

**BYLAWS  
OF  
CHATFIELD RESERVOIR MITIGATION COMPANY, INC.**

**ARTICLE I  
Offices**

Section 1. The principal office of the corporation shall initially be c/o Centennial Water and Sanitation District, 62 W. Plaza Drive, Highlands Ranch, CO 80129-2304.

Section 2. The registered office of the corporation may be, but need not be, identical with the principal office, and the address of the registered office may be changed from time to time by the board of directors.

**ARTICLE II  
Members**

Section 1. **Qualifications.** To be a member of the corporation, a person or entity must be an initial member of the corporation as defined in the Articles of Incorporation of the corporation or the successor or assign of an initial member as so defined.

Section 2. **Annual Meeting.** The annual meeting of the members shall be held during the month of October of each year on a date and at a time fixed by the board of directors of the corporation (or by the president in the absence of action by the board of directors), beginning with the year 2016, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors is not held at the annual meeting of the members as required herein, or any adjournment thereof, the board of directors shall cause the election to be held at a special meeting of the members as soon thereafter as it may conveniently be held.

Section 3. **Special Meetings.** Unless otherwise prescribed by statute, special meetings of the members may be called for any purpose by the president or by the majority vote of the board of directors. The president shall call a special meeting of the members if the corporation receives one or more written demands for the meeting, stating the purpose or purposes for which it is to be held, signed and dated by members holding at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the meeting.

**Section 4. Place of Meeting.** The board of directors may designate any place within the Denver metropolitan area as the place for any annual meeting or any special meeting called by the board of directors.

**Section 5. Notice of Meeting.** Written notice stating the place, date, and hour of the meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting. The secretary shall be required to give such notice only to members entitled to vote at the meeting.

**Section 5.a.** Notice of a special meeting shall include a description of the purpose or purposes of the meeting. Notice of an annual meeting need not include a description of the purpose or purposes of the meeting, except that the purpose or purposes shall be stated with respect to (i) an amendment to the Articles of Incorporation or bylaws of the corporation, (ii) a sale, lease, exchange, or other disposition, other than in the usual and regular course of business, of all or substantially all of the property of the corporation, (iii) a dissolution of the corporation, (iv) restatement of the Articles of Incorporation, or (v) any other purpose for which a statement of purpose is required by the Colorado Revised Nonprofit Corporation Act. Notice shall be given personally or by mail, private carrier, facsimile, electronic mail, or other form of written communication, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be given and effective when deposited in the United States mail, properly addressed to the member at the member's address as it appears in the corporation's current record of members, with first class postage prepaid. If notice is given other than by United States mail, the notice is given and effective on the date actually received by the member.

**Section 5.b.** In order to be entitled to receive notice of any meeting, a member shall advise the corporation in writing of any change in such member's mailing address as shown on the corporation's books and records.

**Section 6. Fixing of Record Date.** For the purpose of determining members entitled to notice of or to vote at any meeting of members or any adjournment thereof, the record date shall be the business day before the notice of the meeting is given to members. When a determination of members entitled to vote at any meeting of members is made as provided in this section, such determination shall apply to any adjournment thereof unless the board of directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting. Unless otherwise specified when the record date is fixed, the time of day for such determination shall be as of the corporation's close of business on the record date. Notwithstanding the above, the record date for determining the members entitled to take action without a meeting or entitled to be given notice of action so taken shall be the date a writing upon which the action is taken is first received by the corporation. The record date for determining members entitled to demand

a special meeting shall be the date of the earliest of any of the demands pursuant to which the meeting is called.

**Section 7. Quorum and Manner of Acting.** Except for amendment of certain provisions of the Articles of Incorporation as set forth in Article XI thereof, one-half of the votes entitled to be cast on a matter, represented in person or by proxy, shall constitute a quorum for action on the matter. If less than one-half of such votes are represented at a meeting, a majority of the votes so represented may adjourn the meeting from time to time without further notice for a period not to exceed one hundred twenty (120) days for any one adjournment. If a quorum is present at such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally noticed. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, unless the meeting is adjourned and a new record date is set for the adjourned meeting. If a quorum exists, action on matters other than the election of directors, consent to assignment by the corporation of its interests, rights and obligations under written agreements with members, amendment of certain provisions of the Articles of Incorporation as set forth in Article XI thereof, sale of property other than in the regular course of activities, and dissolution of the corporation is approved if the votes cast favoring the action exceed the votes cast opposing the action unless the vote of a greater number is required by law or the Articles of Incorporation. If a quorum exists, consent to assignment of the corporation's interests, rights and obligations under written agreements with members, sale of property other than in the regular course of activities, or dissolution of the corporation require an affirmative vote of two-thirds (2/3) of the votes represented at the meeting. Amendment of certain provisions of the Articles of Incorporation as set forth in Article XI thereof require the affirmative vote set forth in said Article XI.

**Section 8. Proxies.** At all meetings of members, a member may vote by proxy by signing an appointment form or similar writing, either personally or by the member's duly authorized attorney-in-fact. The proxy appointment form or similar writing shall be filed with the secretary of the corporation before or at the time of the meeting. The appointment of a proxy is effective when received by the corporation and is valid for eleven (11) months unless a different period is expressly provided in the appointment form or similar writing. Any complete copy, including an electronically transmitted facsimile, of an appointment of a proxy may be substituted for or used in lieu of the original appointment for any purpose for which the original appointment could be used.

**Section 9. Voting.** In all voting, each member shall be entitled to one vote for each Unit (as defined in the Articles of Incorporation) on each matter submitted to a vote of the members at a meeting of members. Cumulative voting shall not be permitted in the election of directors or for any other purpose. At each election of directors, the five candidates having the highest number of votes cast in favor of their election shall be elected to the board of directors.

**Section 10. Informal Action by Members.** Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if a written consent (or counterpart thereof) that sets forth the action so taken is signed by all of the members entitled to vote with respect to the subject matter thereof and received by the corporation. Such consent shall have the same force and effect as a unanimous vote of the members and may be stated as such in any document. Action taken under this Section 10 is effective as of the date the last writing necessary to effect the action is received by the corporation unless all of the writings specify a different effective date, in which case such specified date shall be the effective date for such action. If any member revokes the member's consent as provided for herein prior to what would otherwise be the effective date, the action proposed in the consent shall be invalid. The record date for determining members entitled to take action without a meeting is the date the corporation first receives a writing upon which the action is taken. Any member who has signed a writing describing and consenting to action taken pursuant to this Section 10 may revoke such consent by a writing signed by the member describing the action and stating that the member's prior consent thereto is revoked if such writing is received by the corporation before the effective date of the action.

**Section 11. Meetings by Telecommunication.** Any or all of the members may participate in an annual or special members meeting by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

### **ARTICLE III**

#### **Board of Directors**

**Section 1. General Powers.** All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, its board of directors except as otherwise provided in the Colorado Revised Nonprofit Corporation Act or the Articles of Incorporation.

**Section 2. Number of Elected Directors.** The number of elected directors of the corporation shall be five (5). Elected directors shall be elected, in accordance with Article II, Section 9, at each annual meeting of members. All elected directors shall hold office for a term of one year and thereafter until the director's successor shall have been elected and qualified. Any elected director may be removed by the members, with or without cause, at a meeting called for that purpose. The notice of the meeting shall state that the purpose or one of the purposes of the meeting is removal of the elected director. An elected director may be removed only if the number of votes cast in favor of removal exceeds the number of votes cast against removal. An entire elected board of directors may be removed by the members following these procedures.

**Section 3. State of Colorado Director.** If at any time, no employee of the Colorado Water Conservation Board or Colorado Parks and Wildlife is elected to the board of directors due to an insufficient number of votes being cast for their candidate, then the Director of the Colorado Department of Natural Resources may appoint a State employee to serve as an *ex officio* director. Said *ex officio* director will be a member of the board of directors in all respects but shall have no right to vote on any corporation business.

**Section 4. Qualifications and Tenure of Directors.** A director shall be a natural person who is 18 years of age or older. A director must be a member of the corporation, except that in the case of a governmental entity, or a corporation, partnership, limited liability company or other business entity, which is a member of the corporation, an individual officer, agent, or employee of the member entity is qualified to be a director of the corporation. Only one officer, agent or employee of a member entity may serve as a director at any given time.

**Section 5. Vacancies.** Any director may resign at any time by giving written notice to the secretary of the corporation. Such resignation shall take effect at the time the notice is received by the secretary unless the notice specifies a later effective date. Unless otherwise specified in the notice of resignation, the corporation's acceptance of such resignation shall not be necessary to make it effective. Any vacancy among the elected members of the board of directors may be filled by the affirmative vote of a majority of the members at a special meeting called for that purpose or by the board of directors. If the elected directors remaining in office constitute less than a quorum of the board, the elected directors may fill the vacancy by the affirmative vote of a majority of all of the elected directors remaining in office. A director elected to fill a vacancy, whether by the members or the directors, shall hold office until the next annual members' meeting at which directors are elected.

**Section 6. Regular Meetings.** A regular meeting of the board of directors shall be held without notice immediately after and at the same place as the annual meeting of members. The elected board of directors may provide by resolution the time and place, either within or outside the State of Colorado, for the holding of additional regular meetings without other notice.

**Section 7. Special Meetings.** Special meetings of the board of directors may be called by or at the request of the president or any three (3) elected directors. The person or persons authorized to call special meetings of the board of directors may fix any place, either within or outside the State of Colorado, as the place for holding any special meeting of the board of directors called by them, provided that no meeting shall be called outside the State of Colorado unless a majority of the elected board of directors has so authorized.

**Section 8. Notice.** Notice of the date, time, and place of any special meeting shall be given to each director at least two (2) days prior to the meeting by written notice either personally delivered or mailed to each director at the director's business address, or by notice

transmitted by private courier, facsimile, electronic mail, or other form of written communication. If mailed, such notice shall be deemed to be given and to be effective on the earlier of (i) five (5) days after such notice is deposited in the United States mail, properly addressed, with first class postage prepaid, or (ii) the date shown on the return receipt, if mailed by registered or certified mail return receipt requested, provided that the return receipt is signed by the director to whom the notice is addressed. If notice is given by private courier, facsimile, electronic mail, or other form of written communication, such notice shall be deemed to be given and to be effective when sent. If a director has designated in writing one or more reasonable mailing addresses, facsimile numbers or electronic mail addresses for delivery of notice to the director, notice sent by mail, facsimile, electronic mail or other form of written communication shall not be deemed to have been given or to be effective unless sent to such mailing addresses, electronic mail addresses or facsimile numbers, as the case may be. A director may waive notice of any meeting before or after the time and date of the meeting by a writing signed by such director. Such waiver shall be delivered to the secretary for filing with the corporate records, but such delivery and filing shall not be conditions to the effectiveness of the waiver. Further, a director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless at the beginning of the meeting, or promptly upon the director's later arrival, the director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and does not thereafter vote for or assent to action taken at the meeting. Unless otherwise required by these bylaws, neither the business to be transacted at, nor the purpose of, any regular meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

Section 9. **Quorum.** A majority of the number of elected directors in office immediately before the meeting begins shall constitute a quorum for the transaction of business at any meeting of the board of directors.

Section 10. **Manner of Acting.** The act of the majority of the elected directors present at a meeting at which a quorum is present shall be the act of the board of directors.

Section 11. **Compensation.** Directors shall receive no compensation from the corporation. However, elected directors may be reimbursed for their actual expenses incurred in the performance of their duties.

Section 12. **Informal Action by Elected Directors.** Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a written consent (or counterpart thereof) that sets forth the action so taken is signed by all of the elected directors entitled to vote with respect to the action taken. Such consent shall have the same force and effect as a unanimous vote of the elected directors and may be stated as such in any document. Unless the consent specifies a different effective time or date, action taken under this Section 10 is effective at the time or date the last elected director signs a writing describing the action taken unless, before such time, any elected director has revoked that director's

consent by a writing signed by that director and received by the president or the secretary of the corporation.

**Section 13. Meetings By Telecommunication.** The board of directors may permit any director to participate in a regular or special meeting of the board of directors through the use of any means of communication by which all directors participating in the meeting can hear each other during the meeting. A director participating in a meeting in this manner is deemed to be present in person at the meeting.

**Section 14. Committees.** The board of directors may appoint such committees as it may deem necessary or useful from time to time; provided, however, that no such committee shall have the power to bind the corporation.

**Section 15. Standard of Care.** A director shall perform the director's duties as a director in good faith, in a manner the director reasonably believes to be in the best interests of the corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In performing the director's duties, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by the persons herein designated. However, the director shall not be considered to be acting in good faith if the director has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A director shall not be liable to the corporation or its members for any action the director takes or omits to take as a director if, in connection with such action or omission, the director performs the director's duties in compliance with this Section 15. The designated persons on whom a director is entitled to rely are (i) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented, or (ii) legal counsel, public accountant, or other person as to matters the director reasonably believes to be within such person's professional or expert competence.

#### **ARTICLE IV Officers and Agents**

**Section 1. General.** The officers of the corporation shall be a president, a vice president, a secretary and a treasurer, each of whom shall be elected by the board of directors. One person may hold more than one office, except that the same person shall not serve as president and treasurer concurrently. The president and any vice presidents must be members or must be officers, agents or employees of member entities. No other officers are required to be members or officers, agents or employees of member entities.

**Section 2. Appointment and Term of Office.** The officers of the corporation shall be elected at each annual meeting of the board of directors held after each annual meeting of the members. If the election of officers is not made at such meeting, such election shall be made as determined by the board of directors. Each officer shall hold office until the first of the

following occurs: the officer's successor shall have been duly appointed and qualified, the officer's death, the officer's resignation, or the officer's removal in the manner provided in Section 4.

**Section 3. Special Appointments.** The board of directors may elect such other officers as the affairs of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as the board of directors may from time to time determine. Such special appointments may be reviewed by the members at the annual meeting or any special meeting of the members, and the members may remove, modify or replace any special appointees at such a meeting. The board of directors may appoint or designate an assistant secretary, assistant treasurer, or make such other appointments as the board of directors may from time to time deem appropriate. Such persons so appointed or designated may execute those documents the board of directors shall authorize.

**Section 4. Resignation and Removal.** An officer may resign at any time by giving written notice of resignation to the president or secretary. The resignation is effective when the notice is received by the corporation unless the notice specifies a later effective date. Any officer may be removed at any time, with or without cause, by the board of directors.

**Section 5. Vacancies.** A vacancy in any office, however occurring, may be filled by the board of directors for the unexpired portion of the officer's term. If an officer resigns and the officer's resignation is made effective at a later date, the board of directors may permit the officer to remain in office until the effective date and may fill the pending vacancy before the effective date if the board of directors provides that the successor shall not take office until the effective date. In the alternative, the board of directors may remove the officer at any time before the effective date and may fill the resulting vacancy.

**Section 6. President.** The president shall preside at all meetings of members and all meetings of the board of directors. Subject to the direction and supervision of the elected board of directors, the president shall be the chief executive officer of the corporation and shall have general and active control of its affairs and business and general supervision of its officers, agents, and employees.

**Section 7. Vice President.** The vice president shall assist the president and shall perform such duties as may be assigned to him or her by the president or by the board of directors. In the absence of the president, the vice president shall have the powers and perform the duties of the president.

**Section 8. Secretary.** The secretary shall (i) prepare and maintain as permanent records the minutes of the proceedings of the members and the board of directors, a record of all actions taken by the members or board of directors without a meeting, and a record of all waivers of notice of meetings of members and of the board of directors, (ii) see that all notices are duly given in accordance with the provisions of these bylaws and as required by law,

(iii) serve as custodian of the corporate records and of the seal of the corporation and affix the seal to all documents when authorized by the board of directors, (iv) keep at the corporation's registered office or principal place of business a record containing the names and addresses of all members, (v) maintain at the corporation's principal office the originals or copies of the corporation's Articles of Incorporation, bylaws, minutes of all meetings of members, and records of all action taken by members without a meeting, all written communications to members as a group, a list of the names and business addresses of the current directors and officers, a copy of the corporation's most recent corporate report filed with the Secretary of State, and financial statements showing in reasonable detail the corporation's assets and liabilities and results of operations for the last three years, (vi) have general charge of the membership transfer books of the corporation, (vii) authenticate records of the corporation, and (viii) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to the secretary by the president or by the board of directors. Any books, records, or minutes of the corporation may be in written form or in any form capable of being converted into written form within a reasonable time.

**Section 9. Treasurer.** The treasurer shall be the principal financial officer of the corporation, shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the corporation, and shall deposit the same in accordance with the instructions of the elected board of directors. Subject to the limits imposed by the elected board of directors, the treasurer shall receive and give receipts and acquittances for money paid in on account of the corporation, and shall pay out of the corporation's funds on hand all bills, payrolls, and other just debts of the corporation of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the board of directors, shall make such reports to it as may be required at any time. The treasurer shall, if required by the board of directors, give the corporation a bond in such sums and with such sureties as shall be satisfactory to the board of directors, conditioned upon the faithful performance of the treasurer's duties and for the restoration to the corporation of all books, papers, vouchers, money, and other property of whatever kind in the treasurer's possession or under the treasurer's control belonging to the corporation. The treasurer shall have such other powers and perform such other duties as may from time to time be prescribed by the board of directors or the president. The treasurer shall also be the principal accounting officer of the corporation. The treasurer shall prescribe and maintain the methods and systems of accounting to be followed, keep complete books and records of account as required by the Colorado Revised Nonprofit Corporation Act, prepare and file all required local, state, and federal tax returns, prescribe and maintain an adequate system of internal audit, and prepare and furnish to the president and the board of directors on an annual basis financial statements showing, in reasonable detail, the corporation's assets and the results of its operations.

**Section 10. Compensation.** Officers shall receive no compensation from the corporation. However, officers may be reimbursed for their actual expenses incurred in the performance of their duties and officers who are not members or officers, agents or employees of member entities may be compensated as determined by the elected board of directors.

## **ARTICLE V**

### **Membership**

Section 1. **Certificates of Membership.** The board of directors shall issue certificates of membership to members. Such certificates shall be signed in the name of the corporation by the president and the secretary, either manually or by facsimile. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, such certificate may nonetheless be issued by the corporation with the same effect as if the officer were such officer at the date of its issue. All certificates shall be consecutively numbered, and the names of the owners, the number of Units, and the date of issue shall be entered on the books of the corporation. Each certificate representing Units shall state upon its face:

- i. That the corporation is organized under the laws of Colorado;
- ii. The name of the person or entity to whom issued;
- iii. The number of Units the certificate represents;
- iv. The date of issuance; and
- v. Any restrictions imposed by the corporation upon the transfer of the Units represented by the certificate.

Section 2. **Lost Certificates.** In case of the alleged loss, destruction, or mutilation of a certificate of membership, the board of directors may direct the issuance of a new certificate in lieu thereof upon such terms and conditions in conformity with law as the board of directors may prescribe. The board of directors may, in its discretion, require an affidavit of lost certificate and/or a bond in such form and amount and with such surety as it may determine before issuing a new certificate.

Section 3. **Transfer of Memberships.** Memberships may be transferred only as provided in the Articles of Incorporation of the corporation. If such requirements are met, then upon surrender to the corporation of the certificate or certificates of membership representing the total number of Units owned and to be transferred by the member, duly endorsed in blank, or accompanied by proper evidence of succession, assignment, or authority to transfer, and by such other documents as the board of directors may reasonably require, the corporation shall issue a new certificate of membership to the person or entity entitled thereto and shall cancel the old certificate. Every such transfer of membership shall be entered on the

books of the corporation that shall be kept at its principal office or by the person and at the place designated by the board of directors.

**Section 4. Termination of Membership.** A member may not terminate membership in the corporation except as provided in the Articles of Incorporation of the corporation. No refund of assessments shall be made in the event of termination by a member and termination by a member does not relieve the member from any obligations the member may have to the corporation as a result of obligations incurred or commitments made prior to the member's termination. Membership in the corporation may also be terminated by a majority vote of the elected members of the board of directors for failure to pay assessments within the time period set forth in Article IX, Section 2 below. In the event of membership termination by the elected members of the board of directors, the member must be notified in writing by certified mail thirty (30) days before the termination becomes effective. The member shall have the opportunity to be heard by the board of directors in person or in writing no less than ten (10) days before the termination becomes effective. Upon termination, the member shall continue to be liable for any collection fees, interest (interest will be charged at 1% per month), assessments due to the corporation, or other fees due as a result of obligations incurred or commitments made prior to termination, until paid in full.

## **ARTICLE VI**

### **Limitation of Liability and Indemnification**

**Section 1. Limitation of Liability.** No member of the board of directors of the corporation shall have any liability to either the corporation or any of its members for monetary damages for breach of fiduciary duty as a director, except for monetary damages for any breach of the director's duty of loyalty to the corporation or its members, acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, any transaction from which the director derived an improper personal benefit, or any act pertaining to a loan made by the corporation to any director.

**Section 2. Indemnification.** Each director and each officer of the corporation, whether or not then in office, or the personal representative of his estate, shall be indemnified by the corporation against all costs and expenses actually and necessarily incurred by him or her in connection with the defense of any action, suit or proceeding in which he or she may be involved or to which he or she may be made a party by reason of his or her being or having been such director or officer, except in relation to matters as to which he or she shall be finally adjudged in such action, suit or proceeding to have breached a fiduciary duty or to be liable for willful or wanton acts in the performance of duty. Such costs and expenses shall include amounts reasonably paid in settlement for the purpose of curtailing the costs of litigation, but only if the corporation is advised in writing by its counsel that in his or her opinion the person indemnified did not commit such willful or wanton acts. The foregoing right of indemnification shall not be exclusive of other rights to which the director or officer may be entitled as a matter of law or by agreement.

## **ARTICLE VII**

### **Provision of Insurance**

Section 1. **Provision of Insurance.** By action of the board of directors, notwithstanding any interest of the directors in the action, the corporation shall purchase and maintain insurance, in such scope and amounts as the board of directors deems appropriate, on behalf of any person who is or was a director, officer, employee, fiduciary, or agent of the corporation, against any liability asserted against, or incurred by, such person in that capacity or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of Article VI or applicable law. Any such insurance may be procured from any insurance company licensed to do business in the State of Colorado.

## **ARTICLE VIII**

### **Contracts, Loans, Checks and Deposits**

Section 1. **Contracts.** Absent express authorization by the elected board of directors, no director or directors, officer or officers, agent or agents, shall enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such express authorization may be general or confined to specific instances.

Section 2. **Loans.** The corporation may not obtain loans or incur other indebtedness. No loans shall be made by the corporation

Section 3. **Checks, Drafts or Orders.** All checks, drafts, or other orders for the payment of money issued in the name of the corporation shall be signed by the president and the treasurer of the corporation. All invoices and other expenses to be paid from the Individual Escrow Accounts and the Master Escrow Account established by the members and the corporation with U.S. Bank shall be reviewed and approved by the elected board of directors prior to payment.

Section 4. **Deposits.** All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks or other depositories as the board of directors may select.

## **ARTICLE IX**

### **Assessments**

Section 1. **Power.** The corporation shall have the power to make an assessment on the members, to be levied *pro rata* on the basis of Units, and to be payable in money, to meet the operating costs and other obligations of the corporation.

**Section 2. Assessments.** The members shall at their annual or adjourned annual meeting determine the assessment for the ensuing year and said assessment shall become due forty five (45) days after the date of billing. The secretary shall give written notice to each member of the amount of each assessment and the time when the same will be due, which notice shall be given by delivering the same personally to each member or mailing the same to the address of the member as shown on the books of the corporation. If such delinquent assessment is not paid in full within sixty (60) days after the date of billing, the board of directors, by a majority vote, may terminate the member's membership in the corporation in accordance with the procedures of Article V, Section 4. A member whose assessments are delinquent shall not be allowed to vote on any corporation matter submitted to the members so long as such assessments are delinquent in whole or in part. In addition, a member whose assessments are delinquent shall not be allowed to store additional water in or have water released from Chatfield Reservoir so long as such assessments are delinquent in whole or in part.

## **ARTICLE X**

### **Prime Contractors of the Corporation**

The provisions that follow below are required in any contract with any entity contracted by the corporation as a Prime Contractor (defined as a contractor under contract to the corporation who has full responsibility to complete a project and may hire subcontractors to carry out specific parts of the contract) to conduct professional services or construction work on behalf of the corporation, in order for the corporation and any of its Prime Contractors and their subcontractors to have authorization to access the project site, which for purposes of these bylaws is defined as the State Park located at Chatfield Reservoir as of the effective date of these bylaws, or for any work completed by a Prime Contractor pursuant to the Water Provider Agreement. It shall be acceptable to adjust terminology and correct definitions and references in order to include the following provisions seamlessly into the form of the contract between the corporation and the Prime Contractor. If the work permitted pursuant to the Water Provider Agreement shall be deemed a public project, the corporation shall comply with §38-26-107 C.R.S., a requirement that project owners advertise before final payment is made to a Prime Contractor. Sections 6, 7 and 8 apply to the corporation as well as its Prime Contractors. The corporation shall submit reports to the Chatfield Storage Reallocation Project's Project Coordination Team as required in the Water Storage Agreement.

**Section 1.** Prime Contractor shall carry the following insurances:

#### **General liability**

- i. Automobile liability
- ii. Workers compensation/employer's liability
- iii. The State of Colorado and the U.S. Army Corps of Engineers shall be listed as additional insured on all general liability policies.

- iv. In addition to the above coverages, Prime Contractors conducting professional services (Engineering firms) shall carry professional liability insurance.
- v. In addition to the above coverages, all Prime Contractors conducting construction shall be required to carry builder's risk insurance, and umbrella/ excess liability insurance of \$5,000,000, which shall be excess of the general liability, automobile liability, and employer's liability policies.
- vi. All dollar limits shall be those required by standard State of Colorado contracts, as currently shown on the Colorado Department of Personnel and Administration, Office of the State Architect website. As of the date of signature of the WPA: <https://www.colorado.gov/pacific/osa/formscont>.
- vii. Insurance shall be provided by firm(s) acceptable to the corporation and the State of Colorado which means an AM Best rating of b+ or better shown on the AM Best website as of the date of the State Controller's signature of the WPA: <http://www.ambest.com/>.
- viii. Certificates of insurance evidencing the above required insurance coverages shall be delivered to the corporation, with a copy to the State of Colorado Director (Article III, Section 3) and the Army Corps of Engineers.

Section 2. The Prime Contractor shall be required to perform work pursuant to the Water Provider Agreement in accordance with the professional standards of care, skill and diligence in the applicable industry, trades or profession and shall obtain and maintain all licenses, certifications, approvals, permits, and other authorization required by law.

Section 3. The contracts with its Prime Contractors shall include the following indemnification clauses:

- i. Professional services contracts (contracts with engineering firms):  
To the extent authorized by law, the Prime Contractor shall indemnify, save and hold harmless the State of Colorado and the corporation, their members, employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and attorney's fees, to the extent such claims are caused by any negligent act or omission of, or breach of contract by, the Prime Contractor, its employees, agents, subcontractors or assignees pursuant to the terms of this contract .
- ii. Construction Contractors (contracts with Prime Contractors conducting construction or non-professional services):  
To the extent authorized by law, the Prime Contractor shall indemnify, save and hold harmless the State of Colorado, the corporation, their members, employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and attorney fees and related costs, to the extent such claims are caused by any willful misconduct, negligent act or omission of, or breach of contract by the Prime Contractor, its employees, agents, subcontractors or assignees pursuant to the terms of this contract.

Section 4. For all software, research, data, reports, studies, photographs, negatives or other documents, drawings, models, or materials developed under this contract (collectively "Work Product"), or Work Product of any type, including drafts, prepared by the Prime Contractor or its subcontractor in the performance of the work permitted pursuant to the Water Provider Agreement, the Prime Contractor or subcontractors shall be required to grant to the corporation and any of its members, including the State of Colorado, the right to copy, publish, display, transfer, and prepare derivative works. The Prime Contractor shall not be liable for any claims, suits or damages related to such copying, displaying, transferring, publishing, or modification of such work product being used outside of its intended purpose. Without prior written approval from the corporation, the Prime Contractor or subcontractors shall not be allowed to use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of work permitted pursuant to this Agreement.

Section 5. While conducting the work permitted pursuant to the Water Provider Agreement, the Prime Contractor shall be required to comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices, criminal, land use, fencing, noxious weed, environmental, wetlands protection, hazardous waste, health and safety laws, ordinances and regulations. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of any contract.

Section 5.a. This Contract is subject to such modifications as may be required by changes in federal or Colorado state law, or their implementing regulations ("Required Modification"). Any such Required Modification automatically shall be incorporated into and be part of the contract on the effective date of such change.

Section 5.b. If any Required Modification shall cause the Prime Contractor to incur extra costs to complete the work, the Prime Contractor shall follow such procedures as outlined in the contract.

Section 5.c. If any Required Modification is deemed unacceptable by the Prime Contractor due to unreimbursed costs in excess of three percent of the total contract amount, the Prime Contractor may terminate the contract and such termination shall not be deemed to be a breach of the Prime Contractor's obligations under the contract.

Section 6. For all work for which payment has been made, the Prime Contractor shall not suffer or permit to be enforced against any work permitted pursuant to this Contract or any part thereof, or any improvements thereon, any mechanics', materialmen's, contractors', or subcontractors' liens arising from, or any claim for damage growing out of the work of any construction, repair, restoration, replacement or improvement, or any other claim or demand howsoever the same may arise, and the Prime Contractor shall pay or cause to be paid all of said liens, claims, or demands before any action is brought to enforce the same against the project site or improvements. If the Prime Contractor shall contest the validity of any such lien, then Prime Contractor shall at its sole expense defend itself and the State of Colorado, the corporation and its members against the same and shall pay and satisfy any adverse expense or cost or adverse judgment that maybe rendered thereon before the enforcement thereof

against the State of Colorado, the corporation or its members, or the work permitted by the corporation.

Section 7. To the extent authorized by law, neither the State of Colorado, nor the corporation or its members, nor the U.S. Army Corps of Engineers shall be liable to the Prime Contractor, its agents, employees, invitees, patrons or any other person whomsoever, for injury to or death of any person or damage to or loss of property in, upon or adjacent to the project premises or other property contiguous or appurtenant thereto, which may arise during the development or conduct of the work permitted pursuant to the contracts with the Prime Contractor contemplated by this Article X.

Section 8. The Prime Contractor shall make, keep, maintain and allow inspection and monitoring of all records as outlined in section XIV of the Water Storage Agreement.

## **ARTICLE XI Miscellaneous**

Section 1. **Seal.** The board of directors may adopt a corporate seal, which shall be circular in form and shall contain the name of the corporation and the words, "Seal, Colorado."

Section 2. **Books and Records.** The books, records and papers of the corporation shall be available for inspection by any member or director for a proper purpose as determined pursuant to the Colorado Revised Nonprofit Corporation Act and during reasonable business hours, upon three day notice in writing to the president and secretary of the corporation.

Section 3. **Reports to Members.** Each month, the board shall prepare and circulate to all members a summary of the corporation's activities for the previous month.

Section 4. **Fiscal Year.** The fiscal year of the corporation shall be as established by the board of directors.

Section 5. **Amendments.** The board of directors shall have power, to the maximum extent permitted by the Colorado Revised Nonprofit Corporation Act, to make, amend, and repeal the bylaws of the corporation at any regular or special meeting of the board unless the members, in making, amending, or repealing a particular bylaw, expressly provide that the directors may not amend or repeal such bylaw. The members also shall have the power to make, amend, or repeal the bylaws of the corporation at any annual meeting or at any special meeting called for that purpose. Article X may not be amended without unanimous approval from all members.

Section 6. **Conflicts.** In the event of any irreconcilable conflict between these bylaws and either the corporation's Articles of Incorporation or applicable law, the latter shall control.

Section 7. **Definitions.** Except as otherwise specifically provided in these bylaws, all terms used in these bylaws shall have the same definition as in the Colorado Revised Nonprofit Corporation Act.

**ARTICLE XII**  
**Effective Date**

These bylaws shall become immediately effective upon their adoption by the board of directors.

ADOPTED: \_\_\_\_\_

10/12/15 