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MEMORANDUM

DATE: July 16, 2013

TO: Mayor and City Councilmembers

FROM: Carrie M. Daggett, Deputy City Attorney

RE: Tonight's City Council Agenda Item No.22 (Resolution 2013-058 Approving an Intergovernmental Agreement Between the City and Fort Collins-Loveland Water District for Participation in a Joint Regional Water Treatment Solutions Study

Please see attached a revised version of City Council Resolution 2013-058, and a revised version of the initial two pages of the Intergovernmental Agreement attached to the Resolution as Exhibit "A". The revisions to these documents reflect clarifications to the recitals (which match in both documents) requested by Fort Collins-Loveland Water District and agreed to by City staff. The revisions more clearly articulate the background for the requested action, but do not materially change the substance of the documents.

Attachments: City Council Resolution 2013-058
Revised pages 1 and 2 of Exhibit "A" to Resolution 2013-058

pc: Darin Atteberry, City Manager/URA Executive Director
Steve Roy, City Attorney
Wanda Nelson, City Clerk/Board Secretary

RESOLUTION 2013-058
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF
FORT COLLINS AND FORT COLLINS-LOVELAND WATER DISTRICT FOR
PARTICIPATION IN A JOINT REGIONAL WATER TREATMENT SOLUTIONS STUDY

WHEREAS, three area water districts, the Fort Collins-Loveland Water District (“FCLWD”), the East Larimer County Water District (“ELCO”) and the North Weld County Water District (“NWCWD”), together referred to as the Tri-Districts, cooperatively own and operate the Soldier Canyon Filter Plant (the “Plant”), which is located near the City’s Water Treatment Facility; and

WHEREAS, the Tri-Districts provide drinking water service to customers within portions of Fort Collins, the Fort Collins growth management area, Larimer County, Weld County and the surrounding region, including the towns of Windsor, Eaton, Ault, Timnath, Pierce and Nunn, as well as the Sunset Water District, and portions of the Northern Colorado Water Association; and

WHEREAS, the Tri-Districts will need to ~~expand their~~ add additional water treatment plant capacity ~~to continue to comply with applicable regulations and to meet future capacity need~~ streated water demand; and

WHEREAS, ~~as an alternative to expanding the Plant, the Tri-Districts, through FCLWD, desire to confer with and~~ the City ~~regarding possible arrangements under which the City might provide for the treatment of a portion of its water flows~~ desire to explore and evaluate various regional cooperative water treatment alternatives to meet ~~the Tri-Districts’~~ near term and future needs; and

WHEREAS, the City has historically worked with FCLWD and with NWCWD through water sales and exchanges in order to cooperate in providing cost-effective and efficient water treatment and supply, and those existing agreements are currently under review and proposed to be updated; and

WHEREAS, the City has unused treatment capacity at its Water Treatment Facility, which facility was constructed prior to water conservation efforts; and

WHEREAS, if such water treatment arrangements were made, each of the Tri-Districts would remain independent from the City ~~and the City will assess only those charges directly or indirectly related to the use of its treatment capacity for the Tri-Districts’ water flows~~; and

~~WHEREAS, the Tri-Districts would provide their own raw water to the City for treatment;~~
and

WHEREAS, ~~consolidation of regional cooperative water treatment services would eliminate construction at the Plant~~ solutions could defer or eliminate the need to construct additional near-term water treatment capacity and increase efficiencies that could benefit the City, the Tri-Districts and the region; and

WHEREAS, on April 21, 2009, the City Council adopted Resolution 2009-041, authorizing the City Manager to investigate options for a cooperative arrangement that would provide water treatment services to the Tri-Districts and to negotiate a proposed agreement for future Council consideration; and

WHEREAS, in order to more fully develop and evaluate options for cooperative arrangements and then prepare a proposal for City Council consideration if a desirable alternative is identified, the Tri-Districts have worked with City staff to develop a proposal for a study by outside experts of the technical and financial aspects of alternatives for cooperation (the "Study"); and

WHEREAS, FCLWD is willing to coordinate the Study for the benefit of the Tri-Districts and the City, provided that each of the four entities pay twenty-five percent of the overall cost; and

WHEREAS, the City's share of the costs of the Study is expected to be approximately \$55,000, and will be limited to no more than \$75,000; and

WHEREAS, the funds required to pay the City's share of the costs are appropriated and available in the Water Enterprise Contingency Fund; and

WHEREAS, City staff has proposed that the City enter into an intergovernmental agreement with FCLWD, attached hereto as Exhibit "A" and incorporated herein by this reference (the "Agreement"), in order to provide for ongoing City staff involvement in directing and reviewing the work of the outside experts preparing the Study, and to provide for payment by each of the parties of an equivalent share of the Study costs; and

WHEREAS, Article II, Section 16 of the City Charter of the City empowers the City Council, by ordinance or resolution, to enter into contracts with other governmental bodies to furnish governmental services and make charges for such services or enter into cooperative or joint activities with other governmental bodies.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Mayor is hereby authorized to execute an Intergovernmental Agreement for the Funding and Coordinating of a Regional Water Treatment Solutions Study between the City and FCLWD consistent with the terms of this Resolution, with such 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 purpose of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of July, A.D. 2013.

Mayor

ATTEST:

City Clerk

**INTERGOVERNMENTAL AGREEMENT
FOR COOPERATIVE STUDY OF
REGIONAL WATER TREATMENT OPTIONS**

THIS AGREEMENT is made and entered into as of the ___ day of _____ 2013, by and between the City of Fort Collins, a home rule municipality, acting by and through its _____ (hereinafter "Fort Collins"), and the Fort Collins-Loveland Water District, acting by and through its Water Enterprise (hereinafter "the District")(collectively "Parties").

RECITALS

WHEREAS, three area water districts, the Fort Collins-Loveland Water District ("FCLWD"), the East Larimer County Water District ("ELCO") and the North Weld County Water District ("NWCWD"), together referred to as the Tri-Districts, cooperatively own and operate the Soldier Canyon Filter Plant (the "Plant"), which is located near the City's Water Treatment Facility; and

WHEREAS, the Tri-Districts provide drinking water service to customers within portions of Fort Collins, the Fort Collins growth management area, Larimer County, Weld County and the surrounding region, including the towns of Windsor, Eaton, Ault, Timnath, Pierce and Nunn, as well as the Sunset Water District, and portions of the Northern Colorado Water Association; and

WHEREAS, the Tri-Districts will need to add additional water treatment capacity to meet future treated water demand; and

WHEREAS, the Tri-Districts and the City desire to explore and evaluate various regional cooperative water treatment alternatives to meet near term and future needs; and

WHEREAS, the City has historically worked with FCLWD and with NWCWD through water sales and exchanges in order to cooperate in providing cost-effective and efficient water treatment and supply, and those existing agreements are currently under review and proposed to be updated; and

WHEREAS, the City has unused treatment capacity at its Water Treatment Facility, which facility was constructed prior to water conservation efforts; and

WHEREAS, if such water treatment arrangements were made, each of the Tri-Districts would remain independent from the City; and

WHEREAS, regional cooperative water treatment solutions could defer or eliminate the need to construct additional near-term water treatment capacity and increase efficiencies that could benefit the City, the Tri-Districts and the region; and

WHEREAS, on April 21, 2009, the City Council adopted Resolution 2009-041, authorizing the City Manager to investigate options for a cooperative arrangement that would

provide water treatment services to the Tri-Districts and to negotiate a proposed agreement for future Council consideration; and

WHEREAS, in order to more fully develop and evaluate options for cooperative arrangements and then prepare a proposal for City Council consideration if a desirable alternative is identified, the Tri-Districts have worked with City staff to develop a proposal for a study by outside experts of the technical and financial aspects of alternatives for cooperation (the "Study"); and

WHEREAS, FCLWD is willing to coordinate the Study for the benefit of the Tri-Districts and the City, provided that each of the four entities pay twenty-five percent of the overall cost; and

WHEREAS, the City's share of the costs of the Study is expected to be approximately \$55,000, and will be limited to no more than \$75,000; and

WHEREAS, the funds required to pay the City's share of the costs are appropriated and available in the Water Enterprise Contingency Fund; and

WHEREAS, City staff has proposed that the City enter into an intergovernmental agreement with FCLWD (the "Agreement"), in order to provide for ongoing City staff involvement in directing and reviewing the work of the outside experts preparing the Study, and to provide for payment by each of the parties of an equivalent share of the Study costs; and

WHEREAS, Article II, Section 16 of the City Charter of the City empowers the City Council, by ordinance or resolution, to enter into contracts with other governmental bodies to furnish governmental services and make charges for such services or enter into cooperative or joint activities with other governmental bodies.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements hereinafter set forth, it is agreed by and between FCLWD and Fort Collins as follows:

AGREEMENT

1. AUTHORITY. This Agreement has been duly adopted by the Parties' governing body and the undersigned representatives authorized to execute this Agreement on behalf of the respective Party.

2. PURPOSE. The foregoing Recitals are hereby incorporated into and made part of this Agreement.

3. FUNDING. FCLWD will fund the Study, using its own funds, payments to be received from the other Tri-Districts, and using the funds provided by Fort Collins, as provided herein.

4. APPORTIONMENT OF COSTS AND DUTIES.