5,427,500 set forth in paragraph 3 above. The Participant shall have the right to terminate this Agreement at any time. In the event of such termination, each of the parties hereto shall be immediately released from all obligations recited herein as if this Agreement had not been entered into.
10. In the event that additional costs must be incurred for Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 in 2025, the parties may amend this Agreement in writing to provide for further payment by the Participant of the costs for 2025. However, the Participant is not obligated under this Agreement to pay any costs for Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 beyond the costs stated in paragraph 3 above.
11. This Agreement shall be interpreted under the laws of the State of Colorado. Venue for any disputes concerning this Agreement shall be in the Weld County, Colorado, District Court.
12. Nothing in this Agreement shall be construed to waive the protections and immunities afforded the NISP Enterprise and the Participant under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., and any similar or successor statutes of the State of Colorado.
13. Except for the obligation to pay money, neither party shall be liable to the other party for any delay or inability to perform its obligations hereunder by reason of acts of God, acts of the public enemy, riot, civil commotion, insurrection, acts or failure to act of governmental authorities, war, pandemic, or any other cause or causes beyond the party's reasonable control.
11. This Agreement is the entire agreement between the NISP Enterprise and the Participant regarding participation in Phase 3A, Phase 5, Phase 6, Phase 7, and Phase 8 of the Project and shall be modified by the parties only by a duly executed written instrument approved by the Participant and the NISP Enterprise's Board of Directors.
12. This Agreement is subject to approval by the NISP Enterprise's Board of Directors and shall become binding on the NISP Enterprise only upon such approval.

TOWN OF ERIE, ACTING BY AND THROUGH ITS  
ERIE WATER ACTIVITY ENTERPRISE, a water activity  
enterprise and government-owned business within the meaning  
of Article X, Section 20(2)(d) of the Colorado Constitution,  
organized pursuant to C.R.S. § 37-45.1-101 et seq.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY  
ENTERPRISE

By: \_\_\_\_\_

Bradley D. Wind, P.E.  
General Manager

EXHIBIT A  
DESCRIPTION OF PHASE 3A, PHASE 5, PHASE 6, PHASE 7, and PHASE 8  
NORTHERN INTEGRATED SUPPLY PROJECT

Phase 3A consists of a continuation of the permitting work associated with NISP. The work in 2025 will largely be remaining efforts in support of the final 404 permit and Record of Decision, potential minor modification of the 404 permit, mitigation development, and continuation of the Larimer County IGA process. Additionally, there will be work in support of the public information effort for NISP as well as overall Northern Water administration and legal support.

Phase 5 will consist of the Glade Reservoir facility design advancement and necessary geotechnical work and Highway 287 relocation final design.

Phase 6 involves the following additional 2025 activities:

- NISP conveyance will continue to be refined including evaluation of Participant flow requirements, pipeline sizing and route refinement, design advancement, and conveyance cost estimating.
- South Platte Water Conservation Project negotiations will be advanced with the affected ditch companies and shareholder cooperative agreements will be developed.
- Land and easement requirements will be more specifically identified and acquired.
- Mitigation plans will continue to be advanced, and time sensitive mitigation activities may be pursued.

Phase 7 involves the following 2025 activities:

- Project financial planning
- Allotment contract development
- Legal defense of the Army Corps of Engineers 404 permit, and the Larimer County 1041 Permit.
- Potential activities associated with the City of Fort Collins' 1041 permit process.

Phase 8 involves the following 2025 activities:

- Early Pipeline Construction in the Johnstown area.
- Procurement of overhead electric materials for the HW 287 relocation.
- Advancement of the option agreement for of the Timnath Inlet Canal.

EXHIBIT B  
PARTICIPANT YIELD AND COSTS  
PHASE 3A, PHASE 5, PHASE 6, PHASE 7, and PHASE 8

