

DISTRICT COURT, JEFFERSON COUNTY, STATE OF COLORADO 100 Jefferson County Parkway, Golden, Colorado 80419 Telephone: 303-271-6215	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p style="text-align: center;">IN RE: THE ORGANIZATION OF FOSSIL RIDGE METROPOLITAN DISTRICT NO. 1, CITY OF LAKEWOOD, JEFFERSON COUNTY, COLORADO</p>	
<p><i>Attorneys for Interested Party Solterra LLC:</i></p> <p>Neil L. Arney, #27860 KUTAK ROCK LLP 1801 California St., Suite 3000 Denver, CO 80202 Telephone: 303-297-2400 neil.arney@kutakrock.com</p> <p>Daniel Calisher, #28196 Lawrence G. Katz, #32724 FOSTER GRAHAM MILSTEIN & CALISHER, LLP 360 South Garfield Street, Sixth Floor Denver, Colorado 80209 Telephone: 303-333-9810 calisher@fostergraham.com lkatz@fostergraham.com</p>	<p>Case No. 2005 CV 003044</p> <p>Division: 1</p>
<p>STIPULATED STATEMENT OF FACTS FOR OCTOBER 10, 2023 HEARING</p>	

Solterra LLC, an interested party under C.R.S. § 32-1-204(1), Fossil Ridge Metropolitan District Nos. 1, 2, and 3 (“Fossil Ridge Districts”), and Green Mountain Water and Sanitation District (“Green Mountain”) by and through their respective attorneys, hereby stipulate and agree to the following statement of facts for the October 10, 2023 hearing. The parties are conferring on stipulations to authenticity and admissibility and reserving objections regarding exhibits for the hearing.

I. STATEMENT OF FACTS

A. Sanitary Sewer Service for Fossil Ridge Districts

1. Green Mountain Water and Sanitation District (“Green Mountain”) is a special district governed by the Special District Act, C.R.S. §§ 32-1-101, *et seq*, but organized under Chapter 175, Session Law of 1939, as amended and reenacted.

2. Green Mountain provides water and sanitation service within the City of Lakewood, Colorado (the “City”).

3. Green Mountain does not treat sanitary sewer waste, but rather owns infrastructure located within the City to collect and transport wastewater to Metro Water Recovery for treatment.

4. On or about December 20, 1983, Green Mountain Water entered into an Agreement with Metropolitan Denver Sewage Disposal District No. 1 (“Metro”) entitled Special Connectors Sewage Treatment and Disposal Agreement (the “1983 Special Connectors Agreement”).

5. Metro has since changed its name to Metro Wastewater Reclamation District and then to Metro Water Recovery.

6. A true and correct copy of the 1983 Special Connectors Agreement along with amendments to the Agreement and service maps are attached as Hearing Exhibit 3.

7. Section 305 of the 1983 Special Connectors Agreement, provides that Metro is the exclusive agency for operation of a sewage treatment system within its service area, which includes the City.

8. In or around 2005, owners of approximately 696 acres of undeveloped land in the Rooney Valley approached Green Mountain to investigate options for providing sanitary sewer service for the development, which was then known as Springfield Green.

9. On or about January 31, 2006, the engineering firm McLaughlin Rincon Ltd. provided to the Green Mountain Board of Directors a feasibility study on providing sewer service for the Springfield Green development (“2006 Feasibility Study”).

10. Hearing Exhibit 5 includes a true and correct copy of the 2006 Feasibility Study.

11. One of the major developers with the Springfield Green development was Carma Lakewood LLC, which subsequently changed its name to Solterra LLC.

12. In 2005, Solterra LLC began the process of forming Fossil Ridge Metropolitan District Nos. 1, 2, and 3 (the “Fossil Ridge Districts”).

13. On August 8, 2005, the City conditionally approved the formation of the Fossil Ridge Districts.

14. The Fossil Ridge Districts are metropolitan districts organized in accordance with Special District Act, which is contained within Title 32 of the Colorado Revised Statutes.

15. All board members for FRMD No. 1 were appointed by Solterra LLC from formation of the District until approximately June 2017 when all the Solterra LLC-appointed board members resigned. In November 2017, Judge Oeffler appointed five resident board members from Districts 2 and 3 as proper persons to assume control of FRMD No. 1 until its boundaries could be expanded and elections held for resident board members. Thereafter, all board positions for FRMD No. 1 have been held by residents within FRMD.

16. A majority of the board members for FRMD Nos. 2 and 3 were appointed by Solterra LLC from formation of the Districts until approximately June 2017 when all the Solterra LLC-appointed board members resigned. Thereafter, all board positions for FRMD Nos. 2 and 3 have been held by residents within FRMD.

17. On August 28, 2006, the City approved the Amended and Restated Service Plan for

the Fossil Ridge Districts.

18. At the time the City approved the Amended and Restated Service Plan for the Fossil Ridge Districts, Solterra LLC's or its predecessor developers owned all property located within the boundaries of the Fossil Ridge Districts.

19. Hearing Exhibit 6 is a true and correct copy of the Amended and Restated Service Plan.

20. The Amended Service Plan was approved by the City following a public hearing.

21. Notice of the public hearing was sent to interested parties, including Green Mountain.

22. Hearing Exhibit 7 is a true and correct copy of a Certification of Mailing Notice of Hearing and Publication from the City dated August 11, 2006.

23. Hearing Exhibit 8 is a true and correct copy of the City Resolution 2006-46, approving the Amended Service Plan for Fossil Ridge Districts.

24. Section I(C)(4)(b) of the Amended Service Plan provides: "Sanitation services will be provided to the Project by Green Mountain Water and Sanitation District."

25. Section IV(B) of the Amended Service Plan provides: "Sanitation services will be coordinated between the Service District and Green Mountain Water and Sanitation District and/or other appropriate entities pursuant to intergovernmental agreements or other arrangements. The Service District will have authority to enter into such contracts and to acquire land and easements necessary to provide sanitation service for the Districts."

26. Fossil Ridge Metropolitan District No. 1 ("FRMD No. 1") is the Service District under the Amended Service Plan.

27. Fossil Ridge Metropolitan District No. 2 ("FRMD No. 2") and Fossil Ridge

Metropolitan District No. 3 (“FRMD No. 3”) are identified as the Financing Districts under the Service Plan.

28. The City of Lakewood has a contract with Metro Wastewater Reclamation (“Metro”) which requires that “all sewage flows from within the city limits of Lakewood must go to [Metro] for processing unless an exclusion is granted by [Metro].”

29. On October 31, 2006, the City passed Ordinance O-2006-26 to re-include into the service area for Metro approximately 801.42 acres within the Rooney Valley and the City.

30. Hearing Exhibit 4 is a true and correct copy of City Ordinance O-2006-26 along with a cover letter from the City’s Director of Public Works, showing a copy of the letter and Ordinance were sent to Green Mountain.

31. On August 14, 2007, FRMD No. 1 and Green Mountain entered into a Memorandum of Understanding, indicating that FRMD No. 1 and Green Mountain were “engaged in good faith negotiations to complete a permanent legal structure for wastewater services to Fossil Ridge.”

32. Hearing Exhibit 9 is a true and correct copy of the Memorandum of Understanding.

33. On August 27, 2007, the City approved the Second Amended and Restated Service Plan for the Fossil Ridge Districts.

34. Hearing Exhibit 10 is a true and correct copy of the Second Amended and Restated Service Plan.

35. The Second Amended Service Plan was approved by the City following a public hearing.

36. Notice of the public hearing was sent to interested parties, including Green Mountain.

37. Hearing Exhibit 12 is a true and correct copy of a Certification of Mailing Notice of Hearing and Publication from the City dated August 6, 2007.

38. Hearing Exhibit 11 is a true and correct copy of the City Resolution 2007-46, approving the Second Amended Service Plan for Fossil Ridge.

39. Section I(C)(4)(b) of the Second Amended Service Plan provides: “Sanitation services will be provided to the Project by Green Mountain Water and Sanitation District.”

40. Section IV(B) of the Second Amended Service Plan provides: “Sanitation services will be coordinated between the Service District and Green Mountain Water and Sanitation District and/or other appropriate entities pursuant to intergovernmental agreements or other arrangements. The Service District will have authority to enter into such contracts and to acquire land and easements necessary to provide sanitation service for the Districts.”

41. On September 11, 2007, Green Mountain issued a “will serve” letter to FRMD No. 1, providing: “This letter confirms that Green Mountain will provide sanitary sewer services to the Proposed Service Area, not to exceed a maximum number of equivalent dwelling units to be established by Green Mountain, and conditioned upon a) Green Mountain negotiating and entering into a satisfactory Intergovernmental Agreement with Fossil Ridge which includes payment by Fossil Ridge of the costs of improvements needed to serve the Proposed Service Area and b) Metro Wastewater Reclamation District consenting to the service.”

42. Hearing Exhibit No. 13 is a true and correct copy of the September 11, 2007 will serve letter, along with a cover email from counsel for Green Mountain.

43. On September 14, 2007, counsel for Green Mountain sent an outline of proposed terms for several IGAs between Green Mountain and FRMD No. 1.

44. Hearing Exhibit 14 is a true and correct copy of the email and proposed terms from

counsel for Green Mountain regarding IGAs between Green Mountain and FRMD No. 1.

45. On December 13, 2007, the City passed Ordinance O-2007-33 to re-include approximately 26.52 acres into the service area of Metro.

46. Hearing Exhibit 16 is a true and correct copy of City Ordinance O-2007-33, along with a cover letter from the City Engineer, dated January 23, 2008, indicating that Green Mountain was sent a copy of the letter and ordinance.

47. On January 14, 2008, the City passed Ordinance 2008-5 to include approximately 148 acres adjacent to the City and in the Rooney Valley into the Metro service area.

48. Hearing Exhibit 15 is a true and correct copy of City Ordinance 2008-5, along with a cover letter from the City Engineer, dated January 23, 2008, indicating that Green Mountain was sent a copy of the letter and ordinance.

49. On January 15, 2008, FRMD No. 1 and Green Mountain entered into an Intergovernmental Agreement for Extra-Territorial Sewer Service (“2008 IGA for Sewer Service”).

50. Hearing Exhibit 5 is a true and correct copy of the 2008 IGA for Sewer Service.

51. Section 2.4 of the 2008 IGA for Sewer Service defines the Service Area as the area “which is presently within or will be included into the boundaries of Fossil Ridge,” more specifically described in Exhibit A attached thereto.

52. The 2008 IGA for Sewer Service also contemplated sewer service for future development areas, including areas that were re-included by the City into the Metro service area as shown in Hearing Exhibits 4, 15, and 16.

53. Hearing Exhibit 63 is a map of the Service Area and the Future Development Area as defined in the 2008 IGA for Sewer Service, which map was attached as Exhibit B to the 2008

IGA.

54. On January 15, 2008, Solterra LLC (formerly Carma) and Green Mountain entered into a License Agreement that granted Green Mountain entry onto Solterra LLC property for the purposes of inspecting the Fossil Ridge Sewer System and monitoring wastewater flowing through the Fossil Ridge Sewer System.

55. Hearing Exhibit 19 is a true and correct copy of the January 15, 2008 License Agreement.

56. In March 2008, FRMD No. 1 and Green Mountain entered into an Intergovernmental Agreement for Temporary Sewer Main Construction.

57. Hearing Exhibit 20 is a true and correct copy of the March 2008 Agreement for Temporary Sewer Main.

58. On June 10, 2008, FRMD Nos. 2 and 3 sent a letter to Green Mountain regarding an Intergovernmental Agreement for Maintenance and Repair of Sewer System.

59. Hearing Exhibit 21 is a true and correct copy of the June 10, 2008 Letter from FRMD Nos. 2 and 3.

60. Hearing Exhibit 21 provides: “The Districts make the representations set forth in this letter to induce Green Mountain to enter into the Service Agreement, and amendments thereto, and the Maintenance Agreement.”

61. On September 19, 2008, FRMD No. 1 and Green Mountain entered into an Intergovernmental Agreement for Maintenance and Repair of Sewer System (“2008 IGA for Maintenance”).

62. Hearing Exhibit 22 is a true and correct copy of the 2008 IGA for Maintenance.

63. The 2008 IGA for Maintenance, together with the agreements and documents

incorporated therein, all as variously amended and revised, is the governing agreement between FRMD No. 1 and Green Mountain regarding Green Mountain's maintenance and repairs of the Fossil Ridge Sewer System, although the Rate Schedule attached as Exhibit B has been updated from time to time.

64. On November 11, 2014, FRMD No. 1 and Green Mountain entered into an Amended and Restated Intergovernmental Agreement for Extra-Territorial Sewer Service ("2014 IGA for Sewer Service").

65. Hearing Exhibit 18 is a true and correct copy of the 2014 IGA for Sewer Service.

66. The 2014 IGA for Sewer Service, together with the agreements and documents incorporated therein, is the governing agreement between FRMD No. 1 and Green Mountain regarding the provision of sewer service to transport wastewater from the Fossil Ridge Districts to Metro.

67. The 2014 IGA requires that the Fossil Ridge Sewer System be designed and constructed in accordance with the terms of the 2014 IGA and all rules and regulations and design standards, criteria and specifications of Green Mountain.

68. Section 2.4 of the 2014 IGA for Sewer Service defines the Service Area as the area that "is presently within or will be included into the boundaries of one of the Districts," more specifically described in Exhibit A attached thereto.

69. Hearing Exhibit 63 is a true and correct copy of the map attached as Exhibit B to the 2014 IGA for Sewer Service, showing the Service Area and the Future Development Area for the 2014 IGA.

70. The real property within the boundaries of the Fossil Ridge Districts is approximately 390 acres and is located entirely within the City.

71. Section 2.1 of the 2014 IGA for Sewer Service provides: “Green Mountain hereby agrees to accept Wastewater from Fossil Ridge, which is collected from and generated within the Service Area and does not exceed 1,727 equivalent residential units (“EQRs”), pursuant to all terms contained herein.”

72. Section 2.2 of the 2014 IGA for Sewer Service provides: “Green Mountain will reserve sufficient capacity in its Green Mountain Wastewater Collection System to accommodate 1,727 EQRs received from Fossil Ridge (the “Reserved Capacity”) for a period of fifteen (15) years from January 15, 2008, provided that Fossil Ridge is in compliance with the terms and conditions of this Agreement. The Parties may mutually agree, in writing, to extend the period of time such capacity will be reserved by additional 5 year periods.”

73. Section 3.2(C) of the 2014 IGA provides: “The Fossil Ridge Sewer System shall be sized to accommodate anticipated flow from the Service Area and the Future Development Area, as reasonably determined by Green Mountain, and shall be designed to accommodate a minimum capacity of 2,925 equivalent residential units (which includes the Reserve Capacity).”

B. Development within Fossil Ridge

74. Solterra LLC is and has been the only developer within the Fossil Ridge Districts.

75. Solterra LLC’s development has been in phases with a total of 21 separate filings.

76. Hearing Exhibit 27 includes a true and correct copy of an illustration of the Solterra Community and the locations of Filings 1 through 21.

77. Construction of residential units for Solterra Filings 1 to 17 has been completed, including construction of the Fossil Ridge Sewer System for those units.

78. Construction of residential units for Solterra Filing 19 is in process with several units having been completed.

79. The Fossil Ridge Sewer System for Filing 19 has been completed.

80. For Solterra Filings 1-17, and 19, the Fossil Ridge Sewer System has been connected to the Green Mountain sewer system, and Green Mountain has been receiving and transporting wastewater from the Fossil Ridge System to Metro for treatment.

81. The Fossil Ridge Sewer System was oversized as provided in the 2014 IGA for Sewer Service.

82. GM Improvements to the Green Mountain sewer system, as defined in Section 4.1 of the 2014 IGA for Sewer Service, have been completed as required by Green Mountain.

83. Construction of the Fossil Ridge Sewer System and the GM Improvements was completed by FRMD No. 1 with the financial assistance of Solterra LLC, subject to reimbursement.

C. Status of Remaining Development within the Fossil Ridge Districts

84. The remaining areas for development within the Fossil Ridge Districts are Solterra Filings 18, 20, and 21.

85. Solterra Filing 18 comprises 15 residential units.

86. The Construction Plans for Sanitary Sewer for Solterra Filing No. 18 were reviewed, approved and signed by Green Mountain and its engineer.

87. Hearing Exhibit 33 includes a signed copy of the Construction Plans for Sanitary Sewer for Filing No. 18.

88. The sewer mains and lines for Solterra Filing No. 18 have been installed up to the lot lines and that installation has been inspected and approved by Green Mountain.

89. The Fossil Ridge Sewer System for Solterra Filing No. 18 has been connected to the Green Mountain sewer system and that connection has been inspected and approved by Green

Mountain.

90. Solterra Filing 20 comprises 20 residential units.

91. The Construction Plans for Sanitary Sewer for Solterra Filing No. 20 were reviewed, approved and signed by Green Mountain and its engineer.

92. Hearing Exhibit 65 includes a signed copy of the Construction Plans for Sanitary Sewer for Filing No. 20.

93. The sewer mains and lines for Solterra Filing No. 20 have been installed up to the lot lines and that installation has been inspected and approved by Green Mountain.

94. The Fossil Ridge Sewer System for Solterra Filing No. 20 has been connected to the Green Mountain sewer system and that connection has been inspected and approved by Green Mountain.

95. Solterra LLC worked directly with Green Mountain to connect Fossil Ridge Sewer System and the Green Mountain sewer system for Filings Nos. 18 and 20. Fossil Ridge did not separately inspect the connection between the two systems, and relied on the inspections of Green Mountain.

96. Solterra Filing 21 comprises 59 residential units.

97. The Construction Plans for Sanitary Sewer for Solterra Filing No. 21 were reviewed and approved by engineers for Green Mountain in or around September 2022.

98. Hearing Exhibit 29 includes an email dated September 9, 2022 from Green Mountain's primary engineer, Terry Kenyon of Merrick, to Jeff Tyus, then Green Mountain District Manager, indicating that Filing 21 is ready for approval.

99. Mr. Terry Kenyon served as the primary engineer for Green Mountain in relation to the Fossil Ridge Districts from approximately 2005 until early 2023.

100. Hearing Exhibit 23 includes a copy of the Minutes of the September 13, 2022 Regular Meeting of the Board of Directors of Green Mountain, which reflect a statement by Mr. Kenyon that the Filing 21 drawings need a signature.

101. The Construction Plans for Sanitary Sewer for Solterra Filing No. 21 have been reviewed and approved by engineers for Fossil Ridge.

102. The engineers for Fossil Ridge approved the Construction Plans for Sanitary Sewer for Solterra Filing No. 21 on or around November 30, 2022.

103. From November 2017 until the present, FRMD did not review or approve sanitary sewer construction plans other than for Filing No. 21. FRMD relied on the review and approval of Green Mountain.

104. Solterra Filing 21 is adjacent to Filing 19.

105. Hearing Exhibit 28 includes a copy of the as-built sewer lines for Filing 19 and a copy of the engineer approved Construction Plans for Sanitary Sewer for Solterra Filing No. 21.

106. Hearing Exhibit 28 shows the stub-out for Filing No. 21.

107. Hearing Exhibit 26 includes true and correct copies of Green Mountain's Construction Project Status Spreadsheets from July 2020 through March 2022.

108. The Construction Project Status Spreadsheets contained in Hearing Exhibit 26 make reference to Solterra Filings 18, 19, 20, and 21, including when the project began, when the plans were approved by Green Mountain engineers, when the plans were signed, and construction status.

109. The Fossil Ridge Districts were aware of Solterra Filing No. 18 at least as early as November 2017.

110. Hearing Exhibit 53 (FR CORA 042138) is a true and correct copy of an email from

Tom Waterman of FRMD No. 2 and a notice received from the City regarding Filing No. 18.

111. The Fossil Ridge Districts were aware of Solterra Filing No. 20 at least as early as January 2019.

112. Hearing Exhibit 52 (FR CORA 049586) is a true and correct copy of an email among board members of the Fossil Ridge Districts and a copy of the Construction Plans for Infrastructure for Solterra Filing No. 20.

113. The total number of residential units in Solterra Filings 1 to 17 and 19 is 1,258.

114. The remaining number of units to be built in the Solterra Community is 94, including the 15 units for Filing 18, 20 units for Filing 20, and 59 units for Filing 21.

115. Upon completion of Solterra Filings Nos. 18, 20, and 21, the total number of residential units will be 1,352.

D. Discussions Regarding Extension of Reserve Capacity Under 2014 IGA for Sewer Service

116. In or around October 2022 counsel for FRMD No. 1 and Green Mountain began negotiations regarding the Reserved Capacity term set out in Section 2.2 of the 2014 IGA for Sewer Service, which was set to expire on January 15, 2023.

117. As part of these negotiations, at Green Mountain's request, FRMD No. 1 communicated to Green Mountain the number of EQRs that it understood Solterra LLC needed to finish the buildout of Filings 18, 20, and 21.

118. Counsel for Green Mountain and FRMD No. 1 initially exchanged drafts of proposed amendments to the 2014 IGA that would extend the Reserved Capacity term beyond January 15, 2023 for up to 1,352 EQRs.

119. In early December 2022, Green Mountain proposed changes to the 2014 IGA that

would limit acceptance of Wastewater from Fossil Ridge to those EQRs in service or permitted as of January 15, 2023.

120. Hearing Exhibit 25 is a true and correct copy of one of Green Mountain's proposed drafts of the Second Amended and Restated Intergovernmental Agreement for Extra-Territorial Sewer Service.

121. Counsel for FRMD No. 1 alerted Solterra LLC's counsel to Green Mountain's proposed changes to the existing 2014 IGA for Sewer Service on or around December 9, 2022.

122. Solterra LLC requested that Green Mountain issue Certificates of Service for Filings 18, 20, and 21 prior to the January 15, 2023 expiration of the Reserved Capacity term.

123. Certificates of Service are a requirement of the City to issue building permits.

124. Solterra LLC requested 87 Certificates of Service from Green Mountain.

125. Solterra LLC previously requested and obtained from Green Mountain 3 Certificates of Service for Filing 18 and 4 Certificates of Service for Filing 20.

126. Prior to January 15, 2023, Solterra LLC tendered to Green Mountain a check in the amount of \$421,167 as payment for sewer development fees for the 87 residential units at the 2023 rate of \$4,841 per unit (the "Tap Fee Check").

127. Solterra LLC previously paid sewer development fees for 3 units at Filing 18 and 4 units at Filing 20, leaving a total of 87 tap permits needed to complete construction of residential units within the Solterra Community.

128. The Green Mountain Board of Directors has taken no action on Solterra LLC's request that Green Mountain issue 87 Certificates of Service for Filings 18, 20, and 21.

129. Green Mountain retains possession of the Tap Fee Check.

130. No changes to the 2014 IGA for Sewer Service were agreed upon by Green

Mountain and FRMD No. 1.

131. The 2014 IGA for Sewer Service remains in full force and effect, except for the Reserved Capacity that expired on January 15, 2023.

E. The FRMD Sanitary Sewer System

132. FRMD No. 1 owns the sanitary sewer system that is located within the boundaries of the Fossil Ridge Districts.

133. The Fossil Ridge Sewer System is a collection system that delivers wastewater to Green Mountain's sanitary sewer system, which in turn delivers wastewater to Metro for processing.

134. In or around February 2008, the Fossil Ridge Districts adopted a Joint Resolution Concerning the Adoption of Sewer Rules and Regulations pursuant to which the Fossil Ridge District adopted the Rules and Regulations of Green Mountain regarding sanitary sewer service.

135. Hearing Exhibit 51 (FR CORA 04577) is a true and correct copy of the Joint Resolution Concerning the Adoption of Sewer Rules and Regulations.

136. The Joint Resolution Concerning the Adoption of Sewer Rules and Regulations provides: "Prior to receiving approval to connect to the District Sewer System, each new User shall pay a System Development Fee ("SDF") to District No. 1 in the amount of the current Sewer SDF as set by the Districts' Board. Additionally, Users shall pay to District No. 1 the then-current system development fee, or similar fee, imposed by the Metropolitan Denver Wastewater Reclamation District ("Metro") for each new user. The Sewer SDF and Metro System development fee shall be paid concurrent with or in advance of the Districts approving the connection of any new User to the Sewer System."

137. On or about March 10, 2009, the Fossil Ridge Districts adopted an Amended and

Restated Joint Resolution Concerning the Imposition of District Fees (“Amended Resolution”).

138. Hearing Exhibit 48 (FR CORA 016334) is a true and correct copy of the Amended Resolution.

139. The Amended Resolution provides: “Prior to receiving approval to connect to the District Sewer System, each new Customer shall pay a System Development Fee (“SDF”) to District No. 1 or designated recipient, which shall equal the then current Green Mountain System Development Fee and an administration fee of \$261. Additionally prior to connection to the District Sewer System, Customers shall pay to District No. 1 and amount equal to then-current system development fee, or similar fee, that is imposed by the Metropolitan Denver Wastewater Reclamation District (“Metro”) for each new Customer connected to the District Sewer System (the “Metro Fee”).”

140. The Amended Resolution also provides: “Tapping/Inspection Fees shall be imposed upon all Customers making connection to the District Sewer System in an amount equal to the costs of inspection and records processing for making the taps as are charged to the District by Green Mountain. Such Tapping and Inspection fees shall be due prior to discharge of sewage into the District Sewer System and may be incorporated into the SDF. The Districts may rely on inspection by Green Mountain”

141. On or about December 9, 2015, FRMD adopted a Joint Resolution Concerning the Imposition of Various Fees, Rates, Penalties and Charges for Sanitary Sewer Services and Facilities (the “2015 Resolution”).

142. Hearing Exhibit 47 (FR CORA 04585) is a true and correct copy of the 2015 Resolution.

143. The 2015 Resolution contains the same basic language as the Amended Resolution

and includes a provision regarding possible need to upsize or update facilities of Metro and Green Mountain's right to set rates and fees.

144. FRMD No. 1 imposes fees on the residents of the Fossil Ridge Districts for sewer service and collects payment of those fees from the residents.

145. FRMD No. 1 pays Green Mountain for sewer service under the 2014 IGA for Sewer Service and pays for Green Mountain to maintain the sewer system under the 2008 IGA for Maintenance.

146. Section 2.3 of the 2014 IGA for Sewer Service provides: "Before connecting any new customer to the Fossil Ridge Sewer System, Fossil Ridge shall submit to Green Mountain a written application for a permit to discharge Wastewater from the specific property, shall pay any system development fee or other required fees and shall receive approval by Green Mountain of the permit."

147. Section 6.1 of the 2014 IGA for Sewer Service provides: "Fossil Ridge shall pay a System Development Fee ("SDF") to Green Mountain for each new User connected to the Fossil Ridge Sewer System, in the amount of the current Sewer SDF as set by the Board of Directors of Green Mountain. Additionally, Fossil Ridge shall pay the then-current system development fee, or similar fee, imposed by Metro (the "Metro Development Fee") for each new User connected to the Fossil Ridge Sewer System."

148. Solterra has historically worked directly with Green Mountain to request Certificates of Availability of Sanitary Sewer Service ("Certificate of Service") and paid the Green Mountain SDF to Green Mountain and the Metro Development Fee through Green Mountain for the residential units constructed in the development. The Certificates of Service, which are a requirement of the City to issue building permits, have previously been issued by Green Mountain,

not by FRMD No. 1.

149. On June 12, 2023, Solterra, LLC and FRMD No. 1 submitted a joint statement to Green Mountain requesting that Green Mountain provide sewer services for the residential units for Filing Nos. 18, 20, and 21.

150. A copy of the Joint Statement submitted to Green Mountain is Hearing Exhibit 74.
Respectfully submitted on October 5, 2023.

KUTAK ROCK, LLP

s/ Neil L. Arney
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Attorneys for Plaintiff Solterra LLC

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Nos. 1, 2, and 3*

COATY MARCHANT WOODS, P.C.

s/ Dylan Woods
Dylan Woods
*Attorneys for Green Mountain Water and Sanitation
District*

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2023, the foregoing **STIPULATED STATEMENT OF FACTS FOR OCTOBER 10, 2023 HEARING** was filed and electronically served upon all counsel of record via Colorado Courts E-Filing.

s/ Edna Gray _____
Edna Gray