

**WATERLINE AGREEMENT
BETWEEN AURORA WATER, DOUGLAS COUNTY,
ELORA METROPOLITAN DISTRICT, ELORA COMMERCIAL
METROPOLITAN DISTRICT and MU ELORA**

THIS WATERLINE AGREEMENT (“**Agreement**”) is made and entered into as of the Effective Date (defined below) by and between the CITY OF AURORA, Colorado a home rule municipal corporation of the counties of Adams, Arapahoe and Douglas acting by and through its Utility Enterprise (the “**Aurora Water**”), MU ELORA LLC, a Colorado limited liability company (“**MU Elora**”) ELORA METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado, ELORA COMMERCIAL METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado and the BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, (the “**County**”), each which may be referred to herein as a “Party” or collectively as the “**Parties.**”

Recitals

WHEREAS, C.R.S. § 29-1-203 authorizes Aurora Water and County to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs; and

WHEREAS, C.R.S. §§ 24-68-101 through 24-68-106 allows counties and cities to enter into agreements with developers regarding land use and development; and

WHEREAS, in September of 2023 MU Elora and Aurora Water entered into an intergovernmental agreement for extra-territorial water and sanitary sewer services (the “2023 Agreement”) in which Aurora Water agreed to provide water and sewer services for contemplated developments including but not limited to Elora Metropolitan District (f/k/a Sterling Crossing Residential Metropolitan District”) and Elora Commercial Metropolitan District (f/k/a Sterling Crossing Commercial Metropolitan District) (together referred to hereinafter as the “Districts”); and

WHEREAS, Aurora Water, County, and MU Elora find value in providing certainty regarding the responsibilities of each Party associated with the future 12” water main to be constructed within the existing and proposed Delbert Road Right-of-Way (in Douglas County) south of County Line Road a distance of approximately 660 feet to the point of connection to the on-site water system to facilitate adequate project looping requirements (the “**Waterline**”). The Waterline will be located in the approximate location as shown on **Exhibit A** attached hereto and incorporated herein by reference and is made necessary partially due to the development of the Elora subdivision and associated land use as proposed by MU Elora.

Terms

NOW THEREFORE, in consideration of the consideration specified herein, the premises, the mutual promises of the parties, and the mutual benefits to be gained by performance, it is agreed as follows:

1. Costs for Construction of Waterline: MU Elora, shall, at its sole cost and expense, construct the Waterline in accordance with plans approved by the Aurora Water. MU Elora shall be responsible, at its sole cost, to obtain all necessary permits from the County and Aurora Water to install the Waterline in Delbert Road and shall repair all damages to Delbert Road as a result of such installation to County standards. Aurora Water shall have no obligation to reimburse MU Elora nor County for Waterline construction and/or installation costs.

2. Ownership of Waterline. Following construction and final acceptance of the Waterline to Aurora Water rules and regulation and standards and specifications, MU Elora shall convey the Waterline to Aurora Water and Aurora Water shall own and maintain the Waterline in perpetuity. MU Elora agrees to provide, or cooperate to ensure, that Aurora Water timely receives any necessary documentation required to memorialize Aurora Water's ownership of the Waterline.

3. County Obligation. The County agrees that the Waterline may be located within Delbert Road and that Aurora Water shall have continued access to the Waterline to operate, maintain, repair and replace the same. If Aurora Water damages Delbert Road as a result of any access, repair, maintenance or replacement of the Waterline, Aurora Water shall repair Delbert Road to County standards, at Aurora Water's sole cost and expense, as soon as practicable following Aurora Water's actual knowledge of such damage.

4. Delbert Road Widening. Costs for any relocation or reconfiguration of surface appurtenances, including but not limited to valve boxes and manholes, made necessary by widening or other changes to Delbert Road shall be born solely by the Districts. Plans for such relocation and or reconfiguration must be preapproved in writing by Aurora Water and completed in accordance with Aurora Water rules and regulations and standards and specifications.

4. Relationship of Parties. This Agreement does not and shall not be construed as creating a relationship of joint venturers, partners, or employer-employee between the Parties.

5. Liability of Parties. No Party shall have any obligation whatsoever to repay any debt, financial obligation, or liability of any other Party.

6. Modification. This Agreement may be modified, amended, changed or terminated, in whole or in part, only by an agreement in writing duly authorized and executed by the Parties. No consent of any third party shall be required for the negotiation and execution of any such agreement.

7. **Waiver.** The waiver of a breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or another provision of this Agreement.

8. **Integration.** This Agreement contains the entire agreement between the Parties and no statement, promise or inducement made by any Party or the agent of any Party that is not contained in this Agreement shall be valid or binding.

9. **Severability.** Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase or work herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Agreement.

10. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

11. **No Multiple-Year Financial Obligation.** Nothing herein shall be deemed or construed to create a debt or multiple fiscal year obligation within the meaning of Article X, Section 20 of the Colorado Constitution.

12. **Sole Obligation of Aurora Water.** In the event of a default by Aurora Water of any of its financial obligations under this Agreement, MU Elora, Districts and County shall have no recourse for any amounts owed to it against any funds or revenues of the City of Aurora except for those revenues derived from rates, fees or charges for the services furnished by, or the direct or indirect use of, the Water System and deposited in the Water Enterprise Fund, as the terms "Water System" and "Water Enterprise Fund" are defined in City Ordinance No. 2003-18, and then only after the payment of all operation and maintenance expenses of the Water System and all debt service and reserve requirements of any bonds, notes, or other financial obligations of the Utility Enterprise (Aurora Water) secured by a pledge of the net revenues of the Water Enterprise Fund. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien upon any revenues of Aurora Water or the City of Aurora.

12. **Headings for Convenience Only.** The headings, captions and titles contained herein are for convenience and reference only and are not intended to enlarge or restrict the content thereof.

13. **No Third-Party Beneficiaries.** The benefits and burdens of the Agreement shall inure solely to the Parties. There are no third-party beneficiaries of this Agreement.

14. **Insurance.** MU Elora (or its contractor) must carry insurance as set forth in **Exhibit D** listing the City of Aurora, acting by and through its Utility Enterprise (Aurora Water) as an additional insured, except for worker's compensation, on a primary and non-contributory basis. Proof of insurance must be provided to Aurora Water prior to commencement of construction. All policies shall contain a waiver of subrogation in favor of Aurora Water

and MU Elora (or its contractor) shall provide a copy of an endorsement providing this coverage. MU Elora's (or its contractor's) policies will be primary and non-contributory with respect to all self-insurance or insurance policies purchased by the City of Aurora.

15. **Liability.** Each Party hereto agrees to be responsible for its own wrongful or negligent acts or omissions, or those of its officers, agents or employees to the full extent allowed by law. Liability of Aurora Water, County and the Districts, as public entities in the State of Colorado, is at all times strictly limited and controlled by the provisions of the Colorado Government Immunity Act, C.R.S. 24-10-101 et seq. as now or hereafter amended. Nothing in this Agreement shall be construed as a waiver of the protections of said Act. As institutions of the State of Colorado, neither Aurora Water, County nor Districts are authorized to indemnify any party, public or private, as against the claims or demands of third parties and any such indemnification provision shall be null and void.
16. **Indemnity by MU Elora.** MU Elora shall defend, indemnify and hold harmless the City of Aurora and its Utility Enterprise, Aurora Water, from and against all claims, damages, losses, expenses, and costs (including reasonable attorney's fees) arising out of or relating to the Waterline project to the extent actually or alleged to be caused by the negligence of MU Elora or those for whom it is responsible, including without limitation, its contractor.
17. **Effective Date.** The effective date of this Agreement shall be the date of the last signature of any Party below.
18. **Notice.** All notice required under this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. All parties by notice so given, may change the address to which future notices shall be sent.

Notice to Aurora Water:

Vern Adam
Aurora Water 26791 E. Quincy Avenue
Aurora, Colorado 80016
Phone: 303-739-7370
Email: waterengineering@auroragov.org

With copy to:

Aurora City Attorney's Office
Suite 5300
Aurora, Colorado 80012

Notice to Douglas County:

Douglas County Board of County Commissioners
100 Third Street
Castle Rock, Colorado 80104

With copy to:

Douglas County Attorney's Office.
100 Third Street
Castle Rock, Colorado 80104

Notice to MU Elora, LLC:

MU Elora LLC
6900 E. Belleview Avenue, Suite 300
Greenwood Village, Colorado 80111

With copy to:

McGeady Becher Cortese Williams P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203

Notice to the Districts:

Elora Metropolitan District
Elora Commercial Metropolitan District
c/o McGeady Becher Cortese Williams P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement,
effective as of the day and year first above written.

[SIGNATURE PAGES FOLLOW]

CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

By: _____
_____, BOCC Chairman

ATTEST:

DIRECTOR OF PUBLIC WORKS, CITY OF AURORA

By: _____
_____, City of Aurora Director of Public Works

ATTEST:

MU ELORA LLC

By: 
Daniel R. Sheldon as Manager


ELORA METROPOLITAN DISTRICT

BY: 
Daniel R. Sheldon, its President

ATTEST:



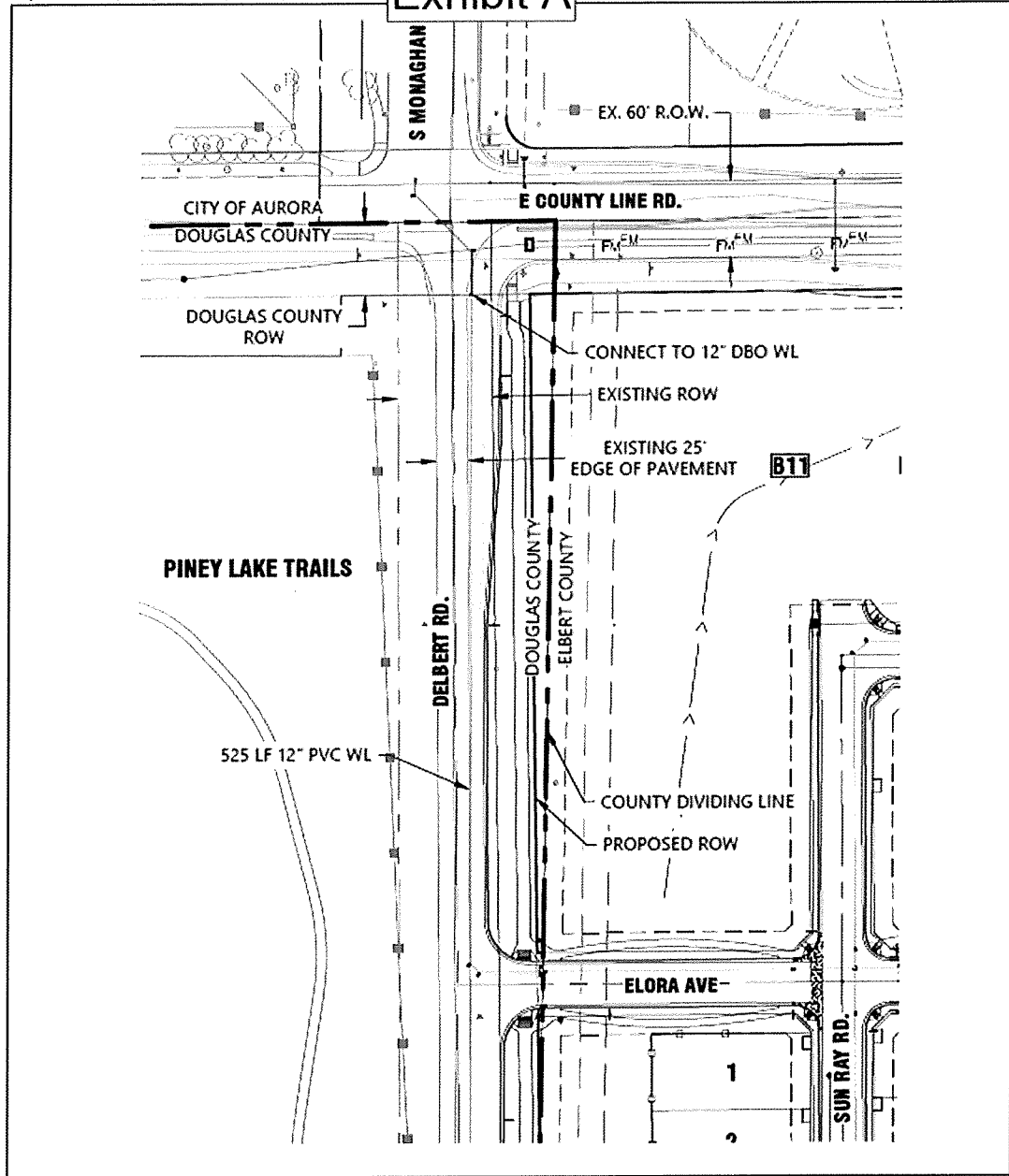
ELORA COMMERCIAL METROPOLITAN DISTRICT


BY: 
Daniel R. Sheldon, its President

ATTEST:

Sarah Or

Exhibit A



 <p>1765 W. 121st Avenue Suite 300 Westminster, CO 80234 303-421-4224 www.lja.com</p>	<p>Elora Filing No. 1 Douglas County & City of Aurora IGA Delbert Road Exhibit</p>		
	<p>Prepared: CIV Approved: TEH</p>	<p>Horiz Scale: 1" = 100' Vert Scale: N/A</p>	<p>Job No: 1084-0001 Date: October 3, 2024</p>