



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Jonathan Hernandez, P.E., Project Manager
Kirk Russell, P.E., Finance Section Chief

DATE: May 17-18, 2017 Board Meeting

AGENDA ITEM: 28a. Changes to Existing Loans
Boxelder Basin Regional Stormwater Authority - Loan Payment Deferment
Request

Introduction

The Boxelder Basin Regional Stormwater Authority (Authority) has requested to defer its 2017 principal payment on the three loans listed below:

- Loan Contract CT2015-069 (C150393): County Road 52 Improvements (CR52);
- Loan Contract CT2015-070 (C150353): East Side Detention Facility (ESDF); and
- Loan Contract CT2015-071 (C150352): Larimer & Weld Canal Crossing Structure (LWCCS).

All three loans were substantially completed last summer. The initial annual payment date is July 1, 2017 for Contracts CT2015-069 and CT2015-070, and August 1, 2017 for Contract CT2015-071. The principal portion of the annual payments due in 2017 is \$484,030.21. A one-year deferment on the initial principal payment would provide the Authority with financial relief sufficient to cover a large unanticipated cost in 2017. The outstanding principal will be re-amortized over the remaining 14 years of the original 15-year loan term.

Staff Recommendation

Staff recommends the Board approve the Boxelder Basin Regional Stormwater Authority's request for deferment of the 2017 principal payments for Loan Contracts CT2015-069 (C150393), CT2015-070 (C150353), and CT2015-071 (C150352), totaling \$484,030.21. The principal will be re-amortized over the remaining 14 years, maintaining the original maturity date of 2031. The interest portion due in 2017, totaling \$240,620.37, will be paid on each loan's respective annual payment date in 2017. This is allowable under CWCB Financial Policy #10.



Background

The Authority was formed, and is responsible, for the implementation of regional improvements of the adopted Boxelder Stormwater Master Plan (Master Plan). The three principal projects identified in the Master Plan were: (1) the Coal Creek Flood Mitigation Facility at Clark Reservoir; (2) the East Side Detention Facility (ESDF); and (3) the Larimer Weld Canal Crossing Structure (LWCCS). All three projects have been successfully completed.

The Coal Creek Flood Mitigation Facility project was completed using a FEMA grant and matching cash funds resulting in no long-term debt. The Authority used two CWCB Loans (Contracts CT2015-069 & CT2015-070) to complete the ESDF project and one CWCB Loan (Contract CT2015-071) to complete the LWCCS project. Those loans are the subject of this request and are summarized below.

TABLE 1: SUBJECT CWCB LOANS

| Contract No. | Current Balance | Interest Rate | Initial Payment Due | 2017 Principal Payment | 2017 Interest Payment |
|--------------|-----------------------|---------------|---------------------|------------------------|-----------------------|
| CT2015-069 | \$818,100.00 | 2.50% | 7/1/2017 | \$45,622.54 | \$20,452.50 |
| CT2015-070 | \$7,171,000.00 | 2.75% | 7/1/2017 | \$392,678.03 | \$197,202.50 |
| CT2015-071 | \$835,104.53 | 2.75% | 8/1/2017 | \$45,729.64 | \$22,965.37 |
| TOTAL | \$8,824,204.53 | | | \$484,030.21 | \$240,620.37 |

Borrower - Boxelder Basin Regional Stormwater Authority

The Authority was established as a drainage authority pursuant to §29-1-204.2, C.R.S., by Fort Collins, Wellington, and the Board of Commissioners of Larimer County (Member Entities). The Authority receives funding from stormwater service fees and system development fees from the portions of Fort Collins, Wellington, and Larimer County that lie within its 56-square mile service area. Any delinquent amount may be enforced by assessment upon the property and premises served, and certification to the County Treasurer for collection as provided by law. The service area includes approximately 5,600 residences and 300 commercial and industrial properties.

The Authority is governed by a five-member Board of Directors consisting of one each appointed by the Member Entities, one appointed by Wellington and Larimer County, and one appointed by Fort Collins and Larimer County. The Board has the power to enter into contracts, incur debts, and set fees and rates. The Authority has no employees and all operations and administrative functions are contracted.

Financial Hardship

The ESDF project required the acquisition of several properties including the 62-acre John W. Day Family Partnership (Day Partnership) parcel. The Authority was awarded immediate possession of the Day Partnership parcel in a 2015 condemnation hearing. As required in the Order for Immediate Possession, the Authority deposited the appraised value of \$586,728 with the Court which was subsequently paid to the Day Partnership. In November 2016, the Authority and Day Partnership agreed to mediate the final value of the parcel. In February 2017, it was negotiated that in addition to the amount already paid to the Day Partnership, an additional \$500,000 would be paid on April 3, 2017 and \$588,272, plus interest at 4%, would be paid by December 31, 2017.

The amount over the appraised value resulted from negotiations regarding the value of soil material moved off the parcel and groundwater concerns the Day Partnership raised, including possible damages to irrigation wells. The Authority, its Member Entities, and the Timnath Development Authority agreed the settlement was in the best interest of the Authority because it (1) removes the contingent liabilities of acquisition of the parcel by finalizing the cost of the acquisition of the Day Partnership

property, (2) removes multiple years of groundwater monitoring and potential remediation, and (3) by paying the full obligation in 2017, does not constitute a multi-year debt obligation which requires approval from all the Member Entities. However, this amount was not included in the 2017 budget and since Authority revenues are based on fees set the year prior, the Authority cannot make both the Day Partnership payment and the full CWCB annual loan payment in 2017.

Deferment Request and Loan Restructure Plan

The Authority has provided a written request to defer the 2017 principal payments on its three CWCB loans, and to re-amortize the principal over the remaining 14 years in order to maintain the original 15-year term. With the request, the Authority provided a Schedule of Estimated Sources and Uses of funds through the year 2031. The Authority has committed to still make payments for accrued interest on each loan's respective annual payment date in 2017.

A summary of the original loan terms and the requested restructured loan terms are presented in Table 2 for comparison. In 2017, the Authority's annual principal and interest payment will be reduced from \$724,650.58 to an interest only payment of \$240,620.37. The cash savings will go towards the Day Partnership settlement. The remaining annual payments will increase from \$724,650.58 to \$766,705.21. As required by the loan contracts, the Authority will still set aside 10% of the annual loan payment into a reserve account, beginning in 2017.

TABLE 2: SUMMARY OF LOAN RESTRUCTURING

| Year(s) | Original | | | Restructured | | |
|--------------|---------------------|-----------------|------------------|---------------------|-----------------|------------------|
| | Annual Payment | Reserve Payment | Total Obligation | Annual Payment | Reserve Payment | Total Obligation |
| 2017 | \$724,651 | \$72,465 | \$797,116 | \$240,620 | \$76,671 | \$317,291 |
| 2018-2026 | \$724,651 | \$72,465 | \$797,116 | \$766,705 | \$76,671 | \$843,376 |
| 2027-2031 | \$724,651 | \$0 | \$724,651 | \$766,705 | \$0 | \$766,705 |
| TOTAL | \$10,869,759 | | | \$11,741,198 | | |

Discussion

Rather than a shortfall of revenues, the strain on 2017 cash flow is the result of a large unanticipated cost resulting from the acquisition of the Day Partnership parcel. Going forward, the only expenses other than CWCB debt obligations will be the cost associated with documenting and having FEMA approve the new floodplain (project to occur through 2018), normal administrative duties, and routine maintenance of its three projects. The Authority's CWCB debt obligation will make up approximately 86% of its expenses after 2018.

In compliance with CWCB Financial Policy #10, the Authority will pay the accrued interest on each loan's respective 2017 annual payment date. Collateral will not change and will remain in compliance with CWCB Financial Policy #5.

CWCB Staff finds the request for deferment to be reasonable as it allows financial flexibility for the Authority without negatively impacting the Construction Fund.

cc: Stan Myers, General Manager, Boxelder Basin Regional Stormwater Authority
Jennifer Mele, Colorado Attorney General's Office

Attachment: CWCB Financial Policy #10

POLICY NUMBER: 10

SUBJECT: **LOAN PAYMENT DEFERMENT REQUESTS FROM THE
CONSTRUCTION FUND AND SEVERANCE TAX TRUST
FUND PERPETUAL BASE ACCOUNT**

EFFECTIVE DATE: November 24, 1997

POLICY: Under the statutory authority of Section 37-60-120 (3) CRS, the Colorado Water Conservation Board (CWCB) may, at its discretion, consider a request for deferment of payment on an existing loan from either the CWCB Construction Fund or the Severance Tax Trust Fund Perpetual Base Account. Any request for deferment of payment on an existing loan will require either: (1) the borrower to pay interest for the period in which the loan payment is deferred or (2) calculation of a new loan amortization schedule that provides for adding to the principal of the loan the interest that accrues during the period in which the loan payment is deferred.

PURPOSE: This policy allows the Board to maintain the financial integrity of the Construction Fund and the Severance Tax Trust Fund Perpetual Base Account while providing project sponsors an opportunity to recover from periods of financial difficulties, drought, flood, or other hardship beyond their control.

APPLICABILITY: This policy and procedure apply to all loans from the CWCB Construction Fund and Severance Tax Trust Fund Perpetual Base Account.

PROCEDURE: Upon request for deferral of an annual loan payment, staff will prepare a memorandum for presentation at the next regularly scheduled Board meeting. The memo will include the reason(s) for the deferral request, the original loan and project information, loan re-payment history, and a staff recommendation including, if applicable, a revised loan repayment schedule.

Approved by the CWCB
November 24, 1997 Board Meeting
Agenda Item #15a