

SDA NEWS

DECEMBER 2022

Supporting Community-Based Government

*Season's
Greetings!*

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Designed by Emmett Jordan

Happy Holidays!

We would like to wish everyone a joyful holiday season and a very Happy New Year!
All the best from the SDA team!



Ann Terry



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Michael Valdez



Megan Lippard



Anthony Sandoval



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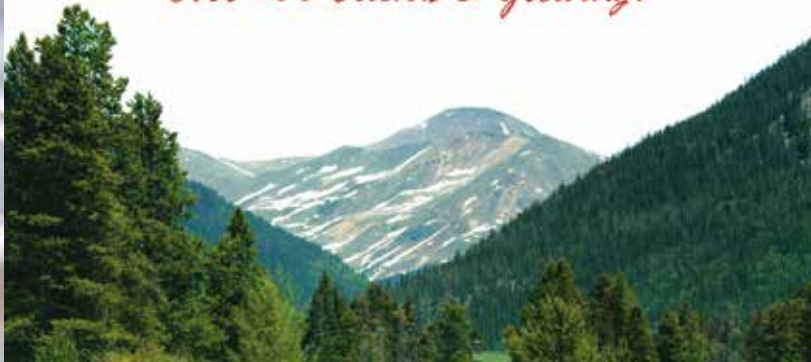
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SDA Legislative Briefings Set to Begin January 24!

Are you looking for an easy and convenient way to stay up to date on the latest legislative issues for special districts? Then make sure to mark your calendars to join us for the 2023 SDA Legislative Briefings!

The 2023 Legislative Session officially convenes on Monday, January 9, and we already have our full set of Legislative Briefings scheduled and ready to go.

The first briefing will take place on Tuesday, January 24 at 12:00 pm. These briefings will take place via Zoom, and all SDA members are welcome to listen in as we review the current hot topics and issues we have been working on at the Capitol.

Following the first briefing, the schedule of briefings for the entire Session is as follows:

- » Tuesday, February 7 at 12:00 pm
- » Tuesday, February 21 at 12:00 pm
- » Tuesday, March 7 at 12:00 pm
- » Tuesday, March 21 at 12:00 pm
- » Tuesday, April 4 at 12:00 pm
- » Tuesday, April 18 at 12:00 pm
- » Tuesday, May 2 at 12:00 pm

Please visit the SDA website at www.sdaco.org for more information and to register. Whether you would like to listen every time or just once in a while, this is an easy way

to stay informed on all the current issues (please note that we will not be recording the briefings).

In addition, you will also be able to access a wide variety of legislative information on the SDA website. Here you will find the full Legislative Briefing schedule, the bill tracker, and any other pertinent legislative update or reports, all in one easy-to-find place. This added convenience is a quick and helpful way for members to stay up to date with the Legislative Session.

As always, please contact the SDA office at 303-863-1733 and ask for Ann Terry or Michael Valdez if you have any questions. 📌

Information and registration at www.sdaco.org

Are You Interested in Serving on the SDA Board of Directors?

If you would like to learn more about possibly joining the SDA Board of Directors, we want to hear from you!

We are looking for current Board members (either elected or appointed) from our member districts who have thought about serving on the SDA Board and would like to find out more.

The SDA Board is comprised of eleven members who are elected by our member districts and is responsible for establishing Association policy and providing direction to the SDA staff. No more than two Board members may be from any one type of district, and at least one Board member must come from each of the five geographical areas of Colorado.

If you are interested in learning more, please contact Ann Terry, SDA's Executive Director, at ann.terry@sdaco.org or 303-863-1733.

We look forward to hearing from you!

JOIN US ON December 16 for the 2022 SDA Annual Meeting!

Don't forget to register for the 2022 SDA Annual Meeting on Friday, December 16 at 10:30 am. The meeting will be held via Zoom and will include our annual updates on a number of important topics.

For more information and to register, please visit the SDA website at www.sdaco.org.

We look forward to having you join us!

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Deadline to File Your Transparency Notice is January 15

About Transparency Notices

Title 32, Article 1, Colorado Revised Statutes, requires that certain special districts (see chart below) give public notice each year of certain basic information about the district:

- » Business address and telephone number
- » Primary contact person
- » The names of and contact information for the members of the Board
- » The name of the Board Chair or President
- » The name of each member whose office will be on the ballot at the next regular special district election

- » The time, date, and location of regular Board meetings
- » Mill levy and property tax revenues
- » Date of next regular election
- » The self-nomination procedure

Nicknamed the “Transparency Notice,” this notice may be disseminated to the public in a variety of ways (as discussed later in this article), but most special districts either post it on their own website or post it on the SDA website.

The chart below lists special districts that are required to provide a Transparency Notice and those that are not.

Required to Provide Transparency Notice
Ambulance districts
Fire protection districts
Forest improvement districts
Health service (hospital), health assurance, and mental health care service districts
Metropolitan districts
Mosquito control districts (not county pest control districts)
Park and recreation districts
Sanitation districts
Tunnel districts
Water districts
Water and sanitation districts

NOT Required to Provide Transparency Notice
Business improvement, general improvement, local improvement, public improvement, and special improvement districts
Cemetery districts
Conservancy districts
Conservation districts (formerly soil conservation districts)
Conservation districts (river water)
Disposal districts
Drainage districts
Federal mineral lease districts
Ground water management districts
Intergovernmental authorities
Irrigation districts
Junior college districts
Library districts
Local marketing districts
Pest control districts (county-established)
Recreation districts (county-established)
School districts
Urban drainage and flood control districts
Urban renewal and downtown development authorities
Water conservancy districts
Water conservation districts

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If you plan to post your district's Transparency Notice on the SDA website, first be sure your district is a current member of SDA.

Posting on SDA's Website

If you plan to post your district's Transparency Notice on the SDA website, first be sure your district is a current member of SDA. State law requires membership in SDA if you would like to post your Transparency Notice on the SDA website.

If you are a current member, you can review and update your Transparency Notice by going to the SDA website at www.sdaco.org. Make sure you are logged in and then click on "Transparency Notice" in the blue ribbon at the top of the page.

When you complete your online SDA membership renewal, you will also be given a prompt at the end of the renewal process to update your Transparency Notice.

Posting on Your District's Website

If you wish to post the Transparency Notice you've created on the SDA website on your district's website, you can print and post a copy of the completed SDA form.

If you choose to post your Notice on your district's official website, your district's website must be "linked" to the website of the Division of Local Government (DLG). If you haven't already established a link, please contact the DLG at 303-864-7720, and they can help walk you through this process.

Other Ways to Distribute Your Transparency Notice

In addition to the website postings discussed above, the statute provides that the annual Transparency Notice to Electors may be disseminated in one or more of the following ways:

1. Mailing the Notice to each household where one or more eligible district electors reside;
2. Including the Notice as a prominent part of a:
 - a. Newsletter
 - b. Annual report
 - c. Billing insert
 - d. Billing statement
 - e. Letter
 - f. Voter information card or other election notice
 - g. Other informational mailing sent by the district to eligible electors
3. Physically posting the Transparency Notice as provided in the statute,¹ but **only if** the special district has fewer than 1,000 eligible electors **and** the district is wholly located in a county with a population fewer than 30,000.

If you plan to use one of these other distribution methods, you may draft your own Transparency Notice as long as it contains all the information required by Section 32-1-809(1) (a-i), C.R.S. The Division of Local Government has prepared a statutorily-sufficient Transparency Notice template that you may access on the DLG website.

In addition, a copy of the Transparency Notice is also filed with:

- » the Division of Local Government;
- » the Board of County Commissioners;
- » the County Assessor;
- » the County Treasurer;
- » the County Clerk and Recorder; and
- » the governing body of any municipality in which the district is located.

Exemptions for Inactive Districts

Special districts that have legally claimed "inactive" status pursuant to Section 32-1-104, C.R.S., are exempt from complying with the Transparency Notice provisions in Section 32-1-809, C.R.S.

CORA and Water and Sanitary Rate Increase Notices

In addition to the Transparency Notice information, SDA members can also post their required document and retrieval policy and fee schedule for Colorado Open Records Act (CORA) requests directly on the Transparency Notice form on the SDA website. There is also a section to post notice of a public hearing if a district plans a fee increase or change for water or sanitary sewer service.

We Make It Easy for You

Being able to take care of all of these requirements in one easy place is an added membership benefit that we hope all districts will take advantage of.

If you have any questions or need assistance accessing your Transparency Notice, please call the SDA office at 303-863-1733. 📞

¹ See §32-1-809(2)(e), C.R.S.

Regular **Mail Ballot** Election Calendar

May 2, 2023 Regular Mail Ballot Election Calendar		
Date	Action	Authority
12-3-22	FOR METROPOLITAN DISTRICTS ORGANIZED AFTER JANUARY 1, 2000, the County Clerk and Recorder of each county in which the District is located shall provide the District with the voter registration list as of 150 days prior to the election for purposes of emailing or mailing the call for nomination between 100 and 75 days prior to the election. The list(s) must be ordered prior to this time. FOR ALL OTHER DISTRICTS that chose to mail such call for nominations, the County Clerk and Recorder of each county in which the District is located shall provide the District with the voter registration list as of 150 days prior to the election for purposes of mailing the call for nomination between 100 and 75 days prior to the election. The list(s) must be ordered prior to this time.	1-13.5-501(1.7) 1-13.5-501(1.5)
Before providing the Call for Nominations	Board adopts Election Resolution calling the regular election, appointing Designated Election Official, approving any ballot question(s) or ballot issue(s) to be submitted to the electors, if any, and determining other matters. NOTE: The Board can delay adopting a Resolution to approve any ballot question(s) or ballot issue(s) until closer to the date to certify the ballot content.	
1-1-23	Earliest day Self-Nomination and Acceptance forms can be filed with the Designated Election Official or, if none has been designated, with the presiding officer or the Secretary of the Board of Directors (no earlier than January 1st and no later than the normal close of business on the 67th day before the election).	1-13.5-303(1) 1-13.5-303(4)
1-22-23	First day to be able to provide* the call for nominations between 100 days and 75 days before a regular special district election. The call shall state the special district director offices to be voted upon, where a Self-Nomination and Acceptance form may be obtained, the deadline for submitting the Self-Nomination and Acceptance form to the Designated Election Official, and information on obtaining an absentee ballot. *Except as set forth below for Metropolitan Districts organized after January 2000, the call for nominations must be made by publication one time in a newspaper of general circulation within the District and by one of the following methods: 1. Mailing the notice to each address at which one or more active registered electors of the District resides as provided on the voter registration list as of 150 days prior to the election; or 2. Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election or other informational mailing sent by the District to the eligible electors; or 3. Posting the information on the District's website; or 4. For Districts with fewer than 1,000 electors that is wholly located in a county with a population of less than 30,000, posting the notice in at least three public places within the District boundaries and in the office of the County Clerk and Recorder. FOR METROPOLITAN DISTRICTS ORGANIZED AFTER JANUARY 1, 2000, the District must email the notice to each active registered elector of the District as provided on the voter registration list as of 150 days prior to the election. If the elector does not have an email of record in the voter registration records, the notice must be mailed to each address at which a registered elector resides. The notice must also be provided by one of the following methods: 1. Publication one time in a newspaper of general circulation within the District; or 2. Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election or other informational mailing sent by the District to the eligible electors; or 3. Posting the information on the District's website; or 4. For Districts with fewer than 1,000 electors that is wholly located in a county with a population of less than 30,000, posting the notice in at least three public places within the District boundaries and in the office of the County Clerk and Recorder.	1-13.5-501(1) 1-13.5-501(1.5) 1-13.5-501(1.7)
2-16-23	Last day to provide the call for nominations.	1-13.5-501(1) 1-13.5-501(1.5) 1-13.5-501(1.7)

May 2, 2023 Regular Mail Ballot Election Calendar

Date	Action	Authority
2-24-23	Last day Self-Nomination and Acceptance forms must be filed with the Designated Election Official or, if none has been designated, with the presiding officer or the Secretary of the Board of Directors (no earlier than January 1st and no later than the normal close of business on the 67th day before the election). FCPA NOTE: If the Self-Nomination and Acceptance form or the Affidavit of Intent to be a Write-in Candidate contains a statement substantially stating “I will not, in my campaign for this office, receive contributions or make expenditures exceeding two hundred dollars (\$200) in the aggregate during the election cycle, however, if I do so, I will thereafter register and file all disclosure reports required under the Fair Campaign Practices Act”, then no disclosure reports are required to be filed unless and until the two hundred dollar (\$200) threshold has been met.	1-13.5-303(1) 1-13.5-303(4) 1-45-108(1)(c) Article XXVIII, Section 2(2) of the Colorado Constitution Secretary of State Rule 16.3.1 of the Rules Concerning Campaign and Political Finance
2-27-23	Last day to file Affidavits of Intent to be a Write-in Candidate with Designated Election Official (not later than 64 days before the election).	1-13.5-305
2-28-23	Designated Election Official, if instructed by resolution of the Board, may cancel election if there are no more candidates, including write-in candidates, than positions to be filled, and there are no ballot issues or ballot questions, and declare the candidates elected (at the close of business on the 63rd day before the election or anytime thereafter). If the electors are to consider the election of persons to office and any ballot question or ballot issue, the governing body may by resolution withdraw the ballot question(s)/ballot issue(s) and cancel the election at any time prior to the election, if there are no more candidates, including write-in candidates, than positions to be filled. No election may be cancelled in part. Notice of cancellation of the election must be published. The Notice must be posted in the office of the Designated Election Official, and in the office of the County Clerk and Recorder. A copy of the Notice shall be filed with the Division of Local Government. Designated Election Official shall notify the candidates that the election was cancelled and that they were elected by acclamation. SPECIAL NOTE: If the election is cancelled, the term of office of the persons declared elected shall commence at the next meeting of the Board of Directors of the special district <i>following the date of the election</i>, but no later than thirty (30) days <i>following the date of the election</i> and upon the <i>signing and filing of an oath with the County Clerk and Recorder</i> and posting of a bond.	1-13.5-513(1) 1-13.5-513(3) 1-13.5-513(6) 1-13.5-112(2)
3-3-23	Certify ballot content (no later than 60 days before the election). Every ballot shall contain the names of all duly nominated candidates for the offices to be voted for at the election. The arrangement of the names shall be established by lot at any time prior to the certification of the ballot. The Designated Election Official shall notify the candidates of the time and place of the lot drawing for the ballot. The drawing shall be performed by the Designated Election Official or a designee. If any ballot question(s) or ballot issue(s) will be included on the ballot, they must follow the list of candidates.	1-13.5-511 1-13.5-902(2) 1-13.5-902(7)
3-3-23	FCPA NOTE: Each candidate or the Designated Election Official shall file with the Secretary of State a copy of such candidate's Self-Nomination and Acceptance forms or Affidavits of Intent to be a Write-In Candidate, no later than 60 days before the election. If the Self-Nomination and Acceptance form contains a statement that the candidate is familiar with the provisions of the Fair Campaign Practices Act, then no filing of a “Candidate Affidavit” under the Fair Campaign Practices Act is required. FCPA NOTE: A candidate who does not accept contributions but who expends money for campaign purposes shall not be required to form a Candidate Committee, but shall be required to file disclosure reports for the reporting periods during which the expenditures are made. FCPA NOTE: Candidate Committees shall register with the Secretary of State before accepting or making any contributions. Issue Committees shall register with the Secretary of State within 10 calendar days of accepting or making contributions or expenditures in excess of \$200 to support or oppose any ballot issue or ballot question.	1-45-108(3) 1-45-108(3.3) 1-45-110(1) Article XXVIII, Section 2(10), Colorado Constitution Secretary of State Rules 2.1, 16.1 and 16.3 of the Rules Concerning Campaign and Political Finance

Continued on page 12

May 2, 2023 Regular Mail Ballot Election Calendar

Date	Action	Authority
3-8-23	Designated Election Official must have on file at the principal office of the special district or Designated Election Official a plan for the conduct of the mail ballot election (no later than 55 days prior to the election). SPECIAL NOTE: Pursuant to Section 1-13.5- 111(2), all regular elections that will include a TABOR ballot issue must be conducted as a mail ballot election. Such election cannot be conducted as a polling place election.	1-13.5-1104(1)
3-17-23	Written comments for and against the TABOR ballot issue(s) must be received by the Designated Election Official (45 days before the election). (Comments must be filed by NOON on the Friday before the 45th day before the election).	1-13.5-503(1) 1-7-901(4) Article X, Section 20, Colorado Constitution
3-17-23	Designated Election Official shall mail absentee ballots to those eligible electors who have applied and are designated as a "covered voter" under the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA) (not later than 45 days before the election).	1-13.5-618 1-8.3-103(1)(d) 1-8.3-110(1)
3-18-23	Earliest date to hold a class of instruction concerning the tasks of an election judge (not more than 45 days prior to the election).	1-13.5-408
3-23-23	Last day for the Designated Election Official to order the voter registration and property owners lists (no later than 40 days prior to election). Designated Election Officials of overlapping political subdivisions conducting an election shall confer concerning the preparation of the notice required by TABOR ("TABOR Notice") (no later than 40 days prior to the election). Such political subdivisions shall enter into an intergovernmental agreement for the preparation and mailing of the TABOR Notice.	1-13.5-203(1) 1-13.5-204(1) 1-13.5-204(2) 1-13.5-1105(2)(a) 1-13.5-503(1) 1-7-905(2) 1-7-906(3)
3-31-23	Last day for County Clerk and Recorder to certify initial list of registered voters and County Assessor shall certify initial list of property owners (no later than 30 days prior to election). NOTE: These lists should be requested to be received prior to this date since the TABOR Notice must also be mailed this date. Designated Election Official shall have available printed ballots (at least 30 days prior to election). Mail TABOR Notice to each household where an active registered elector of the District resides (at least 30 days before the election)	1-13.5-203(1)(a) 1-13.5-204(2) 1-13.5-1105(2)(a) 1-13.5-902(1)(a) Article X, Section 20(3) (b), Colorado Constitution
4-10-23	Designated Election Official may begin mailing to each eligible elector, who is an active registered elector, a mail ballot package, including property owners who are active registered electors, but may not reside within the District. Mail ballots shall be made available at the office of the Designated Election Official, or the office designated in the mail ballot plan, for eligible electors who are not listed on the voter registration or property owners lists, but who are authorized to vote (not sooner than 22 days prior to election).	1-13.5-1105(4)(a) 1-13.5-1105(4)(d)
4-11-23	FCPA NOTE: File Candidate Committee or Issues Committee Report of Contributions and Expenditures pursuant to the Fair Campaign Practices Act with the Secretary of State (21st day before the election).	1-45-108(2)(a)(II)
4-12-23	Last day to publish Notice of the election once (at least 20 days before the election). Post Notice in the office of the Designated Election Official. Mail a copy of the Notice to the County Clerk and Recorder of each county in which the special district is located. DEBT OR OTHER FINANCIAL OBLIGATION election. Post notice of additional financial information on District's website, or if no website, in the chief administrative office of the District (no later than 20 days before the election). County Clerk and Recorder shall supply supplemental list of registered voters and County Assessor shall supply supplemental list of property owners (no later than 20 days prior to election).	1-13.5-502(1) 1-13.5-502(2) 1-13.5-1105(2)(d) 1-13.5-503(2) 1-7-908(1)(a) 1-13.5-203(1)(a) 1-13.5-204(2) 1-13.5-1105(2)(b)
4-17-23	Last day to mail the ballot packages (no later than 15 days before the election).	1-13.5-1105(4)(a)

May 2, 2023 Regular Mail Ballot Election Calendar

Date	Action	Authority
4-17-23	Designated Election Official shall appoint election judges (at least 15 days prior to election). Designated Election Official shall mail certificates of appointment and acceptance forms to each person appointed. Each election judge shall file an acceptance of appointment with the Designated Election Official within seven (7) days after certificate of appointment and acceptance forms were mailed. Designated Election Official shall appoint at least one member of the special district Board and at least one eligible elector of the special district who is not a member of such Board to serve with the Designated Election Official as the Canvass Board for the election (at least 15 days prior to election). Election Judges may receive and prepare mail ballots for tabulation. Counting of the mail ballots may begin fifteen (15) days prior to the election and continue until counting is completed.	1-13.5-401(1) 1-13.5-403 1-13.5-404 1-13.5-1301(1) 1-13.5-1107
4-28-23	FCPA NOTE: File Candidate Committee or Issues Committee Report of Contributions and Expenditures pursuant to the Fair Campaign Practices Act with the Secretary of State (Friday before the election).	1-45-108(2)(a)(II)
5-1-23	Deliver to election judge the registration records and all necessary election supplies, including ballots, voting booths, etc. (at least one day prior to the election).	1-13.5-205
5-2-23	ELECTION DAY. 7:00 A.M. to 7:00 P.M.	
5-10-23	Last day to receive voted absentee ballot from UOCAVA eligible elector, if such ballot was postmarked by 7:00 p.m. on the day of election, in order for ballot to be counted (by the close of business on the 8th day after the election).	1-8.3-111 1-8.3-113(2)
5-16-23	Canvass Board shall certify the official abstract of votes cast at the election (no later than the 14th day after the election). A copy of the certificate of election results shall be filed with the Division of Local Government. The DEO shall transmit to each person declared to be elected a certificate of the person's election. The term of office of each newly elected person shall commence at the next meeting of the Board of Directors of the special district following the election, but no later than thirty (30) days following the date the election results were certified and upon the signing of an oath and filing with the County Clerk and Recorder and posting of a bond. If the election was cancelled, the term of office of the persons declared elected shall commence at the next meeting of the Board of Directors of the special district following the date of the election, but no later than thirty (30) days following the date of the election and upon the signing of an oath and filing with the County Clerk and Recorder and posting of a bond.	1-13.5-1305(1) 1-13.5-1305(2) 32-1-104(1) 1-13.5-112(1) 1-13.5-112(2)
6-1-23	FCPA NOTE: File Candidate Committee or Issue Committee Report of Contributions and Expenditures with the Secretary of State (30 days after the election).	1-45-108(2)(a)(II)
6-16-23	For debt authorization elections, mail the election results by certified mail to the Board of County Commissioners of each county in which the special district is located or to the governing body of a municipality that has adopted a resolution of approval of the special district and to the Division of Securities (within 45 days after the election).	32-1-1101.5(1)
	Election official shall retain the sealed voted ballots until time has expired for any contest proceedings or 25 months after the election, whichever is later. All other election records and forms shall be preserved for at least six (6) months following the election.	1-13.5-616(1) 1-13.5-616(2)

We would like to thank Micki Mills from Cockrel Ela Glesne Greher & Ruhland, PC for developing this valuable resource.

2023 Calendar of Statutory Deadlines

The following is a to-do list for your district in the upcoming year. Please note that this list merely highlights some of your reporting and filing responsibilities; it is not exhaustive.

Deadlines in **the blue boxes** occur on the same date each year. Deadlines **in the green boxes** fall on different dates each year.

On or before January 1 of each year

File a current, accurate map of the district boundaries (or letter stating there were no changes) with:

- » the Division of Local Government (DLG);
- » the County Clerk and Recorder; and
- » the County Assessor.¹

First Board Meeting

At the first regular Board meeting of the new calendar year, designate the "official" posting place for 24-hour (agenda) notice of district meetings.² The posting location may be the public website of the district or the physical location(s) designated by the district at the first regular Board meeting of the new calendar year. In order to comply with the posting of notice on the public website of the district, the notice must contain the specific agenda information, if available, not later than 24 hours prior to the holding of the meeting. A district that posts notices on a website shall provide the address of the website to the Department of Local Affairs. The district must still designate one physical location within the district boundaries for posting in the event of an exigent or emergency circumstance which prevents posting or public access to the online webpage.

Notice of rate or fee change for water or sanitary sewer services

Special districts fixing or increasing fees or other charges for water and sanitary sewer services must hold a public meeting to do so. Special districts must provide notice to its customers 30 days in advance of the public meeting.³

The notice to customers must be made in one or more of the following ways:

- » Mailing the notice separately to each customer; or
- » Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter or other informational mailing sent to each customer; or
- » Posting the notice on the district's official website, if there is a link to the district's website on the official

website of the DLG; or

- » If the district is a member of the Special District Association of Colorado (SDA), by updating the transparency notice on SDA's website.

January 15

Pursuant to Section 32-1-809, C.R.S., an annual "transparency" notice must be provided to eligible electors between November 16 and January 15. The annual transparency notice to electors must contain certain information about the district, including, but not limited to:

- » Board member names and contact information;
- » Name of Board Chair or President;
- » Name of each Board member whose office will be on the ballot at the next regular special district election;
- » Date of next Board election and procedures for self-nomination;
- » Mill levy and total property tax revenues;
- » Board meeting information;
- » and district contact information.

The notice to electors must be made in one or more of the following ways:

- » Mailing the notice separately to each household where one or more eligible electors of the district reside; or
- » Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, or other informational mailing sent to each customer; or
- » Posting the notice on the district's official website, if there is a link to the district's website on the official website of the DLG; or
- » If the district is a member of SDA, by updating the transparency notice on SDA's website.

In addition, a copy of this annual "transparency" notice is also filed with:

- » the DLG;
- » the Board of County Commissioners;
- » the County Assessor;
- » the County Treasurer;
- » the County Clerk and Recorder; and
- » the governing body of any municipality in which the district is located.⁴

January 31

File with DLG a certified copy of adopted budget, including budget message and any resolutions adopting the budget, appropriating money, and fixing the rate of any mill levy.⁵

March 1 (60 days after end of fiscal year)

Annual information report to the DLG with respect to any nonrated public securities of the district which were outstanding as of the end of the fiscal year (December 31).⁶

March 31 (within 3 months of close of fiscal year)

Application for exemption from audit, if applicable, due to State Auditor. Any local government where revenues or expenditures are at least \$100,000 but not more than \$750,000 may, with the approval of the State Auditor, be exempt from the provisions of Section 29-1-603.⁷

If district has authorized but unissued general obligation debt as of the end of its fiscal year (December 31), submit copy of application for exemption from audit to Board of County Commissioners or governing body of municipality that adopted a resolution of approval of the service plan.⁸

Prior to May 1

If any new property included in district by 100% owner petition, deadline to record court order of inclusion with County Clerk and Recorder to enable district to levy tax against newly included property for the year in which the inclusion occurred.⁹

Record a special district public disclosure document and a map of the new boundaries of the district at the same time as recording the order of inclusion.¹⁰

File a recorded copy of the certified court order of inclusion with the DLG and the County Clerk and Recorder.¹¹

June 30

Auditor submits completed audit and audit report to district Board.¹²

File copy with State Auditor within 30 days after receipt.¹³

Submit audit report or application for exemption from audit to Board of County Commissioners or governing body of municipality that adopted a resolution of approval of the service plan if district has authorized but unissued general obligation debt as of the end of its fiscal year (December 31).¹⁴

Prior to July 1

If any new property included into district by taxpayer petition or Board resolution, deadline to record court order of inclusion with County Clerk and Recorder to enable district to levy tax on newly included property for year in which inclusion occurred.¹⁵

Record a special district public disclosure document and a map of the new

boundaries of the district at the same time as recording the order of inclusion. File a recorded copy of the certified court order of inclusion with the DLG and the County Clerk and Recorder.¹⁶

July 30

File audit report with State Auditor within 30 days after the report is received,¹⁷ but not later than July 30, or file request for extension of time to file audit.

Submit audit report to Board of County Commissioners or governing body of municipality that adopted a resolution of approval of the service plan if district has authorized but unissued general obligation debt as of the end of its fiscal year (December 31).¹⁸

August 25

County Assessor certifies district's valuation for assessment (preliminary).¹⁹

September 30

If State Auditor has granted extension of time to file audit, this is the final date an audit may be filed. Failure to file the audit may result in the State Auditor authorizing the County Treasurer to prohibit the release of any monies which were generated pursuant to the taxing authority of the district until the district submits an audit report to the state auditor.

October 1

Any special district created after July 1, 2000, shall file not more than once a year a special district annual report for the preceding calendar year. Unless the requirement is waived or otherwise requested by an earlier date by the Board of County Commissioners or by the governing body of the municipality in which a special district is wholly or partially located, commencing in 2023 for the 2022 calendar year, the annual report must be provided by October 1 of each year. The annual report must be electronically filed with the governing body that approved the service plan or, if the jurisdiction has changed due to annexation into a municipality, the current governing body with jurisdiction over the special district, the Division, and the State Auditor, and such report must be electronically filed with the County Clerk and Recorder for public inspection, and a copy of the report must be made available by the special district on the special district's website.

The report required by this subsection (3)(c) must include, as applicable for the reporting year, but shall not be limited to:

- » Boundary changes made;
- » Intergovernmental agreements entered into or terminated with other governmental entities;

- » Access information to obtain a copy of rules and regulations adopted by the Board;
- » A summary of litigation involving public improvements owned by the special district;
- » The status of the construction of public improvements by the special district;
- » A list of facilities or improvements constructed by the special district that were conveyed or dedicated to the county or municipality;
- » The final assessed valuation of the special district as of December 31 of the reporting year;
- » A copy of the current year's budget;
- » A copy of the audited financial statements or the application for exemption from audit, as applicable;
- » Notice of any uncured defaults existing for more than ninety days under any debt instrument of the special district; and
- » Any inability of the special district to pay its obligations as they come due under any obligation which continues beyond a 90-day period.²⁰

October 15

Qualified person prepares and submits proposed budget to Board.²¹

Publish/post notice of budget and hearing.²²

November 16

Begin 60-day window to provide annual "transparency" notice to electors for 2024.²³

December 10

County Assessor certifies district's valuation for assessment (final).²⁴

December 15

Adopt budget and appropriate moneys, if certifying a mill levy.²⁵

December 15

Certify mill levy to Board of County Commissioners.²⁶

December 15

File notice of inactive status, if applicable, with:²⁷

- » Board(s) of County Commissioners or governing body of municipality that approved district service plan;
- » County Treasurer;
- » County Assessor;
- » County Clerk and Recorder;
- » District Court;
- » State Auditor; and
- » DLG

December 15

File notice of intent to continue in inactive status, if applicable, with:²⁸

- » State Auditor and
- » DLG

December 31

Adopt budget and appropriate moneys, if not levying property taxes.²⁹

December 31

Calculate (as of the end of the fiscal year) district's authorized but unissued general obligation debt. Specify amount, if any, and any current or anticipated plan to issue the debt in district's audit report.³⁰

December 31

At least annually, publish information about land development charges, if applicable, on district's official website³¹

Many thanks to Crystal Schott at Collins Cole Flynn Winn & Ulmer, PLLC for her assistance in reviewing and updating this calendar.

¹ Section 32-1-306, C.R.S.

² Section 24-6-402(2)(c), C.R.S.

³ Section 32-1-1001(2)(a), C.R.S.

⁴ Section 32-1-809, C.R.S. and Section 32-1-104(2), C.R.S.

⁵ Section 29-1-113(1), C.R.S.

⁶ Section 11-58-105, C.R.S.

⁷ Section 29-1-604, C.R.S.

⁸ Section 29-1-606(7), C.R.S.

⁹ Sections 39-1-110(1.5) and 32-1-105, C.R.S.

¹⁰ Section 32-1-105, C.R.S.

¹¹ Section 32-1-104.8, C.R.S.

¹² Section 29-1-606, C.R.S.

¹³ Section 29-1-606(3), C.R.S.

¹⁴ Section 29-1-606(7), C.R.S.

¹⁵ Sections 39-1-110(1.5), 32-1-401(2), and 32-1-105, C.R.S.

¹⁶ Section 32-1-105, C.R.S.

¹⁷ Section 29-1-606, C.R.S.

¹⁸ Section 29-1-606(7), C.R.S.

¹⁹ Section 39-5-128(1), C.R.S.

²⁰ Section 32-1-207(3)(c), C.R.S.

²¹ Section 29-1-105, C.R.S.

²² Section 29-1-106(3), C.R.S.

²³ Section 32-1-809, C.R.S.

²⁴ Section 39-1-111(5), C.R.S.

²⁵ Section 29-1-108(2), C.R.S.

²⁶ Sections 39-5-128(1) and 32-1-1201, C.R.S.

²⁷ Section 32-1-104(3), C.R.S.

²⁸ Section 32-1-104(4), C.R.S.

²⁹ Section 29-1-108(2), C.R.S.

³⁰ Sections 29-1-605(2) and 29-1-606(7), C.R.S.

³¹ Section 29-1-803(1), C.R.S.

Regular **Polling Place** Election Calendar

May 2, 2023 Regular Polling Place Election Calendar		
Date	Action	Authority
12-3-22	FOR METROPOLITAN DISTRICTS ORGANIZED AFTER JANUARY 1, 2000 , the County Clerk and Recorder of each county in which the District is located shall provide the District with the voter registration list as of 150 days prior to the election for purposes of emailing or mailing the call for nomination between 100 and 75 days prior to the election. The list(s) must be ordered prior to this time.	1-13.5-501(1.7)
	FOR ALL OTHER DISTRICTS that chose to mail such call for nominations, the County Clerk and Recorder of each county in which the District is located shall provide the District with the voter registration list as of 150 days prior to the election for purposes of mailing the call for nomination between 100 and 75 days prior to the election. The list(s) must be ordered prior to this time.	1-13.5-501(1.5)
Before providing the Call for Nominations	Board adopts Election Resolution calling the regular election, appointing Designated Election Official, approving any ballot question(s) to be submitted to the electors, if any, and determining other matters. NOTE: The Board can delay adopting a Resolution to approve any ballot question(s) until closer to the date to certify the ballot content.	
1-1-23	Earliest day Self-Nomination and Acceptance forms can be filed with the Designated Election Official or, if none has been designated, with the presiding officer or the Secretary of the Board of Directors (no earlier than January 1 st and no later than the normal close of business on the 67 th day before the election).	1-13.5-303(1) 1-13.5-303(4)
1-22-23	First day to be able to provide* the call for nominations between 100 days and 75 days before a regular special district election. The call shall state the special district director offices to be voted upon, where a Self-Nomination and Acceptance form may be obtained, the deadline for submitting the Self-Nomination and Acceptance form to the Designated Election Official, and information on obtaining an absentee ballot. *Except as set forth below for Metropolitan Districts organized after January 2000, the call for nominations must be made by publication one time in a newspaper of general circulation within the District and by one of the following methods: 1. Mailing the notice to each address at which one or more active registered electors of the District resides as provided on the voter registration list as of 150 days prior to the election; or 2. Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election or other informational mailing sent by the District to the eligible electors; or 3. Posting the information on the District's website; or 4. For Districts with fewer than 1,000 electors that is wholly located in a county with a population of less than 30,000, posting the notice in at least three public places within the District boundaries and in the office of the County Clerk and Recorder. FOR METROPOLITAN DISTRICTS ORGANIZED AFTER JANUARY 1, 2000, the District must email the notice to each active registered elector of the District as provided on the voter registration list as of 150 days prior to the election. If the elector does not have an email of record in the voter registration records, the notice must be mailed to each address at which a registered elector resides. The notice must also be provided by one of the following methods: 1. Publication one time in a newspaper of general circulation within the District; or 2. Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election or other informational mailing sent by the District to the eligible electors; or 3. Posting the information on the District's website; or 4. For Districts with fewer than 1,000 electors that is wholly located in a county with a population of less than 30,000, posting the notice in at least three public places within the District boundaries and in the office of the County Clerk and Recorder.	1-13.5-501(1) 1-13.5-501(1.5) 1-13.5-501(1.7)
2-16-23	Last day to provide the call for nominations.	1-13.5-501(1) 1-13.5-501(1.5) 1-13.5-501(1.7)

May 2, 2023 Regular Polling Place Election Calendar

Date	Action	Authority
2-24-23	Last day Self-Nomination and Acceptance forms must be filed with the Designated Election Official or, if none has been designated, with the presiding officer or the Secretary of the Board of Directors (no earlier than January 1st and no later than the normal close of business on the 67th day before the election). FCPA NOTE: If the Self-Nomination and Acceptance form or the Affidavit of Intent to be a Write-in Candidate contains a statement substantially stating “I will not, in my campaign for this office, receive contributions or make expenditures exceeding two hundred dollars (\$200) in the aggregate during the election cycle, however, if I do so, I will thereafter register and file all disclosure reports required under the Fair Campaign Practices Act”, then no disclosure reports are required to be filed unless and until the two hundred dollar (\$200) threshold has been met.	1-13.5-303(1) 1-13.5-303(4) 1-45-108(1)(c) Article XXVIII, Section 2(2) of the Colorado Constitution Secretary of State Rule 16.3.1 of the Rules Concerning Campaign and Political Finance
2-27-23	Last day to file Affidavits of Intent to be a Write-in Candidate with Designated Election Official (not later than 64 days before the election).	1-13.5-305
2-28-23	Designated Election Official, if instructed by resolution of the Board, may cancel election if there are no more candidates, including write-in candidates, than positions to be filled, and there are no ballot issues or ballot questions, and declare the candidates elected (at the close of business on the 63rd day before the election or anytime thereafter). If the electors are to consider the election of persons to office and any ballot question, the governing body may by resolution withdraw the ballot question and cancel the election at any time prior to the election, if there are no more candidates, including write-in candidates, than positions to be filled. No election may be cancelled in part. Notice of cancellation of the election must be published. The Notice must be posted at each polling location of the special district, in the office of the Designated Election Official, and in the office of the County Clerk and Recorder. A copy of the Notice shall be filed with the Division of Local Government. Designated Election Official shall notify the candidates that the election was cancelled and that they were elected by acclamation. SPECIAL NOTE: If the election is cancelled, the term of office of the persons declared elected shall commence at the next meeting of the Board of Directors of the special district <i>following the date of the election</i>, but no later than thirty (30) days following the date of the election and upon the <i>signing and filing of an oath with the County Clerk and Recorder</i> and posting of a bond.	1-13.5-513(1) 1-13.5-513(3) 1-13.5-513(6) 1-13.5-112(2)
3-3-23	Certify ballot content (no later than 60 days before the election). Every ballot shall contain the names of all duly nominated candidates for the offices to be voted for at the election. The arrangement of the names shall be established by lot at any time prior to the certification of the ballot. The Designated Election Official shall notify the candidates of the time and place of the lot drawing for the ballot. The drawing shall be performed by the Designated Election Official or a designee. If any ballot questions will be included on the ballot, they must follow the list of candidates. Designated Election Officials of special districts with overlapping boundaries must meet, confer and, if practical, hold the elections in a manner that will permit the eligible electors in the overlapping area to vote in all of such elections at one polling place.	1-13.5-511 1-13.5-902(2) 1-13.5-902(7) 1-13.5-504(3)

Continued on page 18

May 2, 2023 Regular Polling Place Election Calendar

Date	Action	Authority
3-3-23	FCPA NOTE: Each candidate or the Designated Election Official shall file with the Secretary of State a copy of such candidate's Self-Nomination and Acceptance forms or Affidavits of Intent to be a Write-In Candidate, no later than 60 days before the election. If the Self-Nomination and Acceptance form contains a statement that the candidate is familiar with the provisions of the Fair Campaign Practices Act, then no filing of a "Candidate Affidavit" under the Fair Campaign Practices Act is required. FCPA NOTE: A candidate who does not accept contributions but who expends money for campaign purposes shall not be required to form a Candidate Committee, but shall be required to file disclosure reports for the reporting periods during which the expenditures are made. FCPA NOTE: Candidate Committees shall register with the Secretary of State before accepting or making any contributions. Issue Committees shall register with the Secretary of State within 10 calendar days of accepting or making contributions or expenditures in excess of \$200 to support or oppose any ballot issue or ballot question.	1-45-108(3) 1-45-108(3.3) 1-45-110(1) Article XXVIII, Section 2(10), Colorado Constitution Secretary of State Rules 2.1, 16.1 and 16.3 of the Rules Concerning Campaign and Political Finance
3-17-23	Designated Election Official shall mail absentee ballots to those eligible electors who have applied and are designated as a "covered voter" under the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA) (not later than 45 days before the election).	1-13.5-618 1-8.3-103(1)(d) 1-8.3-110(1)
3-18-23	Earliest date to hold a class of instruction concerning the tasks of an election judge (not more than 45 days prior to the election).	1-13.5-408
3-23-23	Last day for the Designated Election Official to order the voter registration and property owners lists (no later than 40 days prior to election). Designated Election Official may order an initial voter registration and property owners lists be received 30 days prior to the election, with a supplemental list provided 20 days prior, or complete lists provided as of the 6th day prior to the election	1-13.5-203(1) 1-13.5-204(1) 1-13.5-204(2)
3-31-23	If requested, County Clerk and Recorder shall certify initial list of registered voters and County Assessor shall certify initial list of property owners (no later than 30 days prior to election). Designated Election Official shall have available printed ballots (at least 30 days prior to election).	1-13.5-203(1)(a) 1-13.5-204(2) 1-13.5-902(1)(a)
4-3-23	Mail absentee voter's ballot to each of those eligible electors on the list of permanent absentee voters or those eligible electors who have applied for an absentee ballot (not more than 72 hours after the blank ballots have been received).	1-13.5-1002(2) (b)
4-11-23	FCPA NOTE: File Candidate Committee or Issues Committee Report of Contributions and Expenditures pursuant to the Fair Campaign Practices Act with the Secretary of State (21st day before the election).	1-45-108(2) (a)(II)
4-12-23	Last day to publish Notice of the election once (at least 20 days before the election). Post Notice in the office of the Designated Election Official. Mail a copy of the Notice to the County Clerk and Recorder of each county in which the special district is located. Post Notice of Polling Place at each polling place (at least 20 days prior to election). If requested, County Clerk and Recorder shall supply supplemental list of registered voters and County Assessor shall supply supplemental list of property owners (no later than 20 days prior to election).	1-13.5-502(1) 1-13.5-502(2) 1-13.5-502(3) 1-13.5-203(1)(a) 1-13.5-204(2)
4-17-23	Designated Election Official shall appoint election judges (at least 15 days prior to election). Designated Election Official shall mail certificates of appointment and acceptance forms to each person appointed. Each election judge shall file an acceptance of appointment with the Designated Election Official within seven (7) days after certificate of appointment and acceptance forms were mailed. Designated Election Official shall appoint at least one member of the special district Board and at least one eligible elector of the special district who is not a member of such Board to serve with the Designated Election Official as the Canvass Board for the election (at least 15 days prior to election).	1-13.5-401(1) 1-13.5-403 1-13.5-404 1-13.5-1301(1)
4-20-23	If special district is using voting machines or an electronic voting system for the use of absentee voters, such voting machines or electronic voting system must be available from 12 days prior to the election until the close of business on the Friday preceding the election.	1-13.5-1007(1) 1-13.5-1007(2)
4-25-23	Last day to request an absentee ballot (close of business on Tuesday preceding election).	1-13.5-1002(1) (b)

May 2, 2023 Regular Polling Place Election Calendar

Date	Action	Authority
4-26-23	If requested, County Clerk and Recorder shall supply complete list of registered voters and County Assessor shall supply complete list of property owners (as of the 6th day prior to the election).	1-13.5-203(1)(a) 1-13.5-204(2)
4-28-23	FCPA NOTE: File Candidate Committee or Issues Committee Report of Contributions and Expenditures pursuant to the Fair Campaign Practices Act with the Secretary of State (Friday before the election).	1-45-108(2) (a)(II)
5-1-23	Deliver to election judge the registration records and all necessary election supplies, including ballots, voting booths, etc. (at least one day prior to the election).	1-13.5-205
5-2-23	ELECTION DAY. 7:00 A.M. to 7:00 P.M.	
5-10-23	Last day to receive voted absentee ballot from UOCAVA eligible elector, if such ballot was postmarked by 7:00 p.m. on the day of election, in order for ballot to be counted (by the close of business on the 8th day after the election).	1-8.3-111 1-8.3-113(2)
5-16-23	Canvass Board shall certify the official abstract of votes cast at the election (no later than the 14th day after the election). A copy of the certificate of election results shall be filed with the Division of Local Government. The DEO shall transmit to each person declared to be elected a certificate of the person's election. The term of office of each newly elected person shall commence at the next meeting of the Board of Directors of the special district following the election, but no later than thirty (30) days following the date the election results were certified and upon the signing of an oath and filing with the County Clerk and Recorder and posting of a bond. If the election was cancelled, the term of office of the persons declared elected shall commence at the next meeting of the Board of Directors of the special district following the date of the election, but no later than thirty (30) days following the date of the election and upon the signing of an oath and filing with the County Clerk and Recorder and posting of a bond.	1-13.5-1305(1) 1-13.5-1305(2) 32-1-104(1) 1-13.5-112(1) 1-13.5-112(2)
6-1-23	FCPA NOTE: File Candidate Committee or Issue Committee Report of Contributions and Expenditures with the Secretary of State (30 days after the election).	1-45-108(2) (a)(II)
	Election official shall retain the sealed voted ballots until time has expired for any contest proceedings or 25 months after the election, whichever is later. All other election records and forms shall be preserved for at least six (6) months following the election.	1-13.5-616(1) 1-13.5-616(2)

We would like to thank Micki Mills from Cockrel Ela Glesne Greher & Ruhland, PC for for developing this valuable resource.



Northern Water

Wins EPA WaterSense Award for Third Year

By Susan M. Thornton, MS

An 85-year-old water conservancy district has been honored for its work to promote water conservation in northern Colorado. It is the third year in a row that the Northern Colorado Water Conservancy District (Northern Water) has won the award.

Northern Water was founded in the 1937 to carry water from the Colorado River to Colorado's Eastern Slope. Eighty-five years later, the District operates on a property tax of one mill and user fees, and employs 160 workers at its headquarters in Berthoud and at its Willow Creek Campus in Granby.

The District provides supplemental water to 33 municipalities and to 120 reservoirs and irrigation companies that supply approximately one million water users in portions of Boulder, Broomfield, Weld, Morgan, Washington, Sedgwick, Logan, and Larimer counties.

Numerous Water Conservation Projects

Northern Water conducts numerous projects designed to help conserve water.

It has developed Water Wise landscaping tools and conducts trainings on using the tools. It monitors water quality, temperature, and snowpack data within the district; provides drought resources for municipal, residential, and commercial properties; hosts a water-wise demonstration garden; and more.

Recognition by the Environmental Protection Agency (EPA)

In October, the U.S. EPA recognized Northern Water as a WaterSense partner for its excellence in support of water efficiency in 2021. It was the third WaterSense Partner of the Year award for the District and one of 34 such honors awarded across the country by the EPA.

The EPA honored the District for numerous activities, including donating nearly 200 water-efficient showerheads to the nonprofit Energy Resource Center, which is installing the showerheads as it retrofits low-income housing.

The award also highlighted a case study that Northern Water created showing the value of irrigation professionals who are certified by a WaterSense-labeled program



The Flatiron Penstocks above Flatiron Reservoir in Larimer County bring water to Carter Lake and Horsetooth Reservoir via the Colorado-Big Thompson Project.

Northern Water provides supplemental water to 33 municipalities and to 120 reservoirs and irrigation companies that supply approximately one million water users in portions of Boulder, Broomfield, Weld, Morgan, Washington, Sedgwick, Logan, and Larimer counties.



Northern Water's award-winning Conservation Gardens span several acres of their Berthoud headquarters campus to provide public education on various plants, turf, and conservation techniques that can achieve water savings in landscapes.



Carter Lake

Northern Water operates and maintains the Colorado-Big Thompson Project, Colorado's largest transmountain diversion, in partnership with the U.S. Bureau of Reclamation.

Begun in 1938, the project cost nearly \$162 million and carries Colorado River water to northeastern Colorado farms, a million residents, and many industries. The project includes:

- » 6 hydropower plants
- » 3 pumping plants
- » 12 reservoirs
- » 35 miles of tunnels
- » 95 miles of canals
- » 800 miles of transmission lines

A replica of the project is available for public viewing at the district's headquarters in Berthoud.

and the use of the WaterSense "Find a Pro" tool.

In addition, the District partnered with the Horticulture Department of Colorado State University (CSU) to produce and co-host the Biennial Short Course, a half-day virtual workshop in 2021 for 130 landscapers, master gardeners, municipal employees, and landscape architects. It also partnered with the Colorado Stormwater Center at CSU to host three virtual trainings on the reuse of rainwater in landscaping that was attended by 470 viewers.

New in 2021, the District also launched a pilot audit program to provide in-depth indoor water inspections for schools, municipal buildings, and office buildings. In its first year, nine properties participated in the pilot, including six schools in the Thompson School District.

Northern Water's Public Information Officer, Jeff Stahla, says the District was honored to receive the EPA award. "It's important that our constituents recognize that we take responsibility for ensuring the most efficient use of water in our district's boundaries," he says.

Major Projects Lie Ahead

Northern Water will be working on two major projects in 2023 and beyond.

One is the Chimney Hollow Reservoir west of Loveland, a \$500 million project that is under way after almost 20 years of environmental studies and political discussion. The reservoir will provide water to 11 municipalities and a public utility.

A second major project for 2023 is the Northern Integrated Supply Project, which will build two reservoirs and establish water delivery systems for 15 municipal water providers. The project, now in its final permitting stages, is expected to cost \$2 billion.

Praise for SDA

Northern Water's Stahla has high praise for SDA, especially for the many services it provides to its members, saying, "We love the SDA conferences and attend to interact with other special districts."

Learn more about Northern Water at www.northernwater.org and on YouTube at <https://www.youtube.com/user/NCWCD>. 📺



Construction Projects

From RFP to Completion

Guest article by John Chmil, Attorney with Lyons Gaddis, PC

It is always a big decision to begin a new construction project for your district. The new facility must meet the district's operational goals as well as its budgetary realities. Such an undertaking should be met with clear goals and a clear plan. There are a number of practical and legal considerations to understand as you embark on your next construction project. Starting with the planning of the Request for Proposals (RFP) to ensuring planned walk-throughs near the conclusion of the warranty period, the goal should be establishing clear expectations for your contractors and securing appropriate protections for your district.

The construction project timeline is made up of four primary phases: (i) RFP/Bidding; (ii) Contract Negotiations; (iii) Active Construction; and (iv) Closeout. Each phase has its own considerations and challenges, but the primary theme is consistent throughout: clear expectations.

RFP/Bidding

All special districts must publicly bid construction projects with a value of \$60,000 or more.¹ The substantive legal requirement is that a notice of bids must be published at least one time in a newspaper of general circulation within your district. The notice is typically used to provide the basic information to allow interested parties to

either contact the district, view the district website, or visit a bidding website in order to obtain the formal RFP. Any additional form of notice is fine, but always ensure you cover the publication requirement.

If you have a project in excess of \$60,000, the first major decision is how your district wants to approach the project. There are two primary project approaches: Design-Bid-Build and Design-Build. The primary difference between the two is that in the Design-Build approach, the general contractor is brought on earlier in the process to assist in the actual design of the project as opposed to simply providing construction services in the Design-Bid-Build approach.

For a Design-Bid-Build, the district would take the following steps:

- a. Hire an architect/engineer to complete a design of the project
- b. Prepare a bid package for a general contractor with the complete design
- c. Review bids and award contract to selected general contractor at fixed bid price
- d. General contractor begins construction based on design from bid package

For a Design-Build, the District would take the following steps:

- a. Hire an architect/engineer to

be the primary designer on the project

- b. Prepare bid package for design-build services for general contractor
- c. Select qualified general contractor
- d. General contractor works with architect/engineer to complete design (pre-construction phase)
- e. General contractor offers contract price/guaranteed maximum price based on design they assisted in developing
- f. If the district accepts the contract price, general contractor begins construction based on design they assisted in developing (construction phase)

Because the construction services must be publicly bid, the chosen project approach will influence how your RFP is drafted. An RFP for a Design-Bid-Build is much more straightforward as it is requesting specific dollar figure bids based on 100% design documents. However, an RFP for a Design-Build project must rely more on a description of the project, general contractor qualifications, and the separation of the general contractor services into pre-construction and construction phases. As a result, the project approach must be clearly established from the beginning in order to start your RFP on the right track.

The other major consideration for the beginning of the process is whether the district will want to pre-qualify potential bidders through a Request for Qualifications (RFQ) prior to issuing an RFP. RFQs are generally more applicable to larger projects with more technical requirements (i.e., new treatment plant), but can be useful for smaller projects as well. The RFQ process is also typically more common in the Design-Build project approach. The intent of an RFQ is to establish a short-list of potential bidders that are confirmed to have the necessary qualifications to complete the project. The pre-qualified bidders will then be the only entities to receive the RFP to submit formal responses to.

Title 32 provides some direction on the parameters of a pre-qualification process in the Public Improvement Statute.² The Public Improvement Statute is specifically aimed at providing statutory guidance for “Integrated Project Delivery Contracts.” While true Integrated Project Delivery Contracts are rare (as they combine all design and construction services within a single contract), the considerations in Design-Build approaches are similar and the Public Improvement Statute provides helpful guidance on what a pre-qualification process can look like. In addition, following the pre-qualification process in the Public Improvement Statute can satisfy the bidding requirement by publishing notice of the RFQ.

Under the Public Improvement Statute, the following components could be included in an RFQ:

- a. A general description of the proposed public project³;
- b. Relevant budget considerations;
- c. Requirements of the participating entity, including:
 - ◊ Type of entity;
 - ◊ Evidence of experience, competency, capability, and capacity, financial and otherwise, to complete projects of similar size, scope, or complexity;
 - ◊ Evidence the proposed personnel have sufficient experience and training to

completely manage and complete the proposed public project; and

- ◊ Evidence of all applicable licenses, registrations, and credentials;
- d. The criteria for prequalification.

The Public Improvement Statute also provides guidance on what components can be included in an RFP, such as⁴:

- a. Procedures to be followed for submitting proposals;
- b. Criteria for evaluation of a proposal, which criteria may provide for selection of a proposal on a basis other than solely the lowest cost estimates submitted;
- c. Procedures for making awards;
- d. Required performance standards as defined by the participating entity;
- e. Description of the drawings, specifications, or other submittals to be provided with the proposal, with guidance as to the form and the acceptable level of completion of the drawings, specifications, or submittals;
- f. Relevant budget considerations or, for an IPD contract that includes operation or maintenance services, the life-cycle cost analysis for the contract;
- g. Proposed project scheduling; and
- h. The stipend, if any, to be paid to participating entities responding to the request for proposals who appear on the agency's short list but whose proposals are not selected.

In either an RFQ or RFP under the Public Improvement Statute, the above components are not strict requirements and districts have leeway to add or remove components to meet the needs of your particular project.

However, under the normal bidding requirement in Sec. 32-1-1001(1)(d)(I), C.R.S., there are no specific procedural or content requirements for the bidding process. As a result, if your

In either an RFQ or RFP under the Public Improvement Statute, the above components are not strict requirements and districts have leeway to add or remove components to meet the needs of your particular project.

Continued on page 25



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district decides to use a standard RFP process, it can be designed in any way that best fits your project and allows for meaningful responses to ensure the district can make the best choice on selecting your general contractor. That said, the following components are a great starting place for any RFP:

- a. Submittal schedule and requirements;
- b. Description of Project (design documents, if applicable);
- c. Form Contract or critical terms (always retaining right to negotiate final agreement); and
- d. Insurance and Bonding requirements.

All responders should be invited to the bid opening. In making the decision, the district is not bound by the lowest bid and should make the decision based on the best interests of the district. As noted above, the final award should be contingent upon the negotiation of an agreement satisfactory to the district. Furthermore, the RFP should retain the district's ability to end negotiations and enter discussions with the next best responder if an agreement cannot be reached with the initial selection.

Contract Negotiations

The construction contract is the most significant document in the construction process. Not only does it have to cover all the necessary services and costs, it should also establish procedures for when issues arise in the project. Again, the primary goal here is to set clear expectations for how the project will proceed to satisfactory completion, whether the project goes smoothly or there are problems before the foundation goes in.

As noted above in the RFP description, a great way to avoid surprises and, ideally, streamline the contract negotiations is to include your proposed contract in the RFP. That way responders have a solid idea of the substantive terms the district will be requesting at the time they respond to the RFP. As a result, the district should determine what contract form it would like to use for the project and discuss any standard revisions with your legal counsel prior to issuing the RFP.

The following list are some of the

primary terms to ensure are accounted for in any construction contract and can be discussed with your legal counsel in determining how best to prepare your next contract:

- » Dates for Substantial and Final Completion
- » Pay Application Standards and Schedule (with lien releases)
- » Retainage (per Statute)
- » Selection and Oversight of Subcontractors
- » Qualified and Engaged Superintendent
- » Site Safety and Cleanliness
- » Correction or Inspection of Faulty/Covered Work
- » Warranty Period (1-2 years)
- » Dispute Resolution/Forum
- » Fee-shifting
- » Liquidated Damages (depends on project)
- » Final Payment (per Statute)

In addition, your construction contract should account for the following statutory requirements:

- a. Retainage – 5% for Projects over \$150,000⁵
- b. Bonding – Payment and Performance Bond for Projects over \$50,000⁶
- c. Appropriation – must certify full appropriation of contract amount and proof of appropriation for any change order increasing contract amount (includes design contracts)⁷
- d. Final Settlement/Payment – Projects over \$150,000⁸
 - i. Must *Publish* Notice of Final Settlement *twice* at least ten (10) days prior to date of Final Settlement
 - ii. Provides time period for any suppliers or subcontractors to file claim of owed money
 - iii. If claim(s) is/are filed, withhold remaining project funds until resolved
 - iv. Cannot hold longer than 90 days, unless further legal action is taken

Continued on page 27

The construction contract is the most significant document in the construction process. Not only does it have to cover all the necessary services and costs, it should also establish procedures for when issues arise in the project.



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Active Construction

A clear construction contract should direct the flow of the project and provide critical answers if problems arise. As a result, the active construction phase is managed by the construction contract. Additional project management terms to consider include establishing clear communication protocols, setting a regular meeting schedule, and ensuring all major decisions are documented in writing. Similarly, the roles of the architect/engineer, district/owner, and/or owner's representative should all be clearly delineated in the construction contract as well as in the contracts for those particular service providers. Ultimate decision making should always be retained by the district for any substantial changes to design and for any change that impacts the cost of the project. In addition, even if the architect/engineer or possibly the owner's representative is authorized to make certain minor decisions or clarifications, there should be a clear mechanism for the district to be promptly notified of those decisions.

Two of the major considerations for active construction are the processing and approval of pay applications and the inspection/approval of portions of the work as the project progresses. Both of these processes are usually

handled with the support of your architect/engineer and, if used, your owner's representative. The construction contract should specify what documentation should be included in each pay application in order to confirm the application is accurate and should be paid as well as to provide adequate backup documentation for the progression of the project. Conditional lien waivers are always recommended with each pay application to reflect that all subcontractors and suppliers are being paid regularly as well. There should also be a process for how disputes on pay applications are handled. Typically, undisputed portions of the pay application are paid out in the normal process, while disputed amounts are held pending resolution. These types of disputes should flow through the contract's dispute resolution process, which can often begin with good-faith discussion/negotiations between the party and, ideally, is resolved with additional information being provided. For any dispute resolution, it is important to ensure the project continues to move forward despite engaging in some form of dispute resolution. There is always the chance for issues or concerns to pop up in a construction project, but resolving the dispute should not impact the critical path unless a

stop is necessary for safety or other justifiable reasons.

Similarly, your project schedule should include all required inspections and reviews of work as they are completed in the project. This is primarily the role of the architect/engineer, but the district should have a clear understanding of the schedule as this can be a source of conflict if work gets ahead of required inspections. The construction contract should clearly identify a process for the general contractor to notify the architect/engineer of all required inspections. In addition, if any inspections are missed and work is covered up, the contract should expressly state that the general contractor must be responsible for the costs of uncovering the work along with related repairs.

Overall, the efficient management of the construction project is heavily reliant on the clarity of the construction contract. Taking the time to think through and account for these processes at the start will assist in providing a better opportunity for a smooth project.

Closeout

Finally, project closeout should provide the district with all information to confidently accept the new facility for operations. A final closeout file should

Continued on page 29



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include, at least, all of the following:

- » Fully Executed Contract (and any amendments)
- » All Pay Applications
- » All Change Orders/Changes to the Work
- » Any Request for Information submittals and responses
- » Any Dispute Resolution documentation
- » Complete Set of Plans
- » Complete Set of As-Built Drawings
- » Calendar Warranty Period (walk-throughs 1-2 months before warranty deadline)

Most construction projects for facilities are likely to be considered “major projects” under the state recommended retention schedule, these records should be kept permanently. These documents will not only serve as an important source of information in maintaining and possibly expanding your facility in the future but are extremely important documents should any issues arise after your district has accepted and occupied the facility.

Finally, always remember to celebrate the completion of your project with your team and your citizens. Whether it is a fire station, library, treatment plant, or park, your district has contributed to making your community a safer or more enjoyable place by successfully com-

pleting your next construction project, so enjoy the accomplishment after all the hard work and careful planning that went into it. 🍌

Editor's Note: SDA will be pursuing legislation in 2023 to increase the bid threshold amount. Please watch for more information on that as we move through the 2023 Legislative Session.

¹ Sec. 32-1-1001(1)(d)(I), C.R.S.

² Secs. 32-1-1801 through 1807, C.R.S.

³ Sec. 32-1-1805, C.R.S.

⁴ Sec. 32-1-1806, C.R.S.

⁵ Sec. 24-91-103(1)(a), C.R.S.

⁶ Sec. 38-26-105 & -106, C.R.S.

⁷ Sec. 24-91-103.6, C.R.S.

⁸ Sec. 38-26-107, C.R.S.

Welcome New SDA Members

District Members

Artesia Volunteer Fire District
Baca County Conservation District
Bellyache Ridge Metropolitan District
Breckenridge Mountain Metro District Subdistrict A
Buckley Crossing Metropolitan District No. 2
Buckley Yard Metropolitan District No. 2
Cottonwood Creek Metropolitan District Nos. 2-5
Denargo Market Metropolitan District No. 3
Falcon Area Water and Wastewater Authority
Fields Metropolitan District Nos. 1-3
Fort Garland Water & Sanitation District
Gilpin County Library District
Gold Hill North Business Improvement District
Gold Hill North Metropolitan District Nos. 1 and 2
Harvest Crossing Metropolitan District Nos. 1 and 2
Hogback Metropolitan District
Ladera Business Improvement District
Ladera Metropolitan District No. 1
Ledge Rock Center Commercial Metropolitan District
Ledge Rock Center Residential Metropolitan District Nos. 1 and 2
Mulberry Metropolitan District Nos. 1-6
Pan-Ark Estate Metropolitan District
Piney Lake Trails Metropolitan District Nos. 1 and 2
Pinon Water and Sanitation District
Podtburg Metropolitan District Nos. 1-6
Poudre Heights Valley Metropolitan District
Quantum 56 Metropolitan District
Rampart Regional Library
Rock Metropolitan District
Rudolph Farms Metropolitan District Nos. 1-5
Sagebrush Farm Metropolitan District Nos. 3-6
Santa Fe Park Metropolitan District Nos. 1-4

Sheridan Sanitation District No. 1
SLC Metropolitan District No. 4
Sojourn at Idlewild Metropolitan District
South Village Metropolitan District No. 1
Spring Hill Metropolitan District Nos. 1-4
Steamboat Basecamp Metropolitan District
Summit County Fire Protection Authority (dba Summit Fire Authority)
Transport Metropolitan District No. 5
Triangle Logistics Center Commercial Metropolitan District
West Junction Metropolitan District
Westend Ridge Metropolitan District
Yale Metropolitan District Nos. 1-3

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