

**ARKANSAS RIVER FOUNTAIN CREEK COALITION FOR
URBAN /RURAL RIVER EVALUATION (AF CURE)
PROJECT PARTICIPATION AGREEMENT**

PIKES PEAK REGIONAL WATER AUTHORITY

This **AF CURE** Project Participation Agreement (“Agreement”) is made June 25, 2013, by and among the Pikes Peak Regional Water Authority (“Authority”) and the following eleven participating members and associates of the Authority (“Participants”): Upper Monument Creek Regional Wastewater Treatment Facility, Cherokee Metropolitan District, Security Sanitation District, Widefield Water and Sanitation District, Fountain Sanitation District, City of Pueblo, Pueblo West Metropolitan District, Colorado Springs Utilities, an enterprise of the City of Colorado Springs, a home rule city and municipal corporation, Lower Fountain Metropolitan Sewage Disposal District, Tri Lakes WWTF, and Woodmen Hills Metropolitan District. The Authority and the Participants may individually be referred to as a “party” and collectively as the “parties.”

This Agreement is made pursuant and subject to the Second Amended Establishing Contract for El Paso County Water Authority and Name Change to Pikes Peak Regional Water Authority (“Establishing Contract”). It shall be effective upon execution by the Authority and all Participants.

1. Project Area defined. The “watershed area” or “watershed” will include portions of the Fountain Creek and Chico Creek watersheds as well as the Arkansas River from the Pueblo Reservoir to the John Martin Reservoir where the Participants have discharges.
2. AF CURE Project defined. The “AF CURE Project” or “Project” includes all activities authorized by the AF CURE Project Committee to address water quality matters of concern to the Participants, including, but not limited to: coordinated monitoring, sampling, analysis and reporting of discharges and stream water quality within and connected to the watershed, initially focused on, but not limited to, compliance with Water Quality Control Commission Regulation 85; water quality data compilation and management; joint participation in activities of the Water Quality Control Commission and Water Quality Control Division or water quality efforts; participation in regulatory hearings; additional monitoring to develop site specific standards for water quality parameters within the watershed; conducting water quality studies; joint financing of water quality studies; sharing of news and information; and development of a web site to share information; other matters determined by the AF CURE Project Committee to be of mutual concern or interest to AF CURE.
3. Participants. Participants must be Members or Associates of the Authority, and may become Associates of the Authority solely for the purpose of participating in the Project. The Pikes Peak Area Council of Governments and Pueblo Area Council of Governments, who are not a party to this agreement, may designate a non-voting observer to participate in meetings of the AF CURE Project Committee.

4. AF CURE Project Committee. The AF CURE Project Committee shall consist of one representative appointed by each Participant. Each Participant shall also appoint an alternate representative. The Project Committee shall act as the board of directors for and govern the affairs of the Project.

5. Delegation of Powers. The Project Committee shall have all the powers of the Authority under the Establishing Contract with regard to the Project, and shall be subject to the Establishing Contract, except as modified by this Agreement. In the case of any conflict between this Agreement and the Establishing Contract, this Agreement shall control. Subject to this Agreement, the Project Committee shall have all the powers with respect to the Project that the Authority board of directors has with respect to the Authority.

6. Action by Project Committee. A majority of Project Committee directors shall constitute a quorum for the transaction of Project business. The Project Committee shall act by motion or resolution approved by a majority of Participants present, provided a quorum is present. The Project Committee may allow members to participate in meetings by telephone or other electronic means.

7. Addition of Participants. New Participants may be added with the approval of all existing Participants. New Participants shall execute an addendum to this Agreement. The Project Committee may prescribe terms and conditions for the addition of a new Participant, which may include reimbursement of a reasonable share of expenses previously incurred and assumption of a fair portion of the outstanding liabilities of the Project as determined by the Project Committee. Such terms and conditions shall be included in the addendum executed by the new Participant.

8. Only Participants Obligated. The Project Committee can obligate only those members of the Authority which are Participants. Neither the Authority nor any members of the Authority which are not Participants shall have any rights or liabilities with regard to the Project, nor shall the Authority attempt to direct or control the Project.

9. Contributions and assessments. The Project Committee may assess each Participant for its share of Project expenses and reserves as the Committee determines. Assessments for work that benefits fewer than all Participants or that benefits Participants to different extents may account for such differences, and need not be uniform.

10. Default and cure. A Participant shall continue to be eligible to participate in the Project only if it regularly pays its assessments and other obligations when such assessments and other obligations become due. A Participant is under no obligation to pay any particular assessment it does not wish to pay, however, payment of all assessments shall be a condition of continued participation in the Project. In the event any such assessment or other obligation is not paid when due, that Participant shall be in default and shall not be entitled to participate further in the Project, provided however, that said Participant shall have thirty (30) days after written notice from the Project Committee in which to cure such default, but in no event shall it be relieved of its obligation to make any payments for which it shall be legally responsible and which shall remain due and payable. Continued participation, after default, by any such Participant in the

Project shall only be upon such terms and conditions as the Project Committee then deems appropriate.

11. Amendment of this Agreement. This Agreement may be amended only by affirmative vote of all the Participants.

12. Withdrawal of Participants. Any Participant may withdraw from the Project by giving written notice thereof to the Project Committee at least thirty (30) days in advance. A withdrawing Participant shall pay all of its assessments and obligations hereunder that have accrued as of the effective date of its withdrawal; however, a withdrawing Participant's responsibility for paying such accrued assessments and obligations shall survive withdrawal. Failure to pay an assessment or other obligations and failure to cure default of the same within the time limits provided in Article X of the Establishing Contract may be deemed intent of that defaulting Participant to withdraw from the Project, or may be considered as grounds for expulsion. A withdrawing or defaulting Participant shall have no right to refund of any assessments paid prior to withdrawal or default.

13. Expulsion of Participants. A Participant may be expelled from a Project pursuant to Article VI, section 3 of the Establishing Contract by two-thirds majority vote of all the other Participants.

14. Dissolution and Winding Up of Project. The Project and this Agreement shall continue in effect until dissolved by vote of a majority of the then-active Participants. Upon dissolution, the assets of the Project shall be conveyed to the then-active Participants in proportion to the contributions each has made to the Project.

15. Notices. Notices required by this Agreement shall be in writing, delivered by hand, by first-class mail or by tracked delivery service (such as Federal Express) addressed to:

The Authority: Pikes Peak Regional Water Authority
2 North Cascade Avenue, Suite 1280
Colorado Springs, CO 80903

UMC: c/o Donala Water and Sanitation District
15850 Holbein Dr.
Colorado Springs, CO 80921

Cherokee: Cherokee Metropolitan District
6250 Palmer Park Blvd
Colorado Springs, CO 80915

Colorado Springs Utilities: Colorado Springs Utilities, Environmental Services
c/o Ginny Johnson
121 S. Tejon St.
P.O. Box 1103, Mail Code 940
Colorado Springs, CO 80947-0940

Security:	Security Sanitation District 231 Security Blvd Colorado Springs, CO 80911
Fountain:	Fountain Sanitation District 901 S Santa Fe Ave, Fountain, CO 80817
Lower Fountain:	Lower Fountain Metropolitan Sewage Disposal District 901 S Santa Fe Ave, Fountain, CO 80817
Pueblo:	City of Pueblo Water Reclamation Facility 1300 South Queens Ave Pueblo, CO 81001
Pueblo West:	Pueblo West Metropolitan District 109 East Industrial Boulevard Pueblo West, CO 81007
Widefield:	Widefield Water and Sanitation District 37 Widefield Blvd Colorado Springs, CO 80911
Tri-Lakes:	Tri-Lakes Wastewater Treatment Facility c/o Monument Sanitation District 130 2nd St, Monument, CO 80132 Monument, CO 80132
Woodmen Hills:	Woodmen Hills Metropolitan District 8046 Eastonville Road, Falcon, CO 80831.

16. No assignment. No party's rights or obligations under this Agreement shall be assigned without the prior written consent of the other parties, and any attempted assignment without such consent shall be void. Notwithstanding anything herein to the contrary, upon written notice to the Project Committee and all other Participants, Colorado Springs Utilities (Utilities) may assign this Agreement without consent to the City of Colorado Springs, Colorado.

17. Severability. If any provision of this Agreement is held void or unenforceable, such provision shall be deemed stricken, and all remaining provisions shall continue in force.

18. Subject to Appropriations. In accord with the Colorado Constitution and/or the organic laws of the respective governmental entities or enterprises of a governmental entity, that are Participants, performance of such Participant's obligations under this Agreement is expressly

subject to appropriation of funds by the respective governing body of each such Participant . Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by such Participants contrary to Article X, § 20, Colorado Constitution, or any other constitutional, statutory, or charter limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of such Participants which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such Participants will have no liability for compensation or damages to the other Parties in excess of the Participant's authorized appropriation for this Agreement, and upon such failure (i) the Participant shall not be entitled to participate further in the Project at such time as the then-existing and available appropriations are depleted, and (ii) such failure shall not constitute a default or breach of this Agreement, including any sub-agreement, exhibit, or amendment by the Participant. Continued participation, after a failure to appropriate, by the Participant in the Project shall only be upon such terms and conditions as the Project Committee then deems appropriate.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered an original, and all of which together shall constitute one agreement. Facsimiles or copies of signatures shall be considered originals.

20. Entire agreement. This Agreement constitutes the entire agreement among the parties. All prior negotiations, representations and agreements concerning the subject matter of this Agreement are merged herein.

21. Governing law. This agreement shall be construed in accordance with the laws of the State of Colorado except for its conflict of law provisions, and with regard to participation by a specific Participant, that Participant's organic or authoritative law.

22. No third party beneficiaries. Except as provided in paragraph 3 with respect to the Pikes Peak Area Council of Governments and Pueblo Area Council of Governments, this Agreement shall not be deemed to create any third-party rights or beneficiaries. Without limiting the generality of the foregoing, no rights or obligations are created in or toward Members of the Authority which are not Participants.

23. Authority. Each party warrants that it has the authority to enter into this Agreement, and that the person signing this Agreement on its behalf has the authority to bind it to this Agreement.


Sean Chambers, President

Attest:

Date: _____, 2013.

Secretary

CHEROKEE METROPOLITAN DISTRICT


President

Attest:

Date: 8-26, 2013.


Secretary

**UPPER MONUMENT CREEK REGIONAL WASTEWATER
TREATMENT FACILITY**

Kip Petersen, Chairman
Operations Coordinating Committee

SECURITY SANITATION DISTRICT

President

Attest:

Date: _____, 2013.

Secretary

PIKES PEAK REGIONAL WATER AUTHORITY

Sean Chambers, President

Attest:

Secretary Date: _____, 2013.

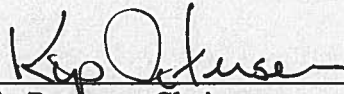
CHEROKEE METROPOLITAN DISTRICT

President

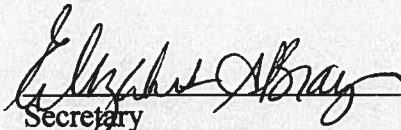
Attest:

Secretary Date: _____, 2013.

**UPPER MONUMENT CREEK REGIONAL WASTEWATER
TREATMENT FACILITY**



Kip Petersen, Chairman
Operations Coordinating Committee



Secretary Date: June 26, 2013.

SECURITY SANITATION DISTRICT

President

Attest:

Secretary Date: _____, 2013.

PIKES PEAK REGIONAL WATER AUTHORITY

Sean Chambers, President

Attest:

Secretary Date: _____, 2013.

CHEROKEE METROPOLITAN DISTRICT

President

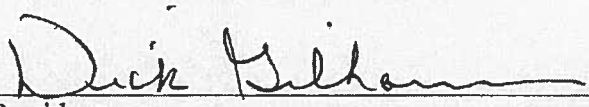
Attest:

Secretary Date: _____, 2013.

**UPPER MONUMENT CREEK REGIONAL WASTEWATER
TREATMENT FACILITY**

Kip Petersen, Chairman
Operations Coordinating Committee

SECURITY SANITATION DISTRICT
Acting by and through its Activity Enterprise



President

Attest:



Assistant Secretary Date: June 28, 2013.



FOUNTAIN SANITATION DISTRICT

Bobby E. Phillips
President

Attest:

[Signature]
Secretary

Date: July 10, 2013.

CITY OF PUEBLO

President, City Council

Attest:

City Clerk

Date: _____, 2013.

PUEBLO WEST METROPOLITAN DISTRICT

President

Attest:

Secretary

Date: _____, 2013.

COLORADO SPRINGS UTILITIES

Gary Bostrom, Chief Water Services Officer

Attest:

Date: _____, 2013.

FOUNTAIN SANITATION DISTRICT

President

Attest:

Secretary


Date: _____, 2013.

CITY OF PUEBLO



President, City Council

Attest:



City Clerk

Date: 9/9 _____, 2013.

PUEBLO WEST METROPOLITAN DISTRICT

President

Attest:

Secretary

Date: _____, 2013.

COLORADO SPRINGS UTILITIES

Gary Bostrom, Chief Water Services Officer

Attest:

Date: _____, 2013.

FOUNTAIN SANITATION DISTRICT

President

Attest:

Secretary

Date: _____, 2013.

CITY OF PUEBLO


President, City Council

Attest:

City Clerk

Date: _____, 2013.

PUEBLO WEST METROPOLITAN DISTRICT



President

Attest:



Secretary

Date: 7-23-, 2013.

COLORADO SPRINGS UTILITIES

Gary Bostrom, Chief Water Services Officer

Attest:

Date: _____, 2013.

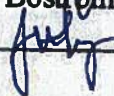
Secretary

COLORADO SPRINGS UTILITIES



Gary Bostrom, Chief Water Services Officer

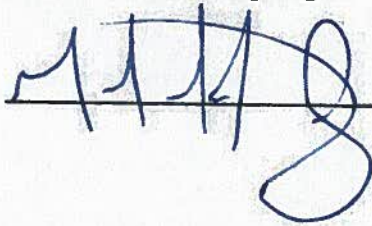
Date

 July 1, 2013

APPROVED AS TO FORM

City Attorney's Office – Utilities Division

City of Colorado Springs





**LOWER FOUNTAIN METROPOLITAN SEWAGE
DISPOSAL DISTRICT**

Bobbey E. Phillips
President

Attest:

[Signature] Date: July 11, 2013.
Secretary

TRI-LAKES WASTEWATER TREATMENT FACILITY
By: Woodmoor Water and Sanitation District No. 1

President

Attest:

Secretary Date: _____, 2013.

By: Monument Sanitation District

President

Attest:

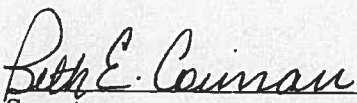
Secretary Date: _____, 2013.

~~TRI-LAKES WASTEWATER TREATMENT FACILITY~~ ✓
~~LOWER FOUNTAIN METROPOLITAN SEWAGE~~
~~DISPOSAL DISTRICT~~ WOODMOOR WATER & SANITATION
DISTRICT No. 1



President

Attest:



Secretary

Date: July 15, 2013.

TRI-LAKES WASTEWATER TREATMENT FACILITY

~~By: Woodmoor Water and Sanitation District No. 1~~ ✓

President

Attest:

Secretary

Date: _____, 2013.

By: Monument Sanitation District

President

Attest:

Secretary

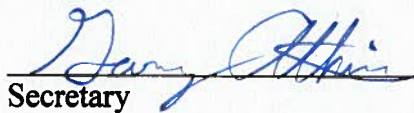
Date: _____, 2013.

By: Palmer Lake Sanitation District



President

Attest:



Secretary

Date: 6-28-, 2013.

WIDEFIELD WATER AND SANITATION DISTRICT

President

Attest:

Secretary

Date: _____, 2013.

WOODMEN HILLS METROPOLITAN DISTRICT

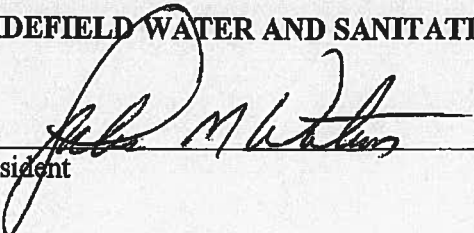
President

Attest:

Secretary

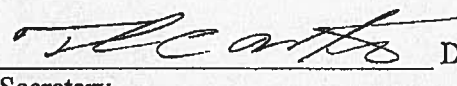
Date: _____, 2013.

WIDEFIELD WATER AND SANITATION DISTRICT



President

Attest:



Secretary

Date: July 23, 2013.

WOODMEN HILLS METROPOLITAN DISTRICT

President

Attest:

Secretary

Date: _____, 2013.

By: Palmer Lake Sanitation District

President

Attest:

Secretary Date: _____, 2013.

WIDEFIELD WATER AND SANITATION DISTRICT

President

Attest:

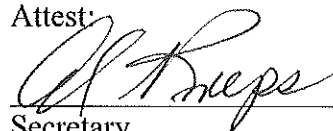
Secretary Date: _____, 2013.

WOODMEN HILLS METROPOLITAN DISTRICT



President

Attest:


Secretary Date: July 25, 2013.