



COLORADO

Colorado Water Conservation Board

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203
303-866-3441

February 1, 2023

Boxelder Basin Regional Stormwater Authority
c/o Pinnacle Consulting Group, Inc.
550 Eisenhower Blvd
Loveland, CO 80537

Subject: Loan Contract No. CT2015-071 (C150352)
Loan Compliance Confirmation

Attached for your records are the original documents relative to the agreement between the Boxelder Basin Regional Stormwater Authority, and the Colorado Water Conservation Board (CWCB), Loan Contract No. CT2015-071 (C150352). The documents have been stamped "PAID IN FULL" denoting that the Authority has satisfied the terms of the agreement in full.

Should you have any questions, please contact me at Telephone No. (303) 866-3441, ext 3205 or email at mimi.winter@state.co.us. If we can be of any further assistance to you in the near future, please let us know.

Sincerely,

Mimi Winter, Finance Manager
Finance Section

Attachments

cc: CWCB Files



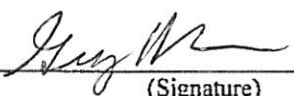
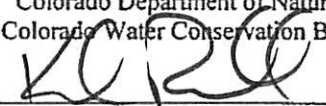

LOAN CONTRACT AMENDMENT NO. 2

SIGNATURE AND COVER PAGE (THREE SIGNED ORIGINALS REQUIRED)

State Agency: Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 2 Contract Number CMS 101136 CT2015-071		
Borrower Boxelder Basin Regional Stormwater Authority	<table border="0"> <tr> <td> Original Contract Number CMS 65323 C150352 </td> <td> Amendment No. 1 CMS 93063 CT2015-071 </td> </tr> </table>	Original Contract Number CMS 65323 C150352	Amendment No. 1 CMS 93063 CT2015-071
Original Contract Number CMS 65323 C150352	Amendment No. 1 CMS 93063 CT2015-071		
Current Contract Maximum Amount \$835,104.53	Contract Performance (Project) Beginning Date 08/08/2014		
Reason for Modification Provide a one year deferment for the 2017 initial principal payment	Contract Performance (Project) End Date 08/01/2016 Loan Contract Repayment Schedule (See Promissory Note) Payment Initiation Date: August 1, 2016 Maturity Date: August 1, 2031		

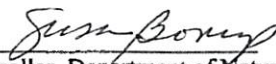
THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

BORROWER Boxelder Basin Regional Stormwater Authority  (Signature) Name: <u>Gerry Horak</u> Title: <u>President</u> Date: <u>6/26/17</u>	STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB)  (Signature) PAID IN FULL Name: <u>Kirk Russell, P.E., Section Chief</u> CWCB Finance Section Date: <u>6/30/17</u>
ATTEST:  (Signature) Name: <u>Martina Wilkinson</u> Title: <u>Secretary</u> Date: <u>6/26/17</u>	

In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate

STATE CONTROLLER
 Robert Jaros, CPA, MBA, JD

By: 
 Susan Borup, Controller, Department of Natural Resources

Amendment Effective Date: 7/6/17

1. PARTIES

This Amendment (the "Amendment") to the Original Contract (the "Contract") shown on the Signature and Cover Page for this Amendment is entered into by and between the Borrower ("Borrower" or "Authority"), and the State ("CWCB").

2. TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

3. AMENDMENT EFFECTIVE DATE AND TERM

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date.

The Parties' respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment.

4. PURPOSE

In May, 2013, the Borrower was approved for a CWCB Loan Contract, for the **Larimer and Weld Canal Crossing Structure Project**. The Project was substantially completed August 1, 2016. The Borrower requested a deferment of its 2017 initial principal payment on three CWCB loans, the Larimer & Weld Canal Crossing Structure (CT2015-071), the East Side Detention Facility (CT2015-070), and the County Road 52 Improvements (CT2015-069).

One of the Projects, the East Side Detention Facility Project required the acquisition of several properties including the 62-acre John W. Day Family Partnership (Day Partnership) parcel. The Borrower was awarded immediate possession of the Day Partnership parcel in a 2015 condemnation hearing. As required in the Order for Immediate Possession, the Borrower deposited the appraised value of \$586,728 with the Court which was subsequently paid to the Day Partnership. In November 2016, the Borrower and the 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 unanticipated cost created a financial burden on the Borrower.

The 2017 payment will be an interest only payment and the principal portion of the loan will be amortized over the remaining 14 of the original 15 year loan. The total loan amount remains \$835,104.53; however the annual payment amount will increase from \$68,695.01 to \$72,674.61. In compliance with CWCB Financial Policy #10, the Borrower will pay the accrued interest payment on the 2017 annual payment date.

5. MODIFICATIONS

- A. The Borrower agrees that it shall execute this Amendment, which shall set forth the revised terms of repayment, starting with the 2017 interest only payment of \$22,965.37 and thereafter principal and interest shall be payable in the annual loan payment over the remaining 14 years of the original 15 year loan or until the loan is paid in full.
- B. Amendment to Promissory Note, Appendix A-1, in the total loan amount, and incorporated herein *shall replace and supersede* the Original Promissory Note attached to the Original Contract as Appendix 2 and the Amendment to Promissory Note, Appendix A to Contract Amendment No. 1.
- C. Amendment to Security Agreement, Appendix B-1, in the total loan amount, and incorporated herein *shall supplement and operate in conjunction* with the Original Security Agreement, attached to the Original Contract as Appendix 4 and the Amendment to Security Agreement, Appendix B to Contract Amendment No. 1.
- D. **Contract Amendment Condition:** Prior to the execution of this Amendment by the CWCB, the Borrower shall submit to the CWCB a letter from its **bond counsel** stating, as applicable, that it is such counsel's opinion that, upon examination of the constitution and the laws of the State of Colorado (the "State"), the

Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008, as amended by the First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014, among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town"), and the Intergovernmental Agreement for the Larimer County Road 52 Project, dated June 16, 2014, among the Authority, the County, the City, the Town and the Timnath Development Authority, and such certified proceedings, certificated, documents, opinions and other papers as deemed necessary that: **(1) there are no provisions in the Colorado Constitution or any other State or local law applicable to the Authority that prevent the Amendment from binding the Authority; and (2) this Amendment will be valid and binding against the Authority if entered into by the CWCB.**

and

the Borrower shall also submit to the CWCB a letter from its **general counsel** stating, as applicable, that it is such counsel's opinion that, upon examination of the constitution and the laws of the State of Colorado (the "State"), the Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008, as amended by the First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014, among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town"), and the Intergovernmental Agreement for the Larimer County Road 52 Project, dated June 16, 2014, among the Authority, the County, the City, the Town and the Timnath Development Authority, and such certified proceedings, certificated, documents, opinions and other papers as deemed necessary that: **(1) the Amendment has been duly executed by officers of the Authority who are duly elected or appointed and are authorized to execute the Amendment and to bind the Authority; and (2) the resolution of the Authority authorizing the execution and delivery of the Amendment was duly adopted by the governing body of the Authority.**

6. RESOLUTION

The Borrower has adopted a Loan Resolution, attached as Appendix C irrevocable for the term of this loan, authorizing the Borrower to enter into this contract amendment and to execute documents necessary to defer its 2017 principal payment.

7. LIMITS OF EFFECT AND ORDER OF PRECEDENCE

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments or other modifications to the Contract, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Contract, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract or any prior modification to the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Contract to the extent that this Amendment specifically modifies those Special Provisions.

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**APPENDIX A-1, AMENDMENT NO. 2 TO LOAN CONTRACT CT2015-071
AMENDMENT TO PROMISSORY NOTE**

Date: June 26, 2017
Borrower: Boxelder Basin Regional Stormwater Authority
Total Loan Amount: \$835,104.53
Interest Rate: 2.75%
Term of Repayment: 15 years
Loan Contract No.: CT2015-071 (C150352)
Loan Payment: 2017 initial payment of \$22,965.37, thereafter annual loan payments of \$72,674.61
Payment Initiation Date: August 1, 2016
Maturity Date: August 1, 2031

For Value Received, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this promissory note.

1. This Amendment to Promissory Note *shall replace and supersede* the Original Promissory Note attached to the Original Contract and the Amendment to Promissory Note attached to Contract Amendment No. 1, both incorporated by reference.
2. Borrower shall pay the 2017 initial payment as an interest only payment, in the amount of \$22,965.37, and thereafter principal and interest shall be payable in the annual loan payment amount of \$72,674.61. The first payment is due and payable August 1, 2017 and subsequent payments are due annually thereafter or until loan is paid in full. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT

and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Boxelder Basin Regional
Stormwater Authority

(SEAL)

By 
Signature

Attest:

By  **PAID IN FULL** Name Gerry Horak
Signature Title President

Name Martina Wilkinson

Date 6/26/17

Title Secretary

Date 6/26/17

APPENDIX B-1, AMENDMENT NO. 2 TO LOAN CONTRACT CT2015-071
AMENDMENT TO SECURITY AGREEMENT

DEBTOR: Boxelder Basin Regional Stormwater Authority

SECURED PARTY: Colorado Water Conservation Board

REVISED LOAN AMOUNT: \$835,104.53

TERM OF REPAYMENT: 15 years at the interest rate of 2.75%. The first payment will be interest only in the amount of \$22,965.37, with annual payments of \$72,674.61 over the remaining 14 years of the original 15 year loan.

LOAN CONTRACT NUMBER: CT2015-071 (C150352)

1. The Parties hereby agree to amend the Original Security Agreement, attached to the Original Contract as Appendix 4 and the Amendment to Security Agreement, attached as Appendix B to Contract Amendment No. 1, to modify the repayment provisions of the loan contract in include the 2017 interest only payment of \$22,965.37 and thereafter principal and interest shall be payable in the annual loan payment of \$72,674.61.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.
3. Collateral for the loan remains the same.

DEBTOR: BOXELDER BASIN REGIONAL STORMWATER
AUTHORITY

(SEAL)

By  / President
Signature/Title

ATTEST:

By  / Secretary
Signature/Title

Date 6/26/17

Date 6/26/17

PAID IN FULL

RESOLUTION NO. 2017-06-01

**RESOLUTION OF THE BOXELDER BASIN REGIONAL STORMWATER
AUTHORITY CONCERNING AUTHORIZING AMENDMENTS TO THREE
EXISTING LOANS FROM THE COLORADO WATER CONSERVATION BOARD
FOR THE PURPOSE OF FINANCING, IN PART: (I) THE LARIMER AND WELD
CANAL CROSSING PROJECT, (II) THE EAST SIDE DETENTION FACILITY
PROJECT, AND (III) THE COUNTY ROAD 52 IMPROVEMENTS PROJECT;
AUTHORIZING THE EXECUTION OF AMENDMENTS TO THE EXISTING
PROMISSORY NOTES EVIDENCING SUCH LOANS AND AMENDMENTS TO THE
EXISTING SECURITY AGREEMENTS RELATING THERETO.**

WHEREAS, the Boxelder Basin Regional Stormwater Authority (the "Authority") is a drainage authority established in accordance with Section 29-1-204.2, Colorado Revised Statutes, as amended ("C.R.S."), and pursuant to an Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008 (the "Original Authority IGA"), as amended by a First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014 (the "First Amendment to Authority IGA" and, together with the Original Authority IGA, the "Authority IGA"), among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town") (each of the County, the City and the Town constituting a "Member"); and

WHEREAS, the City, the County and the Town have adopted a basin master plan titled "Boxelder Creek Regional Stormwater Master Plan" dated October 2006, prepared by PBS&J Consulting Engineers (the "Plan") pertaining to stormwater facilities serving properties in the Boxelder Creek Basin, located in the County, and a portion of which are located in the City or the Town; and

WHEREAS, pursuant to the Authority IGA, the Authority has constructed, and intends to construct and otherwise provide, operate and maintain, stormwater facilities contemplated by the Plan (as more particularly defined in the Authority IGA, the "Project Improvements"); and

WHEREAS, pursuant to the Authority IGA, the Authority is authorized to collect, and presently collects, a "Stormwater Service Fee" and a "System Development Fee" both as more particularly defined and described in the Authority IGA; and

WHEREAS, the Authority has no taxing power; and

WHEREAS, as provided in the Authority IGA, the sole function of the Authority is to plan for, finance, construct, acquire, own, operate and maintain the Project Improvements, which the Authority undertakes to do on a self-supporting basis (excluding the use of moneys not constituting local government grants under TABOR) and, as such, and as contemplated by the Authority IGA and further confirmed herein, the Authority constitutes an "enterprise" within the meaning of Article X, Section 20 of the Constitution of the State of Colorado ("TABOR") and the Water Activity Enterprise Law, Part 1 of Article 45.1, Title 37, C.R.S.; and

WHEREAS, in accordance with an Intergovernmental Agreement (Regarding Cost Sharing for Boxelder Basin Stormwater Mitigation Improvements) dated November 15, 2012 (the "TDA IGA"), between the Authority and the Timnath Development Authority, an urban renewal authority established pursuant to Title 31, Article 25, Part 1 of C.R.S. (the "TDA"), the TDA has agreed to pay to the Authority 25% of the Authority's actual costs (including costs of construction) incurred in connection with the Larimer and Weld Canal Crossing Project and the East Side Detention Facility Project (both as defined herein), as more particularly provided in the TDA IGA, which amounts the Authority has determined do not constitute grants from a local government within the meaning of TABOR or the Water Activity Enterprise Law; and

WHEREAS, the Authority is authorized pursuant to the Section 29-1-204.2, C.R.S. and the Water Activity Law to issue bonds, notes, or other obligations payable from the revenues derived or to be derived from the Project Improvements and other legally available revenues of the Authority; and

WHEREAS, the Authority determined, for the benefit of the Authority and the inhabitants of the Members, that it was necessary to provide for the Project Improvements identified in the following recital; and

WHEREAS, the Board of Directors of the Authority (the "Board") has previously authorized (pursuant to a resolution of the Board adopted on May 28, 2014 (the "Original Authorizing Resolution") and entered into the following with the Colorado Water Conservation Board, an agency of the State (the "CWCB") (each referred to as an "Original Loan Contract" and, collectively, as the "Original Loan Contracts"), initially having an aggregate authorized principal amount of \$8,999,100, but subsequently reduced, as a result of the below-described amendment to Loan Contract No. C150352, to an aggregate of \$8,824,104.53:

(i) Loan Contract (identified as Loan Contract C150352), for a loan in an amount up to \$1,010,000 (subsequently amended to reflect a loan in the amount of \$835,104.53), at an interest rate of 2.75% per annum, for a repayment term of 15 years, for the purpose of funding, generally, a structure designed to convey water from Boxelder Creek across the Larimer-Weld Canal (as more particularly described as the Project in such contract, referred to herein as the "Larimer and Weld Canal Crossing Structure Project"); and

(ii) Loan Contract (identified as Loan Contract C150353), for a loan in an amount up to \$7,171,000, at an interest rate of 2.75% per annum, for a repayment term of 15 years, for the purpose of funding, generally, a storm water detention facility (as more particularly described as the Project in such contract, referred to herein as the "East Side Detention Facility Project"); and

(iii) Loan Contract (identified as Loan Contract C150393), for a loan in an amount up to \$818,100, at an interest rate of 2.50% per annum, for a repayment term of 15 years, for the purpose of funding, generally, improvements to County Road 52, including the installation of drop box culverts (as more particularly described as the Project in such contract, referred to herein as the "County Road 52 Improvements Project"), which County Road 52 Improvements are the subject of an Intergovernmental

Agreement for the Larimer County Road 52 Project (the "County Road 52 IGA") entered into among the Authority, the Members and the Timnath Development Authority; and

WHEREAS, the Authority's repayment obligations under each of the Original Loan Contracts are evidenced by a Promissory Note (collectively referred to herein as the "Original Promissory Notes") issued by the Authority to the CWCB in accordance with the authorization of the Original Authorizing Resolution, each of which Original Promissory Notes constitutes a special revenue obligation of the Authority which is to be paid from Net Revenues (defined in the Original Authorizing Resolution), and the Original Promissory Notes shall be secured by such Net Revenues on a parity with each other; and

WHEREAS, in connection with each Original Loan Contract and pursuant to the authorization of the Original Authorizing Resolution, the Authority has previously entered into a Security Agreement with CWCB with respect to each Original Loan Contract (each an "Original Security Agreement" and, collectively, the "Original Security Agreements"); and

WHEREAS, as a result of unforeseen expenses of the Authority for 2017, the Authority has requested and CWCB has agreed to make modifications to the Original Loan Contracts to defer the payment of any principal amount due thereon in 2017, and to re-amortize such deferred principal payment over the existing remaining term of the Original Loan Contracts, resulting in a change to the annual loan payments, but no change to the applicable final maturity or interest rates; and

WHEREAS, to facilitate the above-described modification, the CWCB has presented to the Board the following modifications to the Original Loan Contracts (each referred to as a "Loan Contract Amendment" and, collectively, as the "Loan Contract Amendments" (both, as more particularly defined herein)):

(i) Loan Contract Amendment No. 2 (identified as Contract CMS101136, CT2015-071), amending Original Loan Contract C150352, as amended by a Loan Contract Amendment No. 1 (identified as Contract CT2015-071, CMS93063); and

(ii) Loan Contract Amendment No. 1 (identified as Contract CMS101179, CT2015-070), amending Original Loan Contract C150353; and

(iii) Loan Contract Amendment No. 1 (identified as Contract CMS101181, CT2015-069), amending Original Loan Contract C150393; and

WHEREAS, in connection with each Loan Contract Amendment, the Authority will issue to CWCB an Amendment to Promissory Note (collectively, as more particularly defined herein, the "Promissory Note Amendments"), to supersede and replace the Original Promissory Notes, and will enter into with CWCB an Amendment to Security Agreement (collectively, as more particularly defined herein, the "Security Agreements") to amend the Original Security Agreements, in all cases for the purpose of reflecting the above-described modifications with respect to the 2017 principal payments; and

WHEREAS, in accordance with the Authority IGA: (i) the aggregate principal amount of the loans evidenced by the Original Loan Contracts, as modified by the Loan Contract

Amendments, do not exceed \$9,000,000, the terms thereof do not exceed 15 years, and the interest rates thereon do not exceed 2.75% APR; and (ii) the Loan Contract Amendments, Promissory Note Amendments and Security Agreement Amendments do not represent a new borrowing of the Authority but, rather, a modification to an existing borrowing that continues to be in compliance with the authorization of the Authority IGA (and, in particular, the transaction contemplated by the First Amendment to Authority IGA): and

WHEREAS, after consideration, the Board has determined that the execution of the Loan Contract Amendments, the Promissory Note Amendments and the Security Agreement Amendments is in furtherance of the Plan and in the best interests of the Authority and the inhabitants of the Members; and

WHEREAS, voter approval in advance is not required under Article X, Section 20 of the Colorado Constitution or any other law for the execution of the Loan Contract Amendments or Security Agreement Amendments or the issuance of the Promissory Note Amendments by the Authority; and

WHEREAS, the form of the Loan Contract Amendments, Promissory Note Amendments and Security Agreement Amendments and related appendices have been reviewed by the Authority staff and its counsel; and

WHEREAS, the Authority desires to authorize the execution of the Loan Contract Amendments and Security Agreement Amendments, the issuance and delivery of the Promissory Note Amendments, and the execution of any additional documentation which may be related to such modifications of the original financings that are the subject of the Original Loan Contracts; therefore,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BOXELDER BASIN REGIONAL STORMWATER AUTHORITY AS FOLLOWS:

Section 1. Definitions. The following terms shall have the following meanings as used in this Resolution. To the extent any of the terms set forth below were defined in the Original Authorizing Resolution, the definitions set forth in the Original Authorizing Resolution are hereby amended by the below. Otherwise, capitalized terms set forth in this Resolution and not defined herein shall have the meanings set forth in the Original Authorizing Resolution.

"Board" means the Board of Directors of the Authority, the governing body of the Authority.

"C.R.S." means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

"CWCB" means the Department of Natural Resources, Colorado Water Conservation Board, an executive branch agency of the State.

"Loan Contract No. C150352" means the contract, designated Loan Contract No. C150352, as may be amended from time to time, by and between the State for the use and benefit of the CWCB and the Authority.

"Loan Contract No. C150353" means the contract, designated Loan Contract No. C150353, as may be amended from time to time, by and between the State for the use and benefit of the CWCB and the Authority.

"Loan Contract No. C150393" means the contract, designated Loan Contract No. C150393, as may be amended from time to time, by and between the State for the use and benefit of the CWCB and the Authority.

"Loan Contracts" means, collectively, Loan Contract No. C150352, Loan Contract No. C150353 and Loan Contract No. C150393, as the same may be amended from time to time (including by the applicable Loan Contract Amendments), by and between the State for the use and benefit of the CWCB and the Authority. *"Loan Contract"* refers to each of the foregoing individually, as the context requires.

"Loan Contract Amendments" means, collectively: (i) Loan Contract Amendment No. 2 (identified as Contract CMS101136, CT2015-071), amending Loan Contract No. C150352, as amended by a Loan Contract Amendment No. 1 (identified as Contract CT2015-071, CMS93063); (ii) Loan Contract Amendment No. 1 (identified as Contract CMS101179, CT2015-070), amending Loan Contract No. C150353; and (iii) Loan Contract Amendment No. 1 (identified as Contract CMS101181, CT2015-069), amending Loan Contract No. C150393. *"Loan Contract Amendment"* refers to each of the foregoing individually, as the context requires.

"Resolution" means this Resolution which authorizes the execution of the Loan Contract Amendments and Security Agreement Amendments and the issuance of the Promissory Note Amendments, including any amendments properly made hereto.

"Promissory Note" and *"Promissory Notes"* as used in the Original Authorizing Resolution shall mean the Promissory Note Amendment and Promissory Note Amendments, respectively, as defined herein.

"Promissory Note Amendment" means, in connection with a Loan Contract Amendment, the Promissory Note Amendment evidencing the Authority's repayment obligation from the date of substantial completion of the Project (as described in such Loan Contract), as set forth in Appendix A to such Loan Contract Amendment (or, in the case of the Loan Contract Amendment amending Loan Contract No. C150352, Appendix A-1).

"Promissory Note Amendments" means, collectively, the Promissory Note Amendments executed in connection with the Loan Contract Amendments.

"Security Agreement Amendment" means, in connection with a Loan Contract Amendment, the Security Agreement Amendment set forth in Appendix B to such Loan Contract Amendment (or, in the case of the Loan Contract Amendment amending Loan Contract No. C150352, Appendix B-1).

"Security Agreement Amendments" means, collectively, the Security Agreement Amendments executed in connection with the Loan Contract Amendments.

Section 2. Approval and Authorization of Loan Contract Amendments, Security Agreement Amendments and Promissory Notes Amendments. Pursuant to and in accordance with the State Constitution and the Enabling Law, there is hereby authorized and approved the execution of the Loan Contract Amendments, and the Security Agreement Amendments attached thereto, in substantially the form submitted to the Board, subject to Section 4 hereof. There shall be issued by the Authority the Promissory Note Amendments, in substantially the form submitted to the Board, subject to Section 4 hereof, in the aggregate principal amount not to exceed \$8,824,104.53 (the current outstanding principal amounts of the Original Promissory Notes). All covenants, statements, representations and agreements contained in the Original Loan Contracts, as amended by the Loan Contract Amendments, and the Promissory Note Amendments are hereby ratified, approved and adopted as the covenants, statements, representations and agreements of the Authority.

Section 3. Form of Promissory Note Amendments. The Promissory Note Amendments shall be in substantially the forms set forth as an appendix to each Loan Contract Amendment, subject to Section 4 hereof, with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the Authority executing the same (whose manual or facsimile signatures thereon shall constitute conclusive evidence of such approval), and each Promissory Note Amendment shall have the same final maturity date and interest rate as the Original Promissory Note that is to be superseded by such Promissory Note Amendment. The interest rates previously authorized for the Original Promissory Notes, and which are hereby reaffirmed as authorized for the Promissory Note Amendments (executed to replace the Original Promissory Notes) are as follows: (i) for the Promissory Note Amendment executed in connection with Loan Contract No. 150352, as amended, 2.75% per annum, (ii) for the Promissory Note Amendment executed in connection with Loan Contract No. 150353, as amended, 2.75% per annum, (iii) for the Promissory Note Amendment executed in connection with Loan Contract No. 150393, as amended, 2.50% per annum, in each case, exclusive of any late charges of 5.0% of the annual payment due which may be imposed pursuant to the terms of the Loan Contract for any late payments, and in each case, with maximum net effective interest rates equal to the "net effective rate" calculated in accordance with the definition thereof set forth in Section 31-35-401, C.R.S., and assuming the foregoing interest rates and terms of 15 years, and the annual payments set forth in such Promissory Note Amendments.

Section 4. Approval of Documents. The President (or in the President's absence the Vice President) and the Secretary of the Board shall, and they are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Resolution, including, but not limited to, the execution of the Loan Contract Amendments, the Promissory Note Amendments, and the Security Agreement Amendments in substantially the forms presented to the Board, with such non-material changes thereto, not inconsistent herewith, as may be necessary or desirable to effectuate the provisions of this Resolution and approved by counsel to the Authority and the officials of the Authority executing the same (whose manual or facsimile signatures thereon of such officials shall constitute conclusive evidence of such approval), and execution of such additional agreements, certificates and affidavits as may be reasonably required to effectuate the provisions of this Resolution. The execution by the President (or in the President's absence the Vice President) of the Board of any document authorized herein shall be conclusive proof of the approval by the Authority of the terms thereof.

Section 5. Amendment of Resolution. This Resolution may be amended only with the prior written consent of CWCB. The CWCB's approval of the Loan Contract Amendments constitutes, for purposes of the Original Authorizing Resolution, any approval required with respect to amendments made by this Resolution to the Original Authorizing Resolution.

Section 6. Findings of the Board. The Board, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants with the CWCB that:

(i) The Authority has been duly established and is operating during the current calendar year as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution;

(ii) the Board elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S. to the execution of the Loan Contract Amendments and the Security Agreement Amendments and to the issuance of the Promissory Note Amendments; and

(iii) in accordance with the Authority IGA: (A) the aggregate principal amount of the loans evidenced by the Original Loan Contracts, as modified by the Loan Contract Amendments, do not exceed \$9,000,000, the terms thereof do not exceed 15 years, and the interest rates thereon do not exceed 2.75% APR; and (B) the Loan Contract Amendments, Promissory Note Amendments and Security Agreement Amendments do not represent a new borrowing of the Authority but, rather, a modification to an existing borrowing that continues to be in compliance with the authorization of the Authority IGA (and, in particular, the transaction contemplated by the First Amendment to Authority IGA); and

(iv) the execution of the Loan Contract Amendments and the Security Agreement Amendments and to the issuance of the Promissory Note Amendments, and all procedures undertaken incident thereto, are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and the Enabling Law, and all conditions and limitations of the Enabling Law and other applicable law relating to the execution of the Loan Contract Amendments and the Security Agreement Amendments and to the issuance of the Promissory Note Amendments have been satisfied.

Section 7. Confirmation of Original Authorizing Resolution as Amended. The Original Authorizing Resolution, as amended by this Resolution, is hereby confirmed, and the Original Authorizing Resolution, as amended by this Resolution, remains in full force and effect as of the date hereof. Without limiting the foregoing, the pledge of Net Revenues for payment of the Promissory Note Amendments, as provided in Section 5 of the Original Authorizing Resolution, is hereby reaffirmed.

Section 8. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the District and the members of the Board, not inconsistent with the provisions

of this Resolution, relating to the Loan Contract Amendments, Security Agreement Amendments and Promissory Note Amendments as provided herein are hereby ratified, approved, and confirmed.

Section 9. Limitation of Actions. In accordance with Section 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization and execution of the Loan Contract Amendments or issuance and delivery of the Promissory Note Amendments more than 30 days after the date of passage of this Resolution.

Section 10. Headings. The headings to the various sections and paragraphs to this Resolution have been inserted solely for the convenience of the reader, are not a part of this Resolution, and shall not be used in any manner to interpret this Resolution.

Section 11. Resolution Irrepealable. After any one of the Promissory Note Amendments has been issued, this Resolution shall constitute a contract between CWCB and the Authority, and shall be and remain irrepealable until the Promissory Note Amendments and the interest accruing thereon shall have been fully paid, satisfied and discharged, as herein provided.

Section 12. Severability. It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

Section 13. Repealer. All orders, bylaws, resolutions and ordinances of the Authority, or parts thereof, inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict.

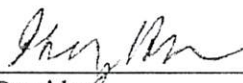
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PAID IN FULL

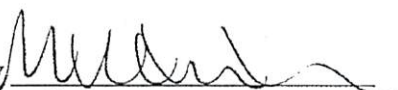
Section 14. Effective Date. This Resolution shall be effective as of the date of adoption by the Board; provided that the authorizations contained herein shall be contingent upon the conditions set forth in Section 10 hereof.

ADOPTED this 26th day of June, 2017.

BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

By: 
President

ATTEST:

By: 
Secretary

PAID IN FULL

CONTRACT AMENDMENT

Amendment No.1	Original Loan Contract No. C150352 Original CMS No.65323 Amendment CMS No.93063	CORE No. CT2015-071
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1) PARTIES

This Amendment No. 1 (AMENDMENT) to the above-referenced ORIGINAL CONTRACT (hereinafter called the ORIGINAL CONTRACT) is entered into by and between the State of Colorado, Department of Natural Resources, Colorado Water Conservation, 1313 Sherman St., Denver, Colorado, 80203, ("CWCB" or "State"), and Boxelder Basin Regional Stormwater Authority, 1627 East 18th Street, Loveland, Colorado, 80538, a drainage authority pursuant to C.R.S. §29-1-204.2, ("BORROWER" OR "AUTHORITY").

2) EFFECTIVE DATE AND ENFORCEABILITY

This AMENDMENT shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "EFFECTIVE DATE"), but shall be effective and enforceable thereafter in accordance with its provisions.

3) FACTUAL RECITALS

The Boxelder Basin Regional Stormwater Authority was approved for a loan, from the CWCB, totaling \$1,010,000.00 on August 8, 2014 to finance the Larimer and Weld Canal Crossing Structure Project (PROJECT). The PROJECT was substantially completed as of August 1, 2016. The Parties agree to amend the contract to reduce the final loan amount. The total amount disbursed under this contract was \$835,104.53. An adjustment of \$174,895.47 will be made to the contract for the funds no longer needed.

4) CONSIDERATION

Consideration for this AMENDMENT to the ORIGINAL CONTRACT consists of the payments that shall be made pursuant to this AMENDMENT and ORIGINAL CONTRACT and the promises and agreements herein set forth.

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this AMENDMENT.

5) LIMITS OF EFFECT

This AMENDMENT is incorporated by reference into the ORIGINAL CONTRACT. The ORIGINAL CONTRACT and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

6) MODIFICATIONS.

The ORIGINAL CONTRACT NO. CT2015-071 and all prior amendments thereto, if any, are modified as follows:

- a) Amend the contract to reduce the final loan amount. The loan contract was substantially completed as of August 1, 2016. The total amount disbursed under this contract was \$835,104.53. A decrease of \$174,895.47 will be made to the total loan contract amount for the funds no longer needed.
- b) The BORROWER agrees that it shall execute the following documents, all of which shall set forth the revised loan amount of \$835,104.53:
 - i. AMENDMENT TO THE PROMISSORY NOTE, APPENDIX A, AMENDMENT NO. 1, LOAN CONTRACT NO. CT2015-071, in the amount of \$835,104.53 and incorporated herein, which shall replace and supersede the Original PROMISSORY NOTE dated JUNE 17, 2014, in the amount of \$1,010,000.00, attached to the ORIGINAL CONTRACT as APPENDIX 2.

- ii. AMENDMENT TO THE SECURITY AGREEMENT, APPENDIX B AMENDMENT NO. 1, LOAN CONTRACT NO. CT 2015-071, in the amount of \$835,104.53 and incorporated herein, *which shall supplement and operate in conjunction* with the ORIGINAL SECURITY AGREEMENT, dated June 17, 2014, in the amount of \$1,010,000.00, attached to the ORIGINAL CONTRACT as APPENDIX 4.

7) ORDER OF PRECEDENCE

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the ORIGINAL CONTRACT, the provisions of this AMENDMENT shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the ORIGINAL CONTRACT or any amendment shall always control other provisions in the ORIGINAL CONTRACT or any amendments.

8) AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

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PAID IN FULL

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

* Persons signing for Borrower hereby swear and affirm that they are authorized to act on Borrower's behalf and acknowledge that the State is relying on their representations to that effect.

BORROWER:

Boxelder Basin Regional Stormwater Authority

Name: Gerry Horak

Title: President

[Signature]
*Signature
Date: 9/26/16

(SEAL)

Attest:

Name: STAN A. MYERS

Title: AUTHORITY MANAGER

[Signature]
*Signature
Date: 9/26/16

STATE OF COLORADO

John W. Hickenlooper, Governor
Department of Natural Resources

By: [Signature]

Name: Kirk Russell, P.E., Section Chief
Finance Section
Colorado Water Conservation Board

DATE: 11/14/16

PAID IN FULL

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid and the loan funds under this contract are not available until the State Controller, or such assistant as he may delegate, has signed it.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: [Signature]

Name: Jason Borup

Title: Dept of Natural Resources Controller

Date: 11/30/16

**APPENDIX A, AMENDMENT NO. 1 TO LOAN CONTRACT CT2015-071
AMENDMENT TO PROMISSORY NOTE**

Date: September 26, 2016
Borrower: Boxelder Basin Regional Stormwater Authority
Total Loan Amount: \$835,104.53
Interest Rate: 2.75% per annum
Term of Repayment: 15 years
Loan Contract No.: CT2015-071 (C150352)
Loan Payment: \$68,695.01
Payment Initiation Date: August 1, 2016
Maturity Date: August 1, 2031

COPY

For substantially completed projects, remove all asterisks and sentence after asterisk.

FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this promissory note.

1. This Promissory Note replaces and supersedes the Promissory Note dated June 17, 2014, in the amount of \$1,010,000.00.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date, and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.

PAID IN FULL

6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.
8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: BOXELDER BASIN REGIONAL
STORMWATER AUTHORITY

(SEAL)

COPY

By Gary Hark
Signature

Attest:

By Stan A. Myers

Signature
Name STAN A. MYERS

Title AUTHORITY MANAGER

Date 9/26/16

Name Garry Hark

Title President

Date 9/26/16

COPY

APPENDIX B, AMENDMENT NO. 1 TO LOAN CONTRACT CT2015-071 (C150352)
AMENDMENT TO SECURITY AGREEMENT

DEBTOR: BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

DATE OF ORIGINAL SECURITY AGREEMENT: JUNE 17, 2014

ORIGINAL PROMISSORY NOTE: \$1,010,000.00 DATED JUNE 17, 2014, AT THE INTEREST
RATE OF 2.75% FOR 15 YEARS OR UNTIL PAID IN FULL.

LOAN CONTRACT NUMBER: CT2015-071 (C150352)

1. The Parties have amended the ORIGINAL LOAN CONTRACT and Promissory Note to decrease the loan amount by \$174,895.47, from \$1,010,000.00 to \$835,104.53, and hereby amend the original Security Agreement to document the change of loan amount.
2. The Parties expressly agree that this Amendment is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

AMENDED LOAN CONTRACT: AMENDMENT NO. 1 TO LOAN CONTRACT NO.
CT2015-071

Replacement Promissory Note: Total Loan Amount is \$835,104.53, with an annual
loan payment of \$68,695.01, at an interest rate of
2.75%, for 15 years or until the loan is paid in full.

PAID IN FULL

DEBTOR: BOXELDER BASIN REGIONAL STORMWATER
AUTHORITY

(SEAL)

By *Greg Nord* / President
Signature/Title

ATTEST:

By *St. Q. Myers* AUTHORITY MGR
Signature/Title

Date 9/26/16

Date 9/26/16

BORROWER: BOXELDER BASIN REGIONAL
STORMWATER AUTHORITY, A DRAINAGE
AUTHORITY
CONTRACT NO: C150352
PROJECT AMOUNT \$1,000,000
LOAN SERVICE FEE \$10,000
LOAN AMOUNT \$1,010,000

AGENCY NAME: COLORADO WATER
CONSERVATION BOARD
AGENCY NUMBER: PDA
CONTRACT TYPE: LOAN/PUBLIC
CWCB CMS #65323

LOAN CONTRACT

(STANDARD CONTRACT – WAIVER #160 – APPROVED NOVEMBER 10, 2003)

THIS CONTRACT, made between the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB" or "STATE"), Boxelder Basin Regional Stormwater Authority, 1627 East 18th Street, Loveland, Colorado, 80538, a drainage authority pursuant to C.R.S. §29-1-204.2, ("BORROWER" OR "AUTHORITY").

FACTUAL RECITALS

1. Authority exists in the law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this CONTRACT under: Contract Encumbrance No. C150352, Fund Number 424, Appropriation Code M13, Organization YYYY, GBL B352, Program WTRC, Object Code 5560, Reporting Category 0352. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies; and
2. On May 14, 2013, the CWCB approved a loan request from the BORROWER for the Larimer and Weld Canal Crossing Structure Project ("PROJECT"). The PROJECT is for the construction of a structure designed to convey water from Boxelder Creek across the Larimer-Weld Canal for the purpose of regional flood control improvements. This loan was approved as a 15 year loan at an interest rate of 2.75%; and
3. The **PROJECT SUMMARY**, attached as **APPENDIX 1** and incorporated herein, contains BORROWER Information (Section 1), the PROJECT Description (Section 2), CWCB's authority for making this loan (Section 3), and CWCB Approval and Legislative Authorization which identifies the amount of the loan and the terms of repayment (Section 4); and
4. The CWCB now desires, by this CONTRACT, to loan money to the BORROWER for this PROJECT upon mutually agreeable terms and conditions.

THEREFORE, in consideration of the mutual and dependent covenants contained herein, the parties agree as follows:

Loan Contract C150352

Page 1 of 12

A. LOAN PROVISIONS

1. **Loan Service Fee.** The amount of the loan (LOAN AMOUNT) shall include (1) the amount of the funds loaned by the CWCB to the BORROWER for the PROJECT and (2) a service fee of one percent (1%) of the PROJECT amount. In the event that the BORROWER does not use the LOAN AMOUNT authorized, the parties shall amend this CONTRACT to revise the LOAN AMOUNT including adjustment of the service fee to reflect 1% of the actual LOAN AMOUNT disbursed to the BORROWER.
2. **Contract Amendment Service Fees.** Under certain circumstances, the BORROWER shall be assessed a fee for amending the CONTRACT.
 - a. A service fee shall be imposed on the BORROWER for amendments processed for the benefit of the BORROWER and necessary for the BORROWER's course of business but not necessary for the CWCB, including, but not limited to, a change in BORROWER name, assignment of CONTRACT, substitution of collateral, loan payment deferrals in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including, but not limited to, loan payment deferrals (up to 3 per loan), and changes in terms of loan repayment will be processed at no additional charge to the BORROWER.
 - b. The amount charged shall be in accordance with the fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current fee for an amendment is \$1,000.
 - c. The BORROWER shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded
3. **Promissory Note Provisions.** The CWCB agrees to loan to the BORROWER an amount not to exceed the LOAN AMOUNT and the BORROWER agrees to repay the loan in accordance with the terms as set forth in the **PROMISSORY NOTE**, attached hereto as **APPENDIX 2** and incorporated herein. The **PROMISSORY NOTE** shall identify the LOAN AMOUNT. If the amount of loan funds disbursed by the CWCB to the BORROWER differs from the LOAN AMOUNT, the parties agree to amend the Promissory Note and this CONTRACT, including its appendices where necessary, to revise the LOAN AMOUNT.
4. **Interest Prior to Project Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to PROJECT's substantial completion (as determined by the CWCB) and notify BORROWER of such amount. The BORROWER shall repay that amount to the CWCB either within ten (10) days from the date of notification from the CWCB, or, at the CWCB's discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the BORROWER.
5. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of this CONTRACT shall be remitted to the CWCB

makes to the BORROWER.

5. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of this CONTRACT shall be remitted to the CWCB within 30 calendar days from notification from the CWCB of either (1) completion of the PROJECT or (2) determination by the CWCB that the PROJECT will not be completed.
6. **Borrower's Authority To Contract.** The BORROWER warrants that it has full power and authority to enter into this CONTRACT. The execution and delivery of this CONTRACT and the performance and observation of its terms, conditions and obligations have been duly authorized by all necessary actions of the BORROWER. The **BORROWER'S AUTHORIZING RESOLUTION OR ORDINANCE** is attached as **APPENDIX 3** and incorporated herein.
7. **Attorneys' Opinion Letter.** Prior to the execution of this CONTRACT by the CWCB, the BORROWER shall submit to the CWCB a letter or letters from its bond counsel or general counsel stating, as applicable, that it is such counsel's opinion that:
 - a. the CONTRACT has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the CONTRACT and to bind the BORROWER; and
 - b. the resolutions or ordinances of the BORROWER authorizing the execution and delivery of the CONTRACT were duly adopted by the governing bodies of the BORROWER; and
 - c. there are no provisions in the Colorado Constitution or any other state or local law that prevent this CONTRACT from binding the BORROWER; and
 - d. the CONTRACT will be valid and binding against the BORROWER if entered into by the CWCB; and
 - e. the BORROWER was formed and is operated as a drainage authority pursuant to the provisions of C.R.S. §29-1-204.2.
8. **Pledge of revenues.** The BORROWER irrevocably pledges to the CWCB, for purposes of repayment of this loan, revenues levied for that purpose as authorized in APPENDIX 3 and any other funds legally available to the BORROWER, in an amount sufficient to pay the annual payment due under this CONTRACT (as more particularly defined in Appendix 3, the "PLEDGED REVENUES").
 - a. **Segregation of Pledged Revenues.** The BORROWER shall set aside and keep the PLEDGED REVENUES in an account separate from other BORROWER revenues and warrants that these revenues will not be used for any other purpose.
 - b. **Establish Security Interest.** The BORROWER has duly executed a **SECURITY AGREEMENT**, attached hereto as **APPENDIX 4** and incorporated herein, to provide a security interest to the CWCB in the PLEDGED REVENUES. The CWCB shall have priority over all other competing claims for said revenues, except for the liens of the BORROWER's existing loans as listed in Section 5 (Schedule of Existing Debt), of the PROJECT SUMMARY, which sets forth the position of the lien created by this

CONTRACT in relation to any existing lien(s).

- c. **Rate Covenant.** Pursuant to its statutory authority and as permitted by law, the BORROWER shall take all necessary actions consistent therewith during the term of this CONTRACT to establish, levy and collect rates, charges and fees as described in APPENDIX 3, in amounts sufficient to pay this loan as required by the terms of this CONTRACT and the PROMISSORY NOTE, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves, including obtaining voter approval, if necessary, of increases in the BORROWER'S rate schedule or taxes, if applicable.
- d. **Debt Service Reserve Account.** To establish and maintain the debt service reserve account, the BORROWER shall deposit an amount equal to one-tenth of an annual payment into its debt service reserve fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan, until the amount on deposit therein is equal to an annual payment. In the event that the BORROWER applies funds from this account to repayment of the loan, the BORROWER shall replenish the account within ninety (90) days of withdrawal of the funds.
- e. **Additional Debts or Bonds.** The BORROWER shall not issue any indebtedness payable from the PLEDGED REVENUES and having a lien thereon which is superior to the lien of this loan. The BORROWER may issue parity debt only with the prior written approval of the CWCB, provided that:
 - i. The BORROWER is currently and at the time of the issuance of the parity debt in substantial compliance with all of the obligations of this CONTRACT, including, but not limited to, being current on the annual payments due under this CONTRACT and in the accumulation of all amounts then required to be accumulated in the BORROWER'S debt service reserve fund;
 - ii. The BORROWER provides to the CWCB a Parity Certificate from an independent certified public accountant certifying that, based on an analysis of the BORROWER'S revenues, for 12 consecutive months out of the 18 months immediately preceding the date of issuance of such parity debt, the BORROWER'S revenues are sufficient to pay its annual operating and maintenance expenses, annual debt service on all outstanding indebtedness having a lien on the pledged revenues, including this loan, the annual debt service on the proposed indebtedness to be issued, and all required deposits to any reserve funds required by this CONTRACT or by the lender(s) of any indebtedness having a lien on the pledged revenues. The analysis of revenues shall be based on the BORROWER'S current rate structure or the rate structure most recently adopted. No more than 10% of total revenues may originate from tap and/or connection fees.

The BORROWER acknowledges and understands that any request for approval of the issuance of additional debt must be reviewed and approved by the CWCB Director prior to the issuance of any additional debt. The foregoing limitations shall not apply to CWCB Loan Contract #C150352 and CWCB Loan Contract

#C150393 entered into on the date hereof and secured by the Pledged Revenue on a parity with this loan.

- f. **Annual Statement of Debt Coverage.** Each year during the term of this CONTRACT, the BORROWER shall submit to the CWCB an annual audit report and a certificate of debt service coverage from a Certified Public Accountant.
9. **Pledged Revenues During Loan Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the PLEDGED REVENUES, so long as any of the principal, accrued interest, and late charges, if any, on this loan remain unpaid, without the prior written concurrence of the CWCB.
10. **Release After Loan Is Repaid.** Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the PROMISSORY NOTE, the CWCB agrees to release and terminate any and all of the CWCB's right, title, and interest in and to the PLEDGED REVENUES.
11. **Warranties.**
 - a. The BORROWER warrants that, by acceptance of the loan under this CONTRACT and by its representations herein, the BORROWER shall be estopped from asserting for any reason that it is not authorized or obligated to repay the loan to the CWCB as required by this CONTRACT.
 - b. The BORROWER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the BORROWER, to solicit or secure this CONTRACT and has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this CONTRACT.
 - c. The BORROWER warrants that the PLEDGED REVENUES and COLLATERAL for this loan are not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner, except for any existing lien(s) identified in Section 5 (Schedule of Existing Debt) of the PROJECT SUMMARY, which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s).
12. **Remedies For Default.** Upon default in the payments to be made by the BORROWER under this CONTRACT, or default in the performance of any covenant or agreement contained herein, the CWCB, at its option, may:
 - a. suspend this CONTRACT and withhold further loan disbursements pending corrective action by the BORROWER, and if the BORROWER does not cure the default as provided for below, permanently cease loan disbursements and deem the PROJECT substantially complete;
 - b. exercise its rights under any appendices to this CONTRACT, including, but not limited to, the PROMISSORY NOTE and SECURITY AGREEMENT; and/or

- c. take any other appropriate action.

The CWCB shall provide written notice to the BORROWER of any such default and shall give the BORROWER an opportunity to cure within thirty (30) days of receipt of such notice. All remedies described herein may be simultaneously or selectively and successively enforced. The CWCB may enforce the provisions of this CONTRACT at its option without regard to prior waivers of previous defaults by the BORROWER, through judicial proceedings to require specific performance of this CONTRACT, or by such other proceedings in law or equity as may be deemed necessary by the CWCB to ensure compliance with provisions of this CONTRACT and the laws and regulations under which this CONTRACT is executed. The CWCB's exercise of any or all of the remedies described herein shall not relieve the BORROWER of any of its duties and obligations under this CONTRACT.

13. **Operation of Project.** The BORROWER shall, without expense or legal liability to the CWCB, manage, operate and maintain the PROJECT continuously in an efficient and economical manner.

14. **Borrower's Liability Insurance.**

- a. Because the BORROWER is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS 24-10-101, et seq., as amended ("Act"), the BORROWER shall at all times maintain such liability insurance, by commercial policy or self-insurance as is necessary to meet its liabilities under the Act.
- b. Prior to the disbursement of any loan funds, the BORROWER shall provide the CWCB with an Acord Form 25 or other form satisfactory to the CWCB evidencing said insurance and shall provide the CWCB with documentation of renewals of said insurance.

15. **Additional Contract Requirements.** Any additional CONTRACT requirements are set forth in Additional Contract Requirement (Section 6) of the PROJECT SUMMARY.

B. PROJECT PROVISIONS

1. **Construction Fund Program Procedures.** During the completion of the PROJECT, the BORROWER shall adhere to the CWCB Construction Fund Program Procedures (Section 7) of the PROJECT SUMMARY.
2. **Eligible Expenses.** The PROJECT expenses for which the BORROWER is eligible for loan disbursements are listed in Eligible Expenses (Section 8) of the PROJECT SUMMARY.
3. **Loan Disbursements.** The CWCB shall disburse loan funds in accordance with the Disbursement Schedule (Section 9) of the PROJECT SUMMARY.
4. **Time for Performance.** The BORROWER recognizes that time is of the essence in the performance of all of its obligations under this CONTRACT. Therefore, the BORROWER shall complete the PROJECT within the time specified in Time for Performance (Section

10) of the PROJECT SUMMARY.

5. **Indemnification by the Construction Firm.** The BORROWER shall require all construction firms and their subcontractors to indemnify the STATE and the BORROWER against all liability and loss, and against all claims and actions based upon or arising out of damage or injury, including death, to persons or property, caused by any acts or omissions of those parties or sustained in connection with the performance of any contract related to the PROJECT or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation, and the defense of any such claims or actions.
6. **Liability Insurance during Construction.** During construction of the PROJECT, the BORROWER shall require the construction firm(s) and any subcontractors to maintain the following insurance coverage in the limits shown during the term of their contracts for the construction of the PROJECT. The BORROWER shall provide the CWCB with an Acord Form 25 evidencing said insurance prior to commencement of construction, maintained until construction is complete, and shall provide the CWCB with documentation of renewals of said insurance. No payments shall be made to the BORROWER unless all insurance certificates are current.
 - a. Worker's compensation and employer's liability insurance in the required statutory amounts.
 - b. Automobile liability insurance that includes coverage for all owned, non-owned and hired vehicles with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage.
 - c. Commercial general liability insurance with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate. This insurance coverage shall include products/completed operations and bodily injury/property damage.

C. GENERAL PROVISIONS

1. **Periodic Inspections.** Throughout the term of this CONTRACT, the BORROWER shall permit a designated representative of the CWCB to make periodic inspections of the PROJECT. Such inspections shall cover the condition of the PROJECT, operating records, maintenance records, and financial records. These inspections are solely for the purpose of verifying compliance with the terms and conditions of this CONTRACT and shall not be construed nor interpreted as an approval of the actual design, construction or operation of any element of the PROJECT facilities.
2. **Applicable Laws.** The BORROWER shall strictly adhere to all applicable federal, state, and local laws and regulations that are in effect or may hereafter be established throughout the term of this CONTRACT.
3. **Designated Agent Of The CWCB.** The CWCB's employees are designated as the agents of the CWCB for the purpose of this CONTRACT.

4. **Assignment.** The BORROWER may not assign this CONTRACT except with the prior written approval of the CWCB.
5. **Contract Relationship.** The parties to this CONTRACT intend that the relationship between them under this CONTRACT is that of lender-borrower, not employer-employee. No agent, employee, or servant of the BORROWER shall be, or shall be deemed to be, an employee, agent, or servant of the CWCB. The BORROWER shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, construction firms, and subcontractors during the term of this CONTRACT.
6. **Integration of Terms.** This CONTRACT is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or affect whatsoever unless embodied herein in writing. No subsequent renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written CONTRACT executed and approved pursuant to State fiscal rules, unless expressly provided for herein.
7. **Controlling Terms.** In the event of conflicts or inconsistencies between the terms of this CONTRACT and conditions as set forth in any of the appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: (1) Colorado Special Provisions, provided that the parties hereby agree that, for the purposes of such Special Provisions, (a) "Contractor" shall mean BORROWER (2) the remainder of this CONTRACT, and (3) the Appendices.
8. **Casualty and Eminent Domain.** If, at any time, during the term of this CONTRACT, (a) the BORROWER'S PROJECT facilities including buildings or any portion thereof, are damaged or destroyed, in whole or in part, by fire or other casualty, or (b) title to or use of the PROJECT facilities or any part thereof shall be taken under the exercise of the power of eminent domain, the BORROWER shall cause the net proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of the PROJECT facilities or any portion thereof, or to repayment of this loan. Any net proceeds remaining after such work has been completed or this loan has been repaid, shall be retained by the BORROWER. If the net insurance proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the BORROWER shall complete the work and pay any cost in excess of the net proceeds. In the event BORROWER chooses to repay the loan, BORROWER shall remain responsible for the full LOAN AMOUNT outstanding regardless of the amount of such insurance proceeds or condemnation award.
9. **Captions.** The captions and headings contained in this CONTRACT are for convenience and reference only and shall not be construed so as to define or limit the terms or provisions contracted herein.
10. **CWCB's Approval.** This CONTRACT requires review and approval of plans, specifications, and various other technical and legal documents. The CWCB's review of these documents is only for the purpose of verifying BORROWER'S compliance with

this CONTRACT and shall not be construed or interpreted as a technical review or approval of the actual design or construction of the PROJECT. Notwithstanding any consents or approvals given to the BORROWER by the CWCB on any such documents, BORROWER and any of its consultants, by preparing any such documents, shall be solely responsible for the accuracy and completeness of any of said documents.

11. **Waiver.** The waiver of any breach of a term of this CONTRACT shall not be construed as a waiver of any other term or of any subsequent breach of the same term.
12. **Addresses for mailing.** All notices, correspondence, or other documents required by this CONTRACT shall be delivered or mailed to the addresses shown in the PROJECT SUMMARY, Section 1 for the BORROWER and to the address below for the CWCB:

Colorado Water Conservation Board
Attn: Finance Section
1313 Sherman Street, Room 721
Denver, CO 80203

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PAID IN FULL

Special Provisions

The Special Provisions apply to all contracts except where noted in *italics*.

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.
10. **VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements]** Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
11. **PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]** Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.
12. **PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

SPs Effective
1/1/09

[END OF SPECIAL PROVISIONS]

Loan Contract C150352

Page 11 of 12

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT.

* Persons signing for BORROWER hereby swear and affirm that they are authorized to act on BORROWER's behalf and acknowledge that the State is relying on their representations to that effect.

BORROWER:

Boxelder Basin Regional Stormwater Authority,
a drainage authority, pursuant to C.R.S. §29-1-
204.2

BY: _____

Signature

NAME: KEN SAMPLEYTITLE: PRESIDENTDATE: 7/10/14

STATE OF COLORADO

John W. Hickenlooper, Governor
Department of Natural Resources
Mike King, Executive Director

BY: _____

Name: Kirk Russell, P.E., Chief

Finance & Administration Section
Colorado Water Conservation Board

DATE: 7/30/14Pre-Approved Form Contract Reviewer

Attest (Seal)

BY: _____

Signature

NAME: LARRY LORENZENTITLE: SECRETARYDATE: 7/10/14

BY: _____

Peg Mason, CWCB Contracts Manager

DATE: 7-29-14ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid and there are no loan funds available until the State Controller, or such assistant as he may delegate, has signed it.

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

By _____

Susan Borup, Controller, Department of Natural Resources

Effective Date _____

8/8/14**Loan Contract C150352**

**Project Summary – Boxelder Basin Regional Stormwater Authority,
a drainage authority pursuant to C.R.S. §29-1-204.2
Contract No. C150352**

SECTION 1 –BORROWER INFORMATION

Name: Boxelder Basin Regional Stormwater Authority,
a drainage authority pursuant to C.R.S. §29-1-204.2
Address: 1627 East 18th Street, Loveland, Colorado 80538
Contact: Stan Myers
Phone Number: 970-669-3611
E-mail address: stanm@pinnacleconsultinggroupinc.com
Type of Entity: The Boxelder Basin Regional Stormwater Authority is a drainage authority formed pursuant to and governed by C.R.S. §29-1-204.2 and the Intergovernmental Agreement dated August 20, 2008, by and among the Board of Commissioners of Larimer County, Colorado, the City of Fort Collins, Colorado, and the Town of Wellington, Colorado, including all amendments thereto.

Section 2 – Project Description

- A. Description of PROJECT: The BORROWER applied to the CWCB for a loan to be used for the construction of the Larimer and Weld Canal Crossing Structure Project, located in Larimer County, hereinafter referred to as the PROJECT, at an estimated total project cost of \$1,139,000. The PROJECT consists of the construction of a structure designed to convey water from Boxelder Creek across the Larimer-Weld Canal. The purpose of this PROJECT is to pass the Boxelder Creek flood flows back into the Boxelder floodplain on the south side of the canal. This will reduce the risk of canal embankment failure during flood events.
- B. Description of Feasibility Study: The CWCB has reviewed the Loan Feasibility Study, dated April 1, 2013, titled "*Feasibility Study for Larimer and Weld Crossing Structure*" prepared by Pinnacle Consulting Group, Inc. with engineering support from Andrea Faucett, P.E. of Ayres Associates of Fort Collins, Colorado, which is incorporated herein by reference. The study was prepared in accordance with the CWCB guidelines. Based upon the feasibility report, the CWCB determined the PROJECT to be technically and financially feasible.

SECTION 3 – CWCB'S AUTHORITY

Construction Fund: This loan is made pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S., which authorize the CWCB to loan money for water projects from the CWCB Construction Fund for the benefit of the people of the state, provided that the BORROWER assures repayment of that money.

Section 37-60-122(1)(b), C.R.S., authorizes the CWCB to make loans of up to \$10,000,000 from the CWCB's Construction Fund and the State Severance Tax Trust Fund Perpetual Base Account Fund without prior approval from the General Assembly.

Appendix 1 to Loan Contract C150352

SECTION 4 - BOARD APPROVAL

At its May 14, 2013 meeting the CWCB approved a Small Project Loan, from the Construction Fund to the BORROWER, in an amount up to \$1,000,000 for PROJECT costs not to exceed 90% of the cost of the PROJECT, with a loan origination fee of 1% in accordance with CWCB Policy No. 16 resulting in a loan origination fee of \$10,000 and a total loan amount of **\$1,010,100** at an interest rate of 2.75% per annum for a repayment term of 15 years.

SECTION 5 – SCHEDULE OF EXISTING DEBT

The BORROWER has been approved for two additional loans with the Colorado Water Conservation Board. Contract #C150353, in the loan amount of \$7,171,000.00, with annual payments of \$589,880.53 with an interest rate of 2.75% per annum and a term of 15 years and Contract #C150393, in the loan amount of \$818,100.00, with annual payments of \$66,075.04 with an interest rate of 2.50% per annum and a term of 15 years.

SECTION 6 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS

The Authority will not seek, and CWCB will not disburse, loan funds until the Authority has the right of possession to all property necessary for this East Side Detention Facility Project (CWCB Loan Contract No. C150353). If land is to be acquired through condemnation, this will be evidenced by an Order of Possession. If land is to be acquired through negotiated real estate contract(s), this will be evidenced by a binding real estate contract between the Authority and the property owner.

SECTION 7 – CONSTRUCTION FUND PROGRAM PROCEDURES

PAID IN FULL

- A. The BORROWER shall employ an engineer, registered in the state of Colorado to prepare plans and specifications for the PROJECT.
- B. Engineering contracts, plans and specifications must be submitted to the CWCB staff for verification of compliance with the terms of this CONTRACT when available prior to bidding. Any modifications to the plans and specifications must be approved in writing by the CWCB staff.
- C. For plans and specifications for all jurisdictional dams and reservoirs, as defined by § 37-87-105 C.R.S., the BORROWER shall provide a letter of approval from the State Engineer's Office prior to construction.
- D. The BORROWER shall extend an invitation to CWCB to be present at the bid opening.
- E. The BORROWER shall contract for the construction of the work with responsible and capable Construction Firms, which said Construction Firms shall be selected by the BORROWER and found acceptable by the CWCB staff.

Appendix 1 to Loan Contract C150352

- F. The BORROWER must provide a copy of the executed construction contract documents consisting of the contractor's proposal, construction contract, performance bond, payment bond, notice of award, notice to proceed, sample change order, and sample field order, as well as the advertisement for bid and bid bond at bidding. After the CWCB staff verifies that these documents comply with the terms of this CONTRACT, the BORROWER may issue the notice to proceed to the Construction Firms.
- G. The BORROWER shall conduct a pre-construction conference at which time the CWCB staff shall have the opportunity to review and approve the construction schedule.
- H. If the CWCB staff determines that the PROJECT requires a resident inspector during construction, the BORROWER shall employ an inspector who has been approved by the CWCB staff.
- I. The BORROWER shall construct the PROJECT in accordance with the approved plans and specifications.
- J. Upon completion of the PROJECT construction, the BORROWER shall provide as-built drawings of the PROJECT to the CWCB staff, or, if required by § 37-87-105, C.R.S., the BORROWER shall provide the as-built drawings to the State Engineer's Office for approval and filing.
- K. Upon completion of the PROJECT construction, the BORROWER shall arrange a final inspection for the CWCB staff.
- L. The BORROWER shall pay all of the expenses related to the PROJECT when such bills are due.

SECTION 8 – ELIGIBLE EXPENSES. The following items are eligible for loan disbursements.

- A. Preparing final designs and specifications for the PROJECT.
- B. Preparing bid and construction contract documents.
- C. Preparing environmental assessment or environmental impact statements, and otherwise complying with the Federal National Environmental Policy Act.
- D. Complying with all federal, state, and local regulatory requirements, including the obtaining of all required permits.
- E. Fish and wildlife mitigation measures required by federal, state, or local laws and regulations.
- F. Actual construction as called for in the design documents and in change orders approved by the CWCB and the BORROWER.
- G. Engineering services for construction management, including design and construction management for CWCB-approved change orders.
- H. Interest during completion of the PROJECT pursuant to Paragraph A.4 of the

Appendix 1 to Loan Contract C150352

CONTRACT.

- I. Legal services for reviewing engineering services contracts, reviewing this CONTRACT, reviewing construction contract documents, and for complying with all federal, state, and local regulatory requirements.
- J. PROJECT related expenses incurred prior to the Effective Date of this CONTRACT in accordance with the legislative approval of this loan.

SECTION 9 – DISBURSEMENT SCHEDULE

For PROJECT costs: The BORROWER shall prepare a periodic progress report which contains a statement of the PROJECT costs expended for that period and shall forward said statement to the CWCB. After receipt of the periodic progress report from the BORROWER, and review and acceptance of the items therein as eligible expenses as described below, the CWCB will pay to the BORROWER the amount set forth in the report or such portion that has been approved by the CWCB. Such payment shall be made within thirty (30) days from the CWCB's approval of each progress report.

SECTION 10 – TIME FOR PERFORMANCE

PROJECT Beginning: Upon Effective Date of this CONTRACT (the date this CONTRACT is signed by the State Controller or his designee).

PROJECT Finish: Four (4) years from the Effective Date of this CONTRACT.

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PAID IN FULL

PROMISSORY NOTE

Date: June 17, 2014

Borrower: Boxelder Basin Regional Stormwater Authority, a drainage authority pursuant to C.R.S. §29-1-204.2

Principal Amount: \$1,010,000

Interest Rate: 2.75% per annum

Term of Repayment: 15 years

Loan Contract No.: C150352

Loan Payment: \$83,081.76

Payment Initiation Date*: _____

Maturity Date*: _____

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE. Notwithstanding anything herein or in the Loan Contract to the contrary, all amounts payable under this PROMISSORY NOTE or the LOAN CONTRACT shall be payable only from the "Net Revenue" (as defined in the Loan Resolution of the Borrower authorizing the same).
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT, ("SECURITY INSTRUMENT") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The

Appendix 2 to Loan Contract C150352

LOAN CONTRACT and SECURITY INSTRUMENTS grant additional rights to the CWCB.

8. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this PROMISSORY NOTE.
9. The BORROWER and any co-signer or guarantor hereby agree that if this PROMISSORY NOTE or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This PROMISSORY NOTE shall be governed in all respects by the laws of the State of Colorado.
11. This Note is issued pursuant to and under the authority of §11-57-210, C.R.S. and §31-35-413, C.R.S., and pursuant to such statutes, the foregoing recital shall be conclusive evidence of the validity and the regularity of the issuance of this Note after its delivery for value, shall conclusively impart full compliance with all of the provisions of Title 31, Article 35, Part 4, C.R.S., and this Note containing such recital shall be incontestable for any cause whatsoever after its delivery for value.
12. This Note, including the interest hereon, does not constitute a debt or indebtedness of the authority within the meaning of any constitutional or statutory provision or limitation, and shall not be considered or held to be a general obligation of the BORROWER. This Note shall not constitute a debt or an indebtedness of the contracting governmental entities which organized the authority or of any cooperating parties, within the meaning of any constitutional or statutory provision or limitation.

PAID IN FULL

BORROWER: Boxelder Basin Regional Stormwater Authority, a drainage authority, pursuant to C.R.S. §29-1-204.2

(SEAL)

Attest:

By Kenneth C. Sampley
Signature

NAME: Kenneth C. Sampley

TITLE: President

DATE: 6/17/14

By Larry Lorentzen
Signature

NAME: Larry Lorentzen

TITLE: Secretary

DATE: 6/17/14

Appendix 2 to Loan Contract C150352

RESOLUTION NO. 2014-2

RESOLUTION OF THE BOXELDER BASIN REGIONAL STORMWATER AUTHORITY CONCERNING AUTHORIZING MULTIPLE LOANS FROM THE COLORADO WATER CONSERVATION BOARD FOR THE PURPOSE OF FINANCING, IN PART: (I) THE LARIMER AND WELD CANAL CROSSING PROJECT, (II) THE EAST SIDE DETENTION FACILITY PROJECT, AND (III) THE COUNTY ROAD 52 IMPROVEMENTS PROJECT; AUTHORIZING THE EXECUTION OF PROMISSORY NOTES TO EVIDENCE SUCH LOANS AND SECURITY AGREEMENTS RELATING THERETO, AND PROVIDING FOR THE PAYMENT OF SUCH NOTES FROM STORMWATER SERVICE FEES, SYSTEM DEVELOPMENT FEES AND OTHER LEGALLY AVAILABLE REVENUES OF THE AUTHORITY; AND MAKING CERTAIN COVENANTS IN CONNECTION WITH THE LOANS AND PROVIDING DETAILS IN CONNECTION THEREWITH.

WHEREAS, the Boxelder Basin Regional Stormwater Authority (the "Authority") is a drainage authority established in accordance with Section 29-1-204.2, Colorado Revised Statutes, as amended ("C.R.S."), and pursuant to an Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008 (the "Original Authority IGA"), as amended by a First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management (the "First Amendment to Authority IGA" and, together with the Original Authority IGA, the "Authority IGA"), among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town") (each of the County, the City and the Town constituting a "Member"); and

WHEREAS, the City, the County and the Town have adopted a basin master plan titled "Boxelder Creek Regional Stormwater Master Plan" dated October 2006, prepared by PBS&J Consulting Engineers (the "Plan") pertaining to stormwater facilities serving properties in the Boxelder Creek Basin, located in the County, and a portion of which are located in the City or the Town; and

WHEREAS, pursuant to the Authority IGA, the Authority has constructed, and intends to construct and otherwise provide, operate and maintain, stormwater facilities contemplated by the Plan (as more particularly defined in the Authority IGA, the "Project Improvements"); and

WHEREAS, pursuant to the Authority IGA, the Authority is authorized to collect, and presently collects, a "Stormwater Service Fee" and a "System Development Fee" both as more particularly defined and described in the Authority IGA; and

WHEREAS, the Authority has no taxing power; and

WHEREAS, as provided in the Authority IGA, the sole function of the Authority is to plan for, finance, construct, acquire, own, operate and maintain the Project Improvements, which the Authority undertakes to do on a self-supporting basis (excluding the use of moneys not constituting local government grants under TABOR) and, as such, and as contemplated by the Authority IGA and further confirmed herein, the Authority constitutes an "enterprise" within the

meaning of Article X, Section 20 of the Constitution of the State of Colorado ("TABOR") and the Water Activity Enterprise Law, Part 1 of Article 45.1, Title 37, C.R.S.; and

WHEREAS, in accordance with an Intergovernmental Agreement (Regarding Cost Sharing for Boxelder Basin Stormwater Mitigation Improvements) dated November 15, 2012 (the "TDA IGA"), between the Authority and the Timnath Development Authority, an urban renewal authority established pursuant to Title 31, Article 25, Part 1 of C.R.S. (the "TDA"), the TDA has agreed to pay to the Authority 25% of the Authority's actual costs (including costs of construction) incurred in connection with the Larimer and Weld Canal Crossing Project and the East Side Detention Facility Project (both as defined herein), as more particularly provided in the TDA IGA, which amounts the Authority has determined do not constitute grants from a local government within the meaning of TABOR or the Water Activity Enterprise Law; and

WHEREAS, the Authority is authorized pursuant to the Section 29-1-204.2, C.R.S. and the Water Activity Law issue bonds, notes, or other obligations payable from the revenues derived or to be derived from the Project Improvements and other legally available revenues of the Authority; and

WHEREAS, the Authority has determined, for the benefit of the Authority and the inhabitants of the Members, that it is necessary to provide for the Project Improvements identified in the following recital; and

WHEREAS, the Board of Directors of the Authority (the "Board") has received the following from the Colorado Water Conservation Board, an agency of the State (each referred to as a "Loan Contract" and, collectively, as the "Loan Contracts"):

(i) Loan Contract (identified as Loan Contract C150352), for a loan in an amount up to \$1,010,000, at an interest rate of 2.75% per annum, for a repayment term of 15 years, for the purpose of funding, generally, a structure designed to convey water from Boxelder Creek across the Larimer-Weld Canal (as more particularly described as the Project in such contract, referred to herein as the "Larimer and Weld Canal Crossing Structure Project"); and

(ii) Loan Contract (identified as Loan Contract C150353), for a loan in an amount up to \$7,171,000, at an interest rate of 2.75% per annum, for a repayment term of 15 years, for the purpose of funding, generally, a storm water detention facility (as more particularly described as the Project in such contract, referred to herein as the "East Side Detention Facility Project"); and

(iii) Loan Contract (identified as Loan Contract C150393), for a loan in an amount up to \$818,100, at an interest rate of 2.50% per annum, for a repayment term of 15 years, for the purpose of funding, generally, improvements to County Road 52, including the installation of drop box culverts (as more particularly described as the Project in such contract, referred to herein as the "County Road 52 Improvements Project"), which County Road 52 Improvements are the subject of an Intergovernmental Agreement for the Larimer County Road 52 Project (the "County Road 52 IGA")

proposed to be entered into among the Authority, the Members and the Timnath Development Authority; and

WHEREAS, the Authority's repayment obligations under each of the Loan Contracts will be evidenced by a Promissory Note (collectively referred to herein as the "Promissory Notes") to be issued by the Authority to the CWCB, each of which Note shall constitute a special revenue obligation of the Authority which is to be paid from Net Revenues (defined herein), and the Promissory Notes shall be secured by such Net Revenues on a parity with each other; and

WHEREAS, in accordance with the Authority IGA, the aggregate principal amount of the loans evidenced by the Loan Contracts do not exceed \$9,000,000, the terms thereof do not exceed 15 years, and the interest rates thereon do not exceed 2.75% APR; and

WHEREAS, after consideration, the Board has determined that the execution of the Loan Contracts and the issuance of the Promissory Notes to the CWCB is in furtherance of the Plan and in the best interests of the Authority and the inhabitants of the Members; and

WHEREAS, voter approval in advance is not required under Article X, Section 20 of the Colorado Constitution or any other law for the execution of the Loan Contracts or the issuance of the Promissory Notes by the Authority; and

WHEREAS, the Authority has no outstanding multi-year fiscal obligations which are secured by the Net Revenue; and

WHEREAS, the form of the Loan Contracts and related appendices have been reviewed by the Authority staff and its counsel; and

WHEREAS, the Authority desires to authorize the execution of the Loan Contracts, the issuance and delivery of the Promissory Notes, and the execution of any additional documentation which may be related to the financing, including any Security Agreement required by such Loan Contracts, provided that such authorization shall be contingent upon (i) the approval by the City and execution by all Members of the First Amendment to Authority IGA, and (ii) execution of the County Road 52 IGA by all parties thereto; therefore,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BOXELDER BASIN REGIONAL STORMWATER AUTHORITY AS FOLLOWS:

Section 1. Definitions. The following terms shall have the following meanings as used in this Ordinance:

"*Board*" means the Board of Directors of the Authority, the governing body of the Authority.

"*C.R.S.*" means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

"*CWCB*" means the Department of Natural Resources, Colorado Water Conservation Board, an executive branch agency of the State.

"Enabling Law" means the Section 29-1-204.2, C.R.S., the Supplemental Public Securities Act, the Water Activity Law and all other laws of the State establishing the power of the Authority to complete the financing contemplated by this Resolution.

"Event of Default" means any one or more of the events set forth in the Section hereof entitled "Events of Default and Remedies."

"Future Parity Obligations" means one or more series of additional bonds, notes, interim securities or other obligations issued by the Authority having a lien on the Net Revenue which is on a parity with the lien of the Promissory Notes.

"Gross Revenue" means all fees, charges and revenues directly or indirectly derived by the Authority for the services furnished by, or use of, the Project Improvements, or any part thereof, including all Stormwater Service Fees, all System Development Fees, all income attributable to any future dispositions of property or rights or related contracts, settlements, or judgments held or obtained in connection with the Project Improvements or its operations, and any amounts payable by the TDA under the TDA IGA and any amounts paid by any member in accordance with Authority IGA; provided however, that there shall be excluded from Gross Revenue (a) moneys borrowed and used for providing the capital costs of Project Improvements; and (b) any moneys received as grants or appropriations from the United States, the State of Colorado, or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom.

"Loan Contract No. C150352" means the contract, designated Loan Contract No. C150352, as may be amended from time to time, by and between the State for the use and benefit of the CWCB and the Authority.

"Loan Contract No. C150353" means the contract, designated Loan Contract No. C150353, as may be amended from time to time, by and between the State for the use and benefit of the CWCB and the Authority.

"Loan Contract No. C150393" means the contract, designated Loan Contract No. C150393, as may be amended from time to time, by and between the State for the use and benefit of the CWCB and the Authority.

"Loan Contracts" means, collectively, Loan Contract No. C150352, Loan Contract No. C150353 and Loan Contract No. C150393. "Loan Contract" refers to each of the foregoing individually, as the context requires.

"Net Revenue" means Gross Revenue after deducting Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the Authority, paid or accrued, for operating, maintaining, and repairing the Project

Improvements, including, without limitation, all legal and administrative expenses of the Authority.

“Resolution” means this Resolution which authorizes the execution of the Loan Contracts and the issuance of the Promissory Notes, including any amendments properly made hereto.

“Payment Date” means the date established pursuant to the applicable Loan Contract for the annual payment of the principal of and interest on the related Promissory Note, as set forth therein.

“Project” means, with respect to each Loan Contract, the project defined as the “Project” in such Loan Contract.

“Project Costs” means, with respect to any Project Account establish in connection with a Loan Contract, the Authority’s costs properly attributable to the Project described in such Loan Contract and permissible as “Eligible Expenses” as set forth in provision B(2) of such Loan Contract.

“Promissory Note” means, in connection with a Loan Contract, the Promissory Note evidencing the Authority’s repayment obligation from the date of substantial completion of the Project (as described in such Loan Contract), as set forth in Appendix 2 to such Loan Contract.

“Promissory Notes” means, collectively, the Promissory Notes executed in connection with the Loan Contracts.

“Required Reserve Amount” means, with respect to each Loan Contract, the amount equal to an annual loan payment thereon, as shown in the Promissory Note relating thereto.

“Reserve Account” means a special account of the Authority designated as the “2014 CWCN Note Reserve Account,” created by this Resolution for the purpose of paying, if necessary, the principal of and interest on the Promissory Notes.

“State” means the State of Colorado.

“Supplemental Public Securities Act” means Part 2 of Article 57 of Title 11, C.R.S.

“Water Activity Law” means Title 37, Article 45.1, C.R.S.

Section 2. Approval of Loan Contracts and Authorization of Promissory Notes. Pursuant to and in accordance with the State Constitution and the Enabling Law, there is hereby authorized and approved the execution of the Loan Contracts, and the Security Agreements attached thereto, in substantially the form submitted to the Board, subject to Section 9 hereof. There shall be issued by the Authority the Promissory Notes, in substantially the form submitted to the Board, subject to Section 9 hereof, in the aggregate principal amount not to exceed \$8,999,100, for the purpose of paying the Project Costs and other costs in connection with the Promissory Notes. All covenants, statements, representations and agreements contained in the Loan Contracts and the Promissory Notes are hereby approved and adopted as the covenants,

statements, representations and agreements of the Authority. The accomplishment of each Project is hereby authorized, approved and ordered.

Section 3. Form of Promissory Notes. The Promissory Notes shall be in substantially the forms set forth in Appendix 2 to each Loan Contract, subject to Section 9 hereof, with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the Authority executing the same (whose manual or facsimile signatures thereon shall constitute conclusive evidence of such approval), and shall have terms equal to 15 years. The interest rates authorized for the Promissory Notes are as follows: (i) for the Promissory Note executed in connection with Loan Contract No. 150352, 2.75% per annum, (ii) for the Promissory Note executed in connection with Loan Contract No. 150353, 2.75% per annum, (iii) for the Promissory Note executed in connection with Loan Contract No. 150393, 2.50% per annum, in each case, exclusive of any late charges of 5.0% of the annual payment due which may be imposed pursuant to the terms of the Loan Contract for any late payments, and in each case, with maximum net effective interest rates equal to the "net effective rate" calculated in accordance with the definition thereof set forth in Section 31-35-401, C.R.S., and assuming the foregoing interest rates and terms of 15 years, and the annual payments set forth in such Promissory Notes.

Section 4. Fund and Accounts.

(a) ***Re-Affirmation of Funds; Creation of Accounts.*** There is hereby reaffirmed the following funds previously established by the Authority: the General Fund, the Debt Service Fund and the Capital Project Fund. There is hereby established within the Debt Service Fund the "Reserve Account", which shall secure the amount due under the Loan Contracts, and shall be maintained by the Authority in accordance with the provisions of this Resolution. There is hereby established the following accounts within the Capital Projects Fund (each referred to as a "Project Account"): the "150352 Project Account" (relating to Loan Contract No. 150352), the "150353 Project Account" (relating to Loan Contract No. 150353), and the "150393 Project Account" (relating to Loan Contract No. 150393), which shall be maintained by the Authority in accordance with the provisions of this Resolution. The Authority shall keep proper books of record and accounts showing complete and correct entries of all transactions relating to the funds and accounts referred to herein and in such manner that the Gross Revenue and the Net Revenue may at all times be readily and accurately determined.

(b) ***Project Accounts.*** All moneys received from CWCB under each Loan Contract shall be credited to the related Project Account and shall be applied solely to the payment of the Project Costs for such Loan Contract. Upon the determination of the Board that all Project Costs for a Loan Contract have been paid or are determinable, any balance remaining in the related Project Account (less any amounts necessary to pay Project Costs not then due and owing) shall be applied solely in accordance with the terms of the Loan Contract, including without limitation provision A(5) thereof.

(c) *Reserve Account.*

(i) *Use of Moneys in the Reserve Account.* Moneys in the Reserve Account shall be used, if necessary, only to prevent a default in the payment of the principal of or interest on the Promissory Notes on any Payment Date and the Reserve Account is hereby pledged to the payment of the Promissory Notes. The Authority shall transfer moneys from the Reserve Account to pay principal of and interest on the Promissory Notes in the event that Net Revenues are not sufficient to make such payments when due.

(ii) *Funding and Maintenance of Required Reserve Amount.* Commencing with the first Payment Date for each Loan Contract, the Authority shall annually credit an amount equal to one-tenth of the Required Reserve Amount for such Loan Contracts on or before each Payment Date until such time as the amount credited thereto is equal to the Required Reserve Amount (i.e., the Reserve Account is to be fully funded within ten years from substantial completion of the Project). In the event that moneys from the Reserve Account are transferred to provided in paragraph (i) of this Subsection, such amount shall be replenished from Net Revenues within the time period set forth in the Loan Contracts. Moneys credited to the Reserve Account may be invested or deposited in lawful securities or obligations and all interest income from the investment or reinvestment of moneys credited to the Reserve Account shall be credited to the Reserve Account until the amount therein is equal to the Required Reserve Amount, at which time the balance of the Reserve Account shall be maintained in the Required Reserve Amount and such interest income shall be credited to the Debt Service Fund and applied to payment of the Promissory Notes.

(d) *Audits.* At least once a year in the time and manner provided by law, the Authority will cause an audit to be performed of the records relating to its revenues and expenditures. In addition, at least once a year in the time and manner provided by law, the Authority will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time and manner provided by law. The Authority covenants to submit a copy of the annual audit and certificate of debt service coverage to the CWCBC as provided in provision A(8)(f) of the Loan Contracts.

Section 5. Security for Payment of the Promissory Notes.

(a) *Pledge of Net Revenues.* Each Promissory Note shall constitute an irrevocable and first lien upon the Net Revenue, but not an exclusive first lien. The Net Revenue is hereby pledged to the payment of each Promissory Note on a parity with the lien of the other Promissory Notes. The creation, perfection, enforcement and priority of the pledge of revenues to secure or pay the Promissory Note shall be governed by Section 11-57-208, C.R.S. and this Resolution. The Net Revenue shall immediately be subject to the lien of such pledge without any physical delivery, filing or further act. **For purposes of the Loan Contracts and the Promissory Notes, the term "Pledged Revenues" used therein shall mean the Net Revenue, as defined herein.**

(b) ***Application of Net Revenues.*** The Authority shall credit to the General Fund all Gross Revenue immediately upon receipt. The Authority shall pay from the General Fund all Operation and Maintenance Expenses as they become due and payable. After such payment or the allocation of Gross Revenue to such payment, the Authority shall apply the Net Revenue to payment of the Promissory Notes and replenishment of the Reserve Account in accordance with the Loan Contracts.

(c) ***Promissory Note Does Not Constitute a Debt of Members.*** Each Promissory Note, together with the interest thereon, shall be payable only out of: (i) the Net Revenue; or (ii) if necessary, the Reserve Account. The CWCB may not look to the funds, accounts or assets of any Member for the payment of the principal of and interest on the Promissory Notes, and the Loan Contracts and the Promissory Notes shall not constitute a debt or an indebtedness of any Member within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of any Member.

Section 6. Additional Obligations. No bonds, notes, interim securities or other obligations shall be issued payable from the Net Revenue and having a lien thereon which is superior to the lien of the Promissory Notes. The Authority may issue Future Parity Obligations only upon compliance with the requirements of provision A(8)(e) of the Loan Contracts. So long as no Event of Default shall have occurred and be continuing, nothing herein shall prevent the Authority from issuing obligations payable from the Net Revenue on a basis subordinate to the Promissory Notes.

Section 7. Additional Covenants and Agreements.

(a) ***Maintenance of Rates and Coverage.*** The Authority hereby covenants that it will establish, maintain, enforce and collect rates, fees and charges for services furnished by or the use of the Project Improvements as required in provision A(8)(c) of the Loan Contracts. In the event that the Gross Revenue at any time is not sufficient to make the payments required by said provision, the Authority covenants to promptly increase such rates, fees and charges to an extent which will ensure compliance with said covenant.

(b) ***Enterprise Status.*** The Authority operates, and covenants to continue to operate, as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution; provided, however, after calendar year 2014 the Authority may disqualify itself as an "enterprise" in any year in which said disqualification does not materially, adversely affect the enforceability of the covenants made pursuant to this Resolution.

(c) ***Findings of the Board.*** The Board, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants with the CWCB that:

(i) The Authority has been duly established and is operating during the current calendar year as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution;

(ii) the Board elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S. to the execution of the Loan Contracts and to the issuance of the Promissory Notes; and

(iii) the execution of the Loan Contracts and the issuance and delivery of the Promissory Notes, and all procedures undertaken incident thereto, are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and the Enabling Law, and all conditions and limitations of the Enabling Law and other applicable law relating to the execution of the Loan Contracts and the issuance and delivery of the Promissory Notes have been satisfied.

Section 8. Events of Default and Remedies.

(a) *Events of Default.* The occurrence or existence of any one or more of the following events shall be an Event of Default hereunder:

(i) payment of the principal of or interest on any Promissory Note is not made by the Authority when due; or

(ii) the Authority defaults in the performance of any other of its covenants in this Resolution, and such default continues for 30 days after written notice from CWCB specifying such default.

(b) *Remedies for Events of Default.* Upon the occurrence and continuance of an Event of Default, the CWCB may protect and enforce its rights by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenants, injunctive relief or requiring the Board to act as if it were the trustee of an express trust, or any combination of such remedies.

Section 9. Approval of Documents. The President (or in the President's absence the Vice President) and the Secretary of the Board shall, and they are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Resolution, including, but not limited to, the execution of the Loan Contracts, the Promissory Notes, the Security Agreements (as set forth in Appendix 2 to the Loan Contracts) in substantially the forms presented to the Board, with such non-material changes thereto, not inconsistent herewith, as may be necessary or desirable to effectuate the provisions of this Resolution and approved by counsel to the Authority and the officials of the Authority executing the same (whose manual or facsimile signatures thereon of such officials shall constitute conclusive evidence of such approval), and execution of such additional agreements, certificates and affidavits as may be reasonably required to effectuate the provisions of this Resolution. The execution by the President (or in the President's absence the Vice President) of the Board of any document authorized herein shall be conclusive proof of the approval by the Authority of the terms thereof.

Section 10. Contingent Authorization. The authorizations provided in this Resolution are expressly contingent upon satisfaction of both of the following conditions: (i) the approval by the City and execution by all Members of the First Amendment to Authority IGA, and (ii) execution of the County Road 52 IGA by all parties thereto.

Section 11. Amendment of Resolution. This Resolution may be amended only with the prior written consent of CWCB.

Section 12. Limitation of Actions. In accordance with Section 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization and execution of the Loan Contracts or issuance and delivery of the Promissory Notes more than 30 days after the date of passage of this Resolution.

Section 13. Ratification of Prior Actions. All actions heretofore taken (not inconsistent with the provisions of this Resolution) by the Board or by the officers and employees of the Authority directed toward the issuance of the Promissory Notes for the purposes herein set forth are hereby ratified, approved and confirmed.

Section 14. Headings. The headings to the various sections and paragraphs to this Resolution have been inserted solely for the convenience of the reader, are not a part of this Resolution, and shall not be used in any manner to interpret this Resolution.

Section 15. Resolution Irrepealable. After any one of the Promissory Notes has been issued, this Resolution shall constitute a contract between CWCB and the Authority, and shall be and remain irrepealable until the Promissory Notes and the interest accruing thereon shall have been fully paid, satisfied and discharged, as herein provided.

Section 16. Severability. It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

Section 17. Repealer. All orders, bylaws, resolutions and ordinances of the Authority, or parts thereof, inconsistent or in conflict with this Ordinance are hereby repealed to the extent only of such inconsistency or conflict.

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Section 18. Effective Date. This Resolution shall be effective as of the date of adoption by the Board; provided that the authorizations contained herein shall be contingent upon the conditions set forth in Section 10 hereof.

ADOPTED this 17th day of JUNE, 2014.

BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

By: Kath C. Sapley
President

ATTEST:

By: [Signature]
Secretary

PAID IN FULL

SECURITY AGREEMENT

(PLEDGE OF REVENUES)

DATE: JUNE 17, 2014

DEBTOR: Boxelder Basin Regional Stormwater Authority, a drainage authority pursuant to C.R.S. §29-1-204.2

SECURED PARTY: COLORADO WATER CONSERVATION BOARD
1313 SHERMAN STREET, ROOM 721
DENVER, CO 80203

PROMISSORY NOTE: \$1,010,000

TERMS OF REPAYMENT: 2.75% PER ANNUM FOR 15 YEARS

LOAN CONTRACT: C150352

COLLATERAL: The Pledged Revenues, as such term is defined in the Loan Resolution adopted by the Debtor on JUNE 17, 2014.

To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the TERMS OF REPAYMENT, or until all principal, interests, and late charges, if any, are paid in full, the DEBTOR grants to SECURED PARTY a security interest in the above described COLLATERAL.

DEBTOR EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Section 5 of the Loan Contract Project Summary, DEBTOR is the owner of the COLLATERAL free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the COLLATERAL against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by DEBTOR will not violate any law or agreement governing DEBTOR or to which DEBTOR is a party.
3. To not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the COLLATERAL and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the CONTRACT and by its representations herein, DEBTOR shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the COLLATERAL pursuant to the terms of this agreement.

UNTIL DEFAULT DEBTOR may have possession of the COLLATERAL, provided that DEBTOR keeps the COLLATERAL in an account separate from other revenues of DEBTOR and does not use the COLLATERAL for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the COLLATERAL.

DEBTOR SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:

- a. default in the payment or performance of any obligation contained herein or in the PROMISSORY NOTE or Loan CONTRACT;
- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against DEBTOR; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of DEBTOR which proves to have been false in any material respect when made or furnished.

UPON SUCH DEFAULT and at any time thereafter, SECURED PARTY shall have the remedies of a secured party under Section 11-57-208, Colorado Revised Statutes, as amended. SECURED PARTY may require DEBTOR to deliver or make the COLLATERAL available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY'S reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the DEBTOR written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the DEBTOR shall be considered in default for purposes of this SECURITY AGREEMENT. No default shall be waived by SECURED PARTY except in writing, and no waiver by SECURED PARTY of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this SECURITY AGREEMENT shall not waive or impair any other security SECURED PARTY may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this SECURITY AGREEMENT; but SECURED PARTY shall retain its rights of set-off against DEBTOR. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and DEBTOR consents to venue and personal jurisdiction in said Court.

All rights of SECURED PARTY hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of DEBTOR shall bind its successors or assigns.

PAID IN FULL

DEBTOR: Boxelder Basin Regional
Stormwater Authority, a drainage authority
pursuant to C.R.S. §29-1-204.2

(SEAL)

Attest:

By


Signature

NAME:

TITLE:

DATE:

Larry Lorentzen
Secretary
6/17/14

By

NAME:

TITLE:

DATE:

Karl C. Sampley
Kenneth C. Sampley
President
6/17/14

PAID IN FULL

UCC Financing Statement

Colorado Secretary of State

Date and Time: 11/19/2019 01:41:24 PM

Master ID: 20192106916

Validation Number: 20192106916

Amount: \$8.00

Debtor: (Organization)

Name: BOXELDER BASIN REGIONAL STORMWATER
AUTHORITY

Address1: 550 EISENHOWER BLVD

Address2:

City: LOVELAND

State: CO

ZIP/Postal Code: 80537

Province:

Country: United States

Secured Party: (Organization)

Name: STATE OF COLORADO WATER CONSERVATION BOARD

Address1: 1313 SHERMAN ST RM718

Address2:

City: DENVER

State: CO

ZIP/Postal Code: 80203

Province:

Country: United States

Collateral

Description:

SECURED PARTYS REVENUES PLEDGED TO REPAY LOAN OF \$835,104.53 IN ACCORDANCE WITH
LOAN CONTRACT NO. CT2015-071 AND PROMISSORY NOTE, DATED JUNE 26, 2017



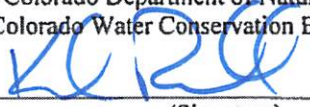
LOAN CONTRACT AMENDMENT NO. 2

SIGNATURE AND COVER PAGE (THREE SIGNED ORIGINALS REQUIRED)

State Agency: Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 2 Contract Number CMS 101136 CT2015-071
Borrower Boxelder Basin Regional Stormwater Authority	Original Contract Number Amendment No. 1 CMS 65323 CMS 93063 C150352 CT2015-071
Current Contract Maximum Amount \$835,104.53	Contract Performance (Project) Beginning Date 08/08/2014
Reason for Modification Provide a one year deferment for the 2017 initial principal payment	Contract Performance (Project) End Date 08/01/2016 Loan Contract Repayment Schedule (See Promissory Note) Payment Initiation Date: August 1, 2016 Maturity Date: August 1, 2031


THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

BORROWER Boxelder Basin Regional Stormwater Authority  (Signature) Name: <u>Gerry Horak</u> Title: <u>President</u> Date: <u>6/26/17</u> ATTEST:  (Signature) Name: <u>Martina Wilkinson</u> Title: <u>Secretary</u> Date: <u>6/26/17</u>	STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB)  (Signature) Name: Kirk Russell, P.E., Section Chief CWCB Finance Section Date: <u>6/30/17</u>
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In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD


By: Susan Borup, Controller, Department of Natural Resources

Amendment Effective Date: 7/6/17

**APPENDIX B-1, AMENDMENT NO. 2 TO LOAN CONTRACT CT2015-071
AMENDMENT TO SECURITY AGREEMENT**

DEBTOR: Boxelder Basin Regional Stormwater Authority

SECURED PARTY: Colorado Water Conservation Board

REVISED LOAN AMOUNT: \$835,104.53

TERM OF REPAYMENT: 15 years at the interest rate of 2.75%. The first payment will be interest only in the amount of \$22,965.37, with annual payments of \$72,674.61 over the remaining 14 years of the original 15 year loan.

LOAN CONTRACT NUMBER: CT2015-071 (C150352)

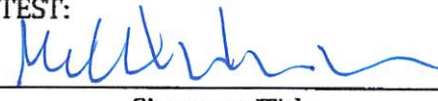
1. The Parties hereby agree to amend the Original Security Agreement, attached to the Original Contract as Appendix 4 and the Amendment to Security Agreement, attached as Appendix B to Contract Amendment No. 1, to modify the repayment provisions of the loan contract in include the 2017 interest only payment of \$22,965.37 and thereafter principal and interest shall be payable in the annual loan payment of \$72,674.61.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.
3. Collateral for the loan remains the same.

DEBTOR: BOXELDER BASIN REGIONAL STORMWATER
AUTHORITY

(SEAL)

By  / President
Signature/Title

ATTEST:

By  / Secretary Date 6/26/17
Signature/Title

Date 6/26/17

and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Boxelder Basin Regional
Stormwater Authority

(SEAL)

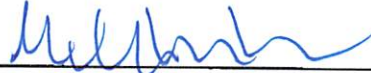
By



Signature

Attest:

By



Signature

Name

Gerry Horak

Title

President

Name

Martina Wilkinson

Date

6/26/17

Title

Secretary

Date

6/26/17

**APPENDIX A, AMENDMENT NO. 1 TO LOAN CONTRACT CT2015-071
AMENDMENT TO PROMISSORY NOTE**

Date: September 26, 2016

Borrower: Boxelder Basin Regional Stormwater Authority

Total Loan Amount: \$835,104.53

Interest Rate: 2.75% per annum

Term of Repayment: 15 years

Loan Contract No.: CT2015-071 (C150352)

Loan Payment: \$68,695.01

Payment Initiation Date: August 1, 2016

Maturity Date: August 1, 2031

For substantially completed projects, remove all asterisks and sentence after asterisk.

FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this promissory note.

1. This Promissory Note replaces and supersedes the Promissory Note dated June 17, 2014, in the amount of \$1,010,000.00.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date, and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.

6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.
8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: BOXELDER BASIN REGIONAL
STORMWATER AUTHORITY

(S E A L)

By Garry Hovak
Signature

Name Garry Hovak

Title President

Date 9/26/16

Attest:

By Stan A. Myers
Signature

Name STAN A. MYERS

Title AUTHORITY MANAGER

Date 9/26/16

**APPENDIX B, AMENDMENT NO. 1 TO LOAN CONTRACT CT2015-071 (C150352)
AMENDMENT TO SECURITY AGREEMENT**

DEBTOR: BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

DATE OF ORIGINAL SECURITY AGREEMENT: JUNE 17, 2014

ORIGINAL PROMISSORY NOTE: \$1,010,000.00 DATED JUNE 17, 2014, AT THE INTEREST
RATE OF 2.75% FOR 15 YEARS OR UNTIL PAID IN FULL.

LOAN CONTRACT NUMBER: CT2015-071 (C150352)

1. The Parties have amended the ORIGINAL LOAN CONTRACT and Promissory Note to decrease the loan amount by \$174,895.47, from \$1,010,000.00 to \$835,104.53, and hereby amend the original Security Agreement to document the change of loan amount.
2. The Parties expressly agree that this Amendment is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

AMENDED LOAN CONTRACT: AMENDMENT NO. 1 TO LOAN CONTRACT NO.
CT2015-071

Replacement Promissory Note: Total Loan Amount is \$835,104.53, with an annual
loan payment of \$68,695.01, at an interest rate of
2.75%, for 15 years or until the loan is paid in full.

DEBTOR: BOXELDER BASIN REGIONAL STORMWATER
AUTHORITY

(SEAL)

By

Greg Nord / President
Signature/Title

ATTEST:

By

St. O. Myers AUTHORITY MGR
Signature/Title

Date

9/26/16

Date

9/26/16

PROMISSORY NOTE

Date: June 17, 2014

Borrower: Boxelder Basin Regional Stormwater Authority, a drainage authority pursuant to C.R.S. §29-1-204.2

Principal Amount: \$1,010,000

Interest Rate: 2.75% per annum

Term of Repayment: 15 years

Loan Contract No.: C150352

Loan Payment: \$83,081.76

Payment Initiation Date*: _____

Maturity Date*: _____

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE. Notwithstanding anything herein or in the Loan Contract to the contrary, all amounts payable under this PROMISSORY NOTE or the LOAN CONTRACT shall be payable only from the "Net Revenue" (as defined in the Loan Resolution of the Borrower authorizing the same).
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT, ("SECURITY INSTRUMENT") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The

Appendix 2 to Loan Contract C150352

LOAN CONTRACT and SECURITY INSTRUMENTS grant additional rights to the CWCB.

8. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this PROMISSORY NOTE.
9. The BORROWER and any co-signer or guarantor hereby agree that if this PROMISSORY NOTE or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This PROMISSORY NOTE shall be governed in all respects by the laws of the State of Colorado.
11. This Note is issued pursuant to and under the authority of §11-57-210, C.R.S. and §31-35-413, C.R.S., and pursuant to such statutes, the foregoing recital shall be conclusive evidence of the validity and the regularity of the issuance of this Note after its delivery for value, shall conclusively impart full compliance with all of the provisions of Title 31, Article 35, Part 4, C.R.S., and this Note containing such recital shall be incontestable for any cause whatsoever after its delivery for value.
12. This Note, including the interest hereon, does not constitute a debt or indebtedness of the authority within the meaning of any constitutional or statutory provision or limitation, and shall not be considered or held to be a general obligation of the BORROWER. This Note shall not constitute a debt or an indebtedness of the contracting governmental entities which organized the authority or of any cooperating parties, within the meaning of any constitutional or statutory provision or limitation.

BORROWER: Boxelder Basin Regional Stormwater
Authority, a drainage authority, pursuant to C.R.S.
§29-1-204.2

(SEAL)

Attest:

By


Signature

NAME:

Larry Lorentzen

TITLE:

Secretary

DATE:

6/17/14

By


Signature

NAME:

Kenneth C. Sampley

TITLE:

President

DATE:

6/17/14

GREGORY A. WHITE

Attorney at Law

North Park Place
1423 West 29th Street
Loveland, Colorado 80538

970/667-5310
Fax 970/667-2527

June 29, 2017

Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Boxelder Basin Regional Stormwater Authority
Colorado Water Conservation Board Original Contract Number
CMS 65323, C150352
Amendment No. 1 Contract Number CMS 93063, CT 2015-071
Amendment No. 2 Contract Number CMS 101136, CT2015-071

To Whom It May Concern:

I am the General Counsel for the Boxelder Basin Regional Stormwater Authority (the "Authority"). I am providing the opinion required by the State of Colorado Department of Natural Resources Water Conservation Board ("CWCB") in provision 5(A)(D) of the Loan Contract Amendment No. 2 (the "Amended Loan Contract").

The execution by the Authority of the Amended Loan Contract, including the documents attached thereto, was approved pursuant to Resolution No. 2017-06-01 passed and adopted by the Board of Directors of the Authority on June 26, 2017 (the "Resolution").

I have examined the constitution and the laws of the State of Colorado (the "State"), an Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008, as amended by a First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014, among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town") collectively (the "Authority IGA"), the Intergovernmental Agreement for the Larimer County Road 52 Project dated June 16, 2014, among the Authority, the County, the City, the Town and the Timnath Development Authority, and such certified proceedings, certificates, documents, opinions and other papers as I deem necessary to render this opinion.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion, under existing law and as of the date hereof, that:

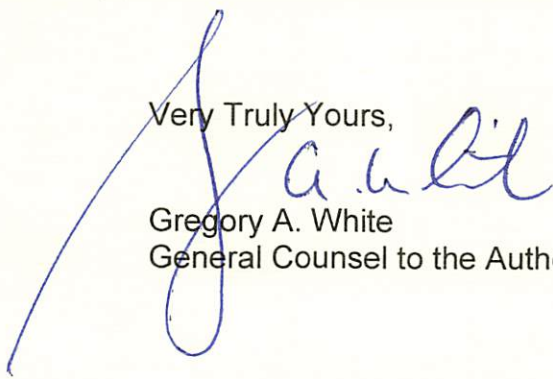
- (a) The Amended Loan Contract has been duly executed by officers of the Authority who are duly appointed and are authorized to execute the Amended Loan Contract and to bind the Authority; and
- (b) The Resolution of the Authority authorizing the execution and delivery of the Amended Loan Contract was duly adopted by the governing body of the Authority.

The rights of the CWCB under the Amended Loan Contract and the enforceability of the Amended Loan Contract may be limited by the effect of, and by restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally heretofore or hereafter enacted or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, and are further subject as to enforceability to judicial discretion, to the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State, and to the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the lettered paragraphs herein. This opinion is given as of the date hereof and I assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to my attention or any changes in law that may hereafter occur.

This opinion may be relied upon solely by the addressee hereto in connection with the execution and delivery of the Amended Loan Contract. This opinion may not be relied upon for any other purpose or by any person other than the addressee.

Very Truly Yours,


Gregory A. White
General Counsel to the Authority

GAW/ldr

Cc: Stan Meyers, Authority Manager
Kim Casey Reed, Bond Counsel
Boxelder Authority Board

KUTAK ROCK LLP
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June 29, 2017

Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Boxelder Basin Regional Stormwater Authority
Loan Contract Amendment No. 2, amending
Colorado Water Conservation Board Loan Contract No. C150352

To Whom It May Concern:

We have been engaged by Boxelder Basin Regional Stormwater Authority (the "Authority") for the sole purpose of providing the bond counsel opinion required by the State of Colorado Department of Natural Resources Water Conservation Board ("CWCB") in provision 5(D) of Loan Contract Amendment No. 2 (the "Loan Contract Amendment"), amending that certain Loan Contract No. C150352 (the "Original Loan Contract").

The execution by the Authority of the Loan Contract Amendment, including the documents attached thereto, was approved pursuant to Resolution No. 2017-06-01 passed and adopted by the Board of Directors of the Authority on June 26, 2017 (the "Amendment Resolution"). The execution by the Authority of the Original Loan Contract, including the documents attached thereto, was approved pursuant to Resolution No. 2014-2 passed and adopted by the Board of Directors of the Authority on May 28, 2014 (the "Original Loan Resolution").

We have examined the constitution and the laws of the State of Colorado (the "State"), an Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008, as amended by a First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014, among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town"), the Intergovernmental Agreement for the Larimer County Road 52 Project dated June 16, 2014, among the Authority, the County, the City, the Town and the Timnath Development Authority, and such certified proceedings, certificates, documents, opinions and other papers as we deem necessary to render this opinion, including, but not limited to, the Amendment Resolution and a resolution of the Town Board of the Town adopted on June 27, 2017. As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to

June 29, 2017

Page 2

verify the same by independent investigation. We have assumed the due authorization, execution and delivery of the Loan Contract Amendment by, and the enforceability of the Loan Contract Amendment against, the CWCB.

Based upon the foregoing, we are of the opinion, under existing law and as of the date hereof, that:

(a) there are no provisions in the Colorado Constitution or any other State or local law applicable to the Authority that prevent the Loan Contract Amendment from binding the Authority;

(b) the Loan Contract Amendment will be valid and binding against the Authority if entered into by the CWCB.

We note that pledged for repayment of the loan are solely those revenues defined as the "Pledge Revenues" in the Original Loan Contract and the "Net Revenue" in the Original Loan Resolution, all as more particularly set forth in the Original Loan Contract and the Original Loan Resolution, as amended by the Loan Contract Amendment and the Amendment Resolution, respectively.

The rights of the CWCB under the Loan Contract Amendment and the enforceability of the Loan Contract Amendment may be limited by the effect of, and by restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally heretofore or hereafter enacted or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, and are further subject as to enforceability to judicial discretion, to the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State, and to the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

We express no opinion herein as to any matter not specifically set forth above. This opinion is given as of the date hereof and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

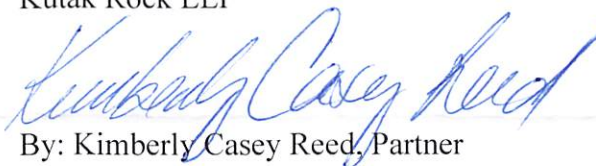
KUTAK ROCK LLP

June 29, 2017

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This opinion may be relied upon solely by the addressee hereto in connection with the execution and delivery of the Loan Contract Amendment. This opinion may not be relied upon for any other purpose or by any person other than the addressee.

Sincerely,
Kutak Rock LLP



By: Kimberly Casey Reed, Partner

cc: Peg Mason
Contracts Manager, CWCB
Stan Meyers
Authority Manager
Greg White
General Counsel to Authority

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June 20, 2014

Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Boxelder Basin Regional Stormwater Authority
Colorado Water Conservation Board Loan Contract No. C150352

To Whom It May Concern:

We have been engaged by Boxelder Basin Regional Stormwater Authority (the "Authority") for the sole purpose of providing the bond counsel opinion required by the State of Colorado Department of Natural Resources Water Conservation Board ("CWCB") in provision A(7)(c) and (d) of that certain Loan Contract No. C150352 (the "Loan Contract").

The execution by the Authority of the Loan Contract, including the documents attached thereto, was approved pursuant to Resolution No. 2014-2 passed and adopted by the Board of Directors of the Authority on May 28, 2014 (the "Loan Resolution").

We have examined the constitution and the laws of the State of Colorado (the "State"), an Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008, as amended by a First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014, among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town"), the Intergovernmental Agreement for the Larimer County Road 52 Project dated June 16, 2014, among the Authority, the County, the City, the Town and the Timnath Development Authority, and such certified proceedings, certificates, documents, opinions and other papers as we deem necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation. We have assumed the due authorization, execution and delivery of the Loan Contract by, and the enforceability of the Loan Contract against, the CWCB.

Based upon the foregoing, we are of the opinion, under existing law and as of the date hereof, that:

June 20, 2014

Page 2

(a) there are no provisions in the Colorado Constitution or any other State or local law applicable to the Authority that prevent the Loan Contract from binding the Authority;

(b) the Loan Contract will be valid and binding against the Authority if entered into by the CWCB.

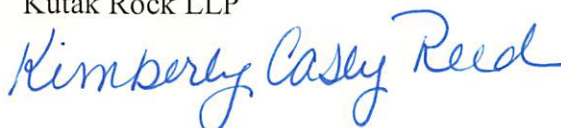
We note that pledged for repayment of the loan are solely those revenues defined as the "Pledge Revenues" in the Loan Contract and the "Net Revenue" in the Loan Resolution, all as more particularly set forth in the Loan Contract and the Loan Resolution.

The rights of the CWCB under the Loan Contract and the enforceability of the Loan Contract may be limited by the effect of, and by restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally heretofore or hereafter enacted or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, and are further subject as to enforceability to judicial discretion, to the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State, and to the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

We express no opinion herein as to any matter not specifically set forth above. This opinion is given as of the date hereof and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

This opinion may be relied upon solely by the addressee hereto in connection with the execution and delivery of the Loan Contract. This opinion may not be relied upon for any other purpose or by any person other than the addressee.

Sincerely,
Kutak Rock LLP



By: Kimberly Casey Reed, Partner

cc: Peg Mason
Contracts Manager, CWCB
Stan Meyers
Authority Manager
Greg White
General Counsel to Authority

GREGORY A. WHITE

Attorney at Law

North Park Place
1423 West 29th Street
Loveland, Colorado 80538

970/667-5310
Fax 970/667-2527

June 23, 2014

Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Boxelder Basin Regional Stormwater Authority
Colorado Water Conservation Board Loan Contract No. C150352

To Whom It May Concern:

I am the General Counsel for the Boxelder Basin Regional Stormwater Authority (the "Authority"). I am providing the opinion required by the State of Colorado Department of Natural Resources Water Conservation Board ("CWCB") in provision A(7) (a), (b) and (e) of that certain Loan Contract No. C150352 (the "Loan Contract").

The execution by the Authority of the Loan Contract, including the documents attached thereto, was approved pursuant to Resolution No. 2014-2 passed and adopted by the Board of Directors of the Authority on May 28, 2014 (the "Loan Resolution").

I have examined the constitution and the laws of the State of Colorado (the "State"), an Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008, as amended by a First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014, among the Board of Commissioners of Larimer County (the "County"), the City of Fort Collins, Colorado (the "City"), and the Town of Wellington (the "Town"), the Intergovernmental Agreement for the Larimer County Road 52 Project dated June 16, 2014, among the Authority, the County, the City, the Town and the Timnath Development Authority, and such certified proceedings, certificates, documents, opinions and other papers as I deem necessary to render this opinion.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion, under existing law and as of the date hereof, that:

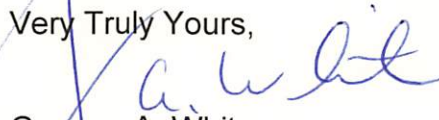
- (a) The Loan Contract has been duly executed by officers of the Authority who are duly elected or appointed and are authorized to execute the Loan Contract and to bind the Authority; and
- (b) The resolution of the Authority authorizing the execution and delivery of the Loan Contract was duly adopted by the governing body of the Authority; and
- (c) The Authority was formed and is operated as a drainage authority pursuant to the provisions of Section 29-1-204.2 C.R.S.

The rights of the CWCB under the Loan Contract and the enforceability of the Loan Contract may be limited by the effect of, and by restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally heretofore or hereafter enacted or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, and are further subject as to enforceability to judicial discretion, to the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State, and to the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the lettered paragraphs herein. This opinion is given as of the date hereof and I assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to my attention or any changes in law that may hereafter occur.

This opinion may be relied upon solely by the addressee hereto in connection with the execution and delivery of the Loan Contract. This opinion may not be relied upon for any other purpose or by any person other than the addressee.

Very Truly Yours,



Gregory A. White
General Counsel to the Authority

GAW/ldr

Cc: Peg Mason, Contracts Manager, CWCB
Stan Meyers, Authority Manager
Kim Casey Reed, Bond Counsel

Final

INTERGOVERNMENTAL AGREEMENT
FOR STORMWATER COOPERATION
AND MANAGEMENT

THIS INTERGOVERNMENTAL AGREEMENT FOR STORMWATER COOPERATION AND MANAGEMENT (this "Agreement"), entered into this 20th day of August, 2008, by and among THE BOARD OF COMMISSIONERS OF LARIMER COUNTY, COLORADO (the "County"); THE CITY OF FORT COLLINS, COLORADO, a municipal corporation (the "City"); and THE TOWN OF WELLINGTON, COLORADO, a statutory municipality (the "Town").

WITNESSETH:

WHEREAS, recent growth in the Fort Collins Urban Growth Area (the "City UGA") and the Wellington Urban Growth Area (the "Town UGA") suggests that increased coordination and cooperation between the City, the Town and the County may result in better management, problem resolution, design, construction, maintenance and joint financing of stormwater facilities; and

WHEREAS, the City has established and currently operates its own stormwater utility and its own stormwater utility enterprise (hereinafter referred to jointly as the "City Stormwater Utility Enterprise") to provide and finance stormwater services within the City; and

WHEREAS, the Town has not established a stormwater utility but intends to do so and further intends to operate such stormwater utility as a stormwater utility enterprise (the "Town Stormwater Utility Enterprise") to provide and finance stormwater services within the Town; and

WHEREAS, the County currently collects a stormwater impact fee at the time of development of properties within the Boxelder Creek Basin ("Boxelder Basin" or the "Basin"), below County Road 70; and

WHEREAS, the Boxelder Creek Floodplain (the "Boxelder Floodplain") is designated in a Flood Insurance Study prepared by the Federal Emergency Management Agency and dated December 19, 2006; and

WHEREAS, the County is authorized to establish, expand and operate a stormwater utility or stormwater utility enterprise throughout all portions of the Boxelder Basin that are located solely within the boundaries of the County and outside any municipality; pursuant to C.R.S. Section 30-11-107(1)(w), Section 30-20-401, et seq., and Section 37-45.1-101, et seq.; and

WHEREAS, a basin master plan titled "Boxelder Creek Regional Stormwater Master Plan" dated October 2006 and prepared by PBS&J Consulting Engineers (the "Plan") has been adopted by the City, the Town and the County; and

WHEREAS, recent engineering studies indicate that constructing stormwater facilities

within the Boxelder Floodplain to store stormwater would reduce the threat of floods for approximately 4,900 acres in the Boxelder Floodplain, which acres are located in portions of the City, portions of the Town and in unincorporated Larimer County and would reduce damages to public and private properties, reduce the risk to citizens, increase protection for public roads, bridges and other facilities in the Boxelder Basin; and

WHEREAS, the parties anticipate that areas in the Basin and in the unincorporated areas of the County will be annexed into the City or the Town in the future, subject to the urban growth area boundaries and standards of the City and the Town; and

WHEREAS, the elimination of such flood hazards, as well as the resulting relaxation of associated land use restrictions, would alleviate some of the financial hardships associated with developing those properties that are now located within the Boxelder Basin; and

WHEREAS, the various risks and hazards existing or anticipated to exist in the Basin can be alleviated most efficiently and at the least cost through a regional effort; and

WHEREAS, it appears that financing the construction of the needed stormwater facilities for the Boxelder Basin on a regional basis is best accomplished by the County and the other Members hereto forming an Authority as provided herein, to include those properties located within the Boxelder Basin; and

WHEREAS, the City currently charges a City-wide stormwater impact fee as a condition of issuance of a building permit or, if no building permit is required, upon commencement of construction for new development on those properties located within the City, and further charges an ongoing monthly stormwater fee to all developed properties within the City's boundaries; and

WHEREAS, the Town intends to charge a stormwater basin fee as a condition of issuance of a building permit or, if no building permit is required, upon commencement of construction for new development on those properties located within the Town; and

WHEREAS, as noted above, the County currently charges a stormwater basin impact fee at the time building permits are issued for new development on those properties located in the unincorporated areas of the County within a portion of the Boxelder Basin; and

WHEREAS, it appears that the financing, construction, maintenance and operation of the needed stormwater facilities in the Boxelder Basin are best accomplished by the County expanding or establishing a stormwater utility enterprise (hereinafter referred to jointly as the "County Stormwater Utility Enterprise") to work cooperatively with the Town's Stormwater Utility Enterprise and the City's Stormwater Utility Enterprise; and

WHEREAS, construction, operation and maintenance of said additional stormwater facilities for the Boxelder Basin in accordance with Urban Storm Drainage Criteria Manual Best Management Practices is necessary and beneficial to the public health, safety and welfare; and

Management Practices is necessary and beneficial to the public health, safety and welfare; and

WHEREAS, each of the parties has materially relied on the participation of all parties to this agreement and on the inclusion of all of the property within the defined Service Area to accomplish the purposes set forth in this Agreement, and

WHEREAS, the City, the Town and the County desire to enter into this Agreement in order to delineate the duties and responsibilities of each Member with respect to the proposed stormwater improvements for the Boxelder Basin; and

WHEREAS, C.R.S. Section 29-1-203 authorizes the City, the Town and the County to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each of them, which cooperation may include the sharing of costs and the incurring of debt; and

WHEREAS, C.R.S. Section 30-20-402(1)(h) authorizes the County to enter into and perform contracts with the City and the Town for or concerning the planning, construction, lease or other acquisition and the financing of stormwater facilities and the maintenance and operation thereof; and

WHEREAS, C.R.S. Section 29-1-204.2(1) provides that a combination of municipalities or other political subdivisions of this State may establish, by contract with each other, a separate governmental entity, to be known as a drainage authority, to be used by such contracting Members to effect the development of stormwater and drainage facilities for the benefit of the inhabitants of such contracting Members or others at the discretion of the Directors; and

WHEREAS, C.R.S. Section 29-1-204.2(4) and (5) provides that a drainage authority established by such contracting Members shall be a political subdivision and a public corporation of the State, separate from the members to the contract and that it shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate; and

WHEREAS, the provisions of Articles 10.5 and 47 of Title 11, C.R.S., shall apply to moneys of the entity and the bonds, notes and other obligations of a water or drainage authority formed under the provisions of this Agreement shall not be the debts, liabilities or obligations of the original contracting Members or Members that may enter the establishing contract in the future; and

WHEREAS, C.R.S. Section 29-1-204.2(6) provides that the contracting members may provide in the contract for payment to the separate governmental entity of funds from proprietary revenues for services rendered by the entity, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the entity.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and

other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereto agree as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1.01. Definitions. In this Agreement, capitalized terms not otherwise defined shall have the meanings respectively assigned thereto in the Recitals to this Agreement or as provided in this Section 1.01, unless the context clearly requires a different meaning:

"Agreement" means this Intergovernmental Agreement for Stormwater Cooperation and Management and any amendments hereto.

"Authority" means the Boxelder Basin Regional Stormwater Authority.

"Boxelder Project" means acquisition and construction of the Project Improvements described in the Plan.

"City" means the City of Fort Collins, Colorado.

"County" means Larimer County, Colorado.

"Directors" means the members of the Authority's Board of Directors.

"Fiscal Year" means the calendar year.

"Flood Insurance Study" means the official report in which the Federal Emergency Management Agency ("FEMA") has provided flood profiles, as well as the Flood Boundary-Floodway Map and water surface elevation of the base flood, in all or a part of the Service Area.

"Member" means the City, the County, the Town and any additional member government added as a party to this Agreement by amendment after the date hereof.

"Operation and Maintenance" means the ongoing maintenance, operation, repair and replacement of the Project Improvements.

"Plan" means the Boxelder Creek Regional Stormwater Master Plan dated October 2006, together with any amendments thereto approved by a unanimous vote of the Members.

"Project Improvements" means, without limitation, detention areas or flood storage facilities; reservoirs; open channels; irrigation canal overflow or spill structures; diversion or confinement berms; utility relocations; road and railroad crossing structures; water quality enhancement features; and landscaping of disturbed areas, to the extent contemplated by the Plan.

"Service Area" means the area shown on Exhibit "A" hereto.

"State" means the State of Colorado.

"Stormwater Service Fee" means a recurring, monthly or quarterly fee charged to all customers of the Authority upon the basis of such customers' relative contributions to storm flows on a continuing basis, and applied to Operation and Maintenance and debt service requirements of the Authority.

"System Development Fee" means a one-time charge imposed upon rezoning of property or the issuance of a building permit with respect to property in the Service Area, for the purpose of recovering a reasonable portion of the Authority's existing or future capital investment in the Project Improvements.

"TABOR" means Article X, Section 20 of the Constitution of the State.

"Town" means the Town of Wellington, Colorado.

ARTICLE II

CREATION AND GOVERNANCE OF THE AUTHORITY

Section 2.01. Creation of Authority. The City, the Town and the County, by this Agreement, hereby establish the Authority as a drainage authority pursuant to C.R.S. § 29-1-204.2(2). The Authority shall exist until dissolved or terminated in accordance with this Agreement.

Section 2.02. Name and Service Area. The Authority shall be known as the Boxelder Basin Regional Stormwater Authority and the Authority shall carry out the Responsibilities set forth in this Article. The initial Service Area of the Authority shall include those portions of the Service Area in the City, the Town or the unincorporated areas of the County as of the date of this Agreement, as shown and described on Exhibit "A", which is attached to and made of part of this Agreement.

Section 2.03. Board of Directors. The Authority shall be governed by a board of directors consisting of five (5) members (the "Directors"), consisting of one each selected by the City, the Town and the County, and two unaffiliated members, representing the public at large, one selected by the City and the County upon mutual agreement and one by the town and County upon mutual agreement. No more than one of such unaffiliated members shall be employed by or an elected official of any Member. Each director shall serve a three (3) year term, with terms staggered and expiring on the 1st day of April or as soon thereafter as the successor director is approved. The staggered terms of Directors shall expire each three (3) years with the first Directors' terms expiring as follows: The Town-appointed director - 2009; City-appointed director and County/Town-appointed director - 2010; County-appointed director and

County/City-appointed director -- 2011. Officers of the Authority shall consist of a president, secretary and treasurer, which shall be appointed by a majority of the board of Directors and shall be re-appointed on the 1st day of April of each year or as soon thereafter as successors may be qualified. Each board member shall have one (1) vote. The majority of the Directors shall constitute a quorum and a majority of the quorum shall be necessary to take any action by the board. The board shall comply with all obligations and may exercise all powers authorized by Title 29, Article 1, Part 2, C.R.S.

Section 2.04. Distribution of Property of the Authority Upon Dissolution. If the Authority is dissolved, property of the Authority shall pass jointly to the Members as tenants in common thereto, except as otherwise expressly agreed in writing.

Section 2.05. Actions of Board and Members. Generally, actions may be taken by the Authority upon majority approval the Directors; provided, however, that the following actions may only be taken with the following approvals:

(a) This Agreement may only be terminated or dissolved by unanimous vote of the Members, and only in the event that all bonds, notes and other financial obligations of the Authority and the obligation to operate, maintain, repair and replace any existing improvements of the Authority have been paid or duly provided for by escrow or otherwise;

(b) Fees, rates and other charges consistent with Article V of this Agreement may only be established by a majority vote of the Directors;

(c) Preliminary and final engineering studies for improvements to be constructed by the Authority in accordance with the Plan, including but not limited to the Boxelder Project, as hereinafter defined, may only be approved by a majority of the Directors;

(d) Any amendments to the Plan may only be approved by a unanimous vote of the Members;

(e) Any amendments to this Agreement may only be made on a unanimous vote of the Members; and

(f) Any borrowing, issuance of debt, or multiple fiscal year financial obligation may only be approved by a unanimous vote of the Members.

Section 2.06. Description of the Boxelder Project. The Boxelder Project may include, without limitation, any Project Improvements described in the Plan. The Members intend and acknowledge that implementation of the Plan will include the design of permanent natural habitat and other natural features as part of the stream stability and erosion control improvements to be constructed, and, to the extent practicable, as part of other improvements to be constructed by the Authority. All improvements of the Authority will be designed so as to minimize the

potential for introduction of human-caused pollutants in accordance with the Urban Storm Drainage Criteria Manual Volume III – Best Management Practices, or such other subsequently adopted standard as the Directors may approve. The Members further intend and acknowledge that the enhancement and restoration of native vegetation, wildlife habitat, naturally meandering stream channel topography, and other similar natural features are beneficial for the sustained maintenance of the Boxelder drainage.

Section 2.07. The Authority's Responsibilities. The Authority shall have the following responsibilities:

(a) Plan and establish a financial structure that equitably distributes among all properties within the Service Area the costs of the Boxelder Project. The financial structure will include both impact fees and service fees;

(b) Plan and arrange for the Operation and Maintenance of the Project Improvements;

(c) Plan and establish a financial structure that equitably distributes among all properties within the Service Area the costs of acquisition and construction of the Project Improvements, Operations and Maintenance of the Project Improvements and costs of administering and operating the Authority. The financial structure to fund said expenses will include service fees and such other sources of revenue as the Authority may determine to be appropriate and sufficient to support the acquisition and construction of the Project Improvements, the Operation and Maintenance of the Project Improvements and administration of the Authority, in a fiscally sustainable manner;

(d) Obtain any necessary Stormwater MS4 Permitting (stormwater quality) required for its undertakings within the Service Area;

(e) Comply with all local laws and requirements, including but not limited to land use and zoning laws and similarly applicable land use code provisions and floodplain and storm drainage regulatory requirements; and

(f) Cooperate and collaborate with the Members, other governmental entities and jurisdictions, nonprofit and private entities and persons and property owners, to incorporate into Authority project plans, to support, and to encourage the design of, development and use of Authority property and improvements, to provide for natural habitat preservation and restoration, preservation of viewsheds and aesthetic values, and transportation connections, and to advance other compatible public purposes and uses, insofar as the same are not in conflict with the primary stormwater objective of the Authority.

Section 2.08. Enterprise Status. To the extent practicable, the Authority shall be operated as an enterprise within the meaning of TABOR and the Water Activity Enterprise Law, Part 1 of Article 45.1, Title 37, C.R.S. For such purposes, payments to the Authority by

Members pursuant to Sections 5.03 or 6.03 hereof shall not constitute "grants."

Section 2.09. Particular Duties of the Board. The Board shall diligently pursue the implementation of the Plan, and shall comply with the applicable provisions of Article 1, Title 29, C.R.S.

ARTICLE III

POWERS OF THE AUTHORITY

Section 3.01. Powers. The Authority shall have and may exercise the following powers together with any additional powers conferred upon drainage authorities by C.R.S. Section 29-1-204.2 as it may be amended from time to time:

- (a) Pursuant to the Plan to develop stormwater systems or facilities or drainage facilities in whole or in part for the benefit of the inhabitants of the contracting Members or others, at the discretion of the Directors, subject to fulfilling any conditions or requirements set forth in this Agreement or in any other contract concerning the Authority;
- (b) To make and enter into contracts;
- (c) To employ agents and employees;
- (d) To acquire, construct, manage, maintain, fund, plan and operate drainage and flood control systems, facilities, works, or improvements, or any interest therein;
- (e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property utilized only for the purposes of providing drainage, flood control, or stormwater quality control or for related or accessory purposes;
- (f) To condemn property for public use;
- (g) To incur debts, liabilities, or obligations, including without limitation by the issuance of bonds, notes and other financial obligations;
- (h) To sue and be sued in its own name;
- (i) To have and use a corporate seal;
- (j) To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the Authority;
- (k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purpose;

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(l) To exercise any other powers which are essential to the provision of functions, services, or facilities by the Authority and which are specified in this Agreement or any other contract concerning the Authority;

(m) To do and perform any acts and things authorized by Section 29-1-204.2, C.R.S., and this Agreement under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) To permit other municipalities, special districts, or political subdivisions of the State that are authorized to provide drainage facilities to become Members in the manner provided in this Agreement;

(o) To provide for the rehabilitation of any surfaces adversely affected by the construction of pipelines, facilities, or systems or of stormwater or other drainage facilities through the rehabilitation of plant cover, soil stability, and other measures appropriate to the subsequent beneficial use of such lands; and

(p) To the extent permitted by law, to justly indemnify property owners or others affected for any losses or damages incurred, including reasonable attorney fees, or that may subsequently be caused by or which result from actions of the Authority.

Section 3.02. Insurance. The Authority shall comply with all minimum insurance requirements of the Colorado Governmental Immunity Act, C.R.S. Section 24-10-101, et seq. Unless the Members vote unanimously to approve other insurance limits, the Authority shall maintain commercial general liability insurance with minimum limits of \$1,000,000 combined limit for each occurrence and \$2,000,000 general aggregate, including products/completed operations and personal injury. So long as any obligation is owed to the Colorado Water Conservation Board ("CWCB") the company providing the insurance coverage shall be acceptable to the CWCB.

Section 3.03. Authority Not a Taxing Entity. The Authority shall not have the power of taxation.

ARTICLE IV

REPRESENTATIONS AND COVENANTS OF MEMBERS

Section 4.01. The County's Representations and Covenants. The County makes the following representations and covenants:

(a) It will promptly transfer to the Authority all revenues, fund balances, improvements and responsibilities associated with the County's existing stormwater impact fee in the Service Area, and will transfer to the Authority any amounts representing fees applicable within its jurisdiction to the extent it elects to make payment

to the Authority in lieu of the collection of such fees pursuant to Section 5.04;

(b) It has adopted or will adopt the Plan;

(c) It will duly appoint initial and replacement Directors in accordance with Section 2.03 hereof;

(d) It will, to the extent it is necessary to locate certain stormwater improvements within the unincorporated areas of Larimer County and if requested by the Authority, cooperate with the Authority in any condemnation actions, including the County's use, with approval of the County Board of Commissioners in its sole discretion, of its powers of eminent domain to acquire property as requested by the Authority, so long as all costs of the County are reimbursed by the Authority, and the County is held harmless;

(e) It will allow the Authority, within the County's standards and specifications, to utilize easements and rights of way dedicated to the public for the Authority's purposes, subject to the primary use of the right of way and applicable police powers;

(f) It will cooperate in preparing all preliminary and final engineering services necessary for the design and construction of the Boxelder Project;

(g) It will establish and implement stormwater standards, to be applied in connection with subdivision, development and building review and approval, that are consistent with the analytical assumptions and objectives of the Plan; and

(h) It will cooperate with the Authority and other Members in seeking approval of changes to the Flood Insurance Study or underlying components, and consent to the Authority's submission of the same to FEMA.

Section 4.02. The City's Representations and Covenants. The City makes the following representations and covenants:

(a) To the extent permitted by any ordinances authorizing bonds and other obligations of the City Stormwater Utility Enterprise in effect or existing as of the effective date of this Agreement, it will transfer to the Authority any amounts representing fees applicable within its jurisdiction to the extent it elects to make payment to the Authority in lieu of the collection of such fees pursuant to Section 5.04;

(b) It has adopted or will adopt the Plan;

(c) It will duly appoint initial and replacement Directors in accordance with Section 2.03 hereof;

(d) It will, to the extent it is necessary to locate certain stormwater improvements within the City and if requested by the Authority, cooperate with the Authority in any condemnation actions, including the City's use, with approval of the City Council in its sole discretion, of its powers of eminent domain to acquire property as requested by the Authority, so long as all costs of the City are reimbursed by the Authority, and the City is held harmless;

(e) It will allow the Authority, within the City's standards and specifications, to utilize easements and rights of way dedicated to the public for the Authority's purposes, subject to the primary use of the right of way and applicable police powers;

(f) It will cooperate in preparing all preliminary and final engineering services necessary for the design and construction of the Boxelder Project;

(g) It will establish and implement stormwater standards, to be applied in connection with subdivision, development and building review and approval, that are consistent with the analytical assumptions and objectives of the Plan; and

(h) It will cooperate with the Authority and other Members in seeking approval of changes to the Flood Insurance Study or underlying components, and consent to the Authority's submission of the same to FEMA.

Section 4.03. The Town's Representations and Covenants. The Town makes the following representations and covenants:

(a) It will transfer to the Authority any amounts representing fees applicable within its jurisdiction to the extent it elects to make payment to the Authority in lieu of the collection of such fees pursuant to Section 5.04;

(b) It has adopted or will adopt the Plan;

(c) It will duly appoint initial and replacement Directors in accordance with Section 2.03 hereof;

(d) It will, to the extent it is necessary to locate certain stormwater improvements within the Town and if requested by the Authority, cooperate with the Authority in any condemnation actions, including the Town's use, with approval of the Town Board in its sole discretion, of its powers of eminent domain to acquire property as requested by the Authority, so long as all costs of the Town are reimbursed by the Authority, and the Town is held harmless;

(e) It will allow the Authority, within the Town's standards and specifications, to utilize easements and rights of way dedicated to the public for the Authority's purposes, subject to the primary use of the right of way and applicable police powers;

(f) It will cooperate in preparing all preliminary and final engineering services necessary for the design and construction of the Boxelder Project;

(g) It will establish and implement stormwater standards, to be applied in connection with subdivision, development and building review and approval, that are consistent with the analytical assumptions and objectives of the Plan; and

(h) It will cooperate with the Authority and other Members in seeking approval of changes to the Flood Insurance Study or underlying components, and consent to the Authority's submission of the same to FEMA.

ARTICLE V

RATES AND CHARGES; PROJECT PAYMENTS

Section 5.01. Power and Duty to Impose. The Authority shall be authorized and required to impose the following rates, fees and charges on property within the Service Area to fund regional improvements as described in the Plan: (a) a Stormwater Service Fee and (b) a System Development Fee.

Section 5.02. All rates, fees and charges shall be consistent with the terms of this Agreement. The Members have obtained a financial feasibility study report prepared by Alex Brown Consulting, identified as Boxelder Creek Alliance Financial Analysis, and dated May 22, 2008 (the "Feasibility Study").

(a) In order to fund the Authority's projects and operations in accordance with the Feasibility Study, the Members agree that the Authority shall no later than January 1, 2009, establish a Stormwater Service Fee to be collected on an ongoing, regular, basis from owners of property within the Service Area. The Stormwater Service Fee shall be set by the Authority generally based upon impervious area, and on average shall not exceed \$ 0.04 per square foot of impervious area per year or be less than \$ 0.03 per square foot of impervious area per year.

(b) To provide additional funding for the Authority's projects and operations, the Members agree that the Authority shall no later than January 1, 2009, establish a System Development Fee to be collected in connection with development of property within the Service Area no later than at the time of issuance of a building permit. The System Development Fee shall be generally based upon impervious area, and on average shall not exceed \$ 0.30 per square foot of new impervious area or be less than \$ 0.20 per square foot of new impervious area.

(c) The Authority shall review the Stormwater Service Fee and System Development Fee on a biennial basis, and shall adjust the System Development Fee to reflect the investment in the value of assets of the Authority and depreciation of those assets. Modifications of the permitted average range of Stormwater Service Fee and the System Development Fee parameters

may be made by adoption of an amendment to this Agreement.

Section 5.03 Uniformity and Rates and Charges. The rates, fees and charges collected by the Authority shall be uniform within the Service Area, and shall as nearly as practicable result in similar charges to similarly-situated properties. Such rates and charges shall be imposed in sufficient amounts to provide for the Operation and Maintenance expenses of the Authority, and to defray, or provide a reasonable reserve for the payment of, its capital requirements. The Authority is authorized to pledge all or any portion of the revenues derived from its rates, fees and charges, including amounts received from Members pursuant to Section 5.03 hereof in lieu of rates, fees and charges, to the payment of the principal of and interest on the obligations of the Authority issued pursuant to Section 3.01(g) hereof.

Section 5.04. Option of Members to Contribute in Lieu of Authority Collection of Rates and Charges. It is not intended that this Agreement shall deprive any Member of its inherent power to charge for stormwater services and facilities within its boundaries. As to any fiscal year a Member may at its discretion elect to pay directly to the Authority an amount equal to the total of the Authority's rates, fees and charges imposed on property within such Member's jurisdiction, in which case the Authority shall credit the account of each such property and refrain from billing and collection in the affected area. Direct payments of such amounts shall be made by a Member so electing no later than the dates upon which payments by property owners to the Authority would have been due if the Authority had billed such property owners directly. A Member electing to make such payments shall file a written notice with the Authority not later than November 1 of the year preceding the fiscal year as to which it makes such election, stating the fiscal year as to which such election is effective and the specific rates, fees or charges affected, together with evidence satisfactory to the board of the Authority of the appropriation and assignment of funds by such Member's governing body sufficient to fully provide for all payments due as the result of such election. In any case where a Member so elects, nothing shall prevent it from imposing and collecting rates, fees and charges to customers within its boundaries which differ from the Authority's prevailing rates, fees and charges, provided that the Authority does not thereby receive less revenue than it would if it were directly imposing and collecting its own prevailing rates.

Section 5.05. Enforcement/Unpaid Charges a Lien. Any charge due hereunder which shall not be paid when due may be recovered in an action at law by the Authority. All rates, fees and charges imposed pursuant to this Article shall be a lien upon the property to which such fee is associated from the date the fee becomes due until such fee is paid. The owner of every building, premises, lot or house shall be obligated to pay the fee for all service provided for the premises which obligation may be enforced by the Authority by action at law or suit to enforce the lien. In the case that a tenant in possession of any premises or buildings shall pay the charges, it shall relieve the landowner from such obligation and lien but the Authority shall not be required to look to any person whatsoever other than the owner for the payment of such charges. No changes of ownership or occupation shall affect the application of this Article and the failure of any owner to learn that he or she purchased property against which a lien for stormwater authority rates, fees or charges exists shall in no way affect the responsibility for such payment. Any delinquent amount may be enforced by assessment upon the property and premises served

and certification to the County Treasurer for collection under and pursuant to the authority and procedure provided in by applicable law.

Section 5.06. Initial FEMA Grant Funding. The Members have applied for, and received preliminary notice of award of, a FEMA Pre-Disaster Mitigation grant in the approximate amount of \$3 million, for design and construction of certain improvements described in the Plan (the "PDM Grant"). The Members anticipate that the Authority will receive the PDM Grant and use the PDM Grant funds, together with local matching funds in the approximate amount of \$1 million, to design and construct the grant-funded improvements and administer the PDM Grant. The Members agree to share the local match obligation among them, and cash funds or in-kind services in the following approximate proportions: the County – 50%; the Town – 30%; the City – 20%. Such Member contributions shall be made to carry out and complete the PDM Grant project in the specific manner mutually agreed by the Members.

Section 5.07. Repayment to Member Entities. The Authority shall be obligated to, and hereby covenants to repay in full, any amounts advanced or obligations incurred by Member entities on behalf of or under agreement with, the Authority, except as expressly waived in writing by the Member to which such repayment would otherwise be due.

ARTICLE VI

FINANCIAL RECORDS AND ACCOUNTING

Section 6.01. Annual Audit. The books and financial records of the Authority shall be examined annually by an independent auditor, whose report thereon shall be completed and filed for public inspection at the office of the Authority not later than July 1 of the calendar year following the close of the fiscal year for which such records are examined.

Section 6.02. Budget. The Authority shall propose and adopt an annual budget for each ensuing fiscal year, not later than September 1 of the year preceding the fiscal year for which such budget is prepared. The budget shall contain a complete plan for the financial operations of the Authority for such ensuing fiscal year, including an estimate of revenues based upon the then current or most recently adopted schedule of rates, fees and charges and including any other anticipated source of funds for operating or capital purposes, an estimate of the cost of Operation and Maintenance, an estimate of the cost of capital additions and the debt service requirements of bonds, notes or financial obligations issued in connection therewith and a five-year capital improvements plan.

Section 6.03. Payments to and Contributions by Members. Nothing in this Agreement shall prevent any one or more Members from acquiring or constructing all or any portion of the Boxelder Project by agreement with the Authority. Any such agreement may provide either for a cash payment by the Authority to such Member or Members or for a credit in kind against amounts owing by such Member or Members to the Authority, the amount thereof in either case being based upon the actual amounts expended by such Member or Members upon such acquisition or construction. The Authority shall not enter into agreements to extend credit in

kind to such an extent that its funds available for Operation and Maintenance and debt service requirements are impaired.

ARTICLE VII

ADMINISTRATION

Section 7.01. Authority Staff, Attorney, Auditor and Other Staff and Services. The Authority, through its board, shall hire or retain the following:

(a) Authority Manager. The Authority shall retain a manager on a full or part time basis to manage the Authority, or shall contract for management services. The manager shall be answerable to the Directors and may be an employee of any of the Members and, if an employee paid by a Member, the Authority shall enter into a separate contract with the Member which employs the manager, according to the separate agreement to be entered into between the Authority and the Member employing the manager.

(b) Attorney. The Authority shall retain an attorney or shall contract for legal services as needed. The attorney shall be answerable to the Directors.

(c) Auditor. The Authority shall retain an auditor or shall contract for auditing services as needed. The auditor shall be answerable to the Directors.

(d) Other Authority Administrative and Professional Staff and Staff. The Authority shall retain such additional administrative or professional staff on a full or part time basis, or shall contract for administrative or professional services as needed. Any such employees shall be answerable to the Directors and may be an employee of any of the Members and, if an employee paid by a Member, the Authority shall enter into a separate contract with the Member who employs the employee, according to the separate agreement to be entered into between the Authority and the Member employing the employee.

Section 7.02. Due Diligence. The Members agree to exercise due diligence in performing their duties under this Agreement.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Notice. Any notice or other communication given by any Member to the other Members relating to this Agreement shall be hand delivered or sent by certified mail, return receipt requested, addressed to the other Members, at their respective addresses as set forth below; and such notice or other communication shall be deemed given, when so hand delivered or three (3) days after so mailed:

If to the City:

Utilities Executive Director
City of Fort Collins
P. O. Box 580
Fort Collins, CO 80522

With a copy to:

City Attorney
City Attorney's Office
300 LaPorte Avenue
P. O. Box 580
Fort Collins, CO 80522

If to the County:

Public Works Director
Larimer County
Storm Drainage Engineer
P. O. Box 1190
Fort Collins, CO 80522

With a copy to:

George Haas
Larimer County Attorney's Office
224 Canyon Ave., Ste. 200
P. O. Box 1606
Fort Collins, CO 80522-1606

If to the Town

Town Administrator
Town of Wellington
P. O. Box 127
Wellington, CO 80549

With a copy to:

J. Brad March
Wellington Town Attorney
March, Olive & Pharris, LLC
110 E. Oak St., Ste. 200
Fort Collins, CO 80524

Section 8.02. Annexation. In the event that any parcel of real property currently located in unincorporated Larimer County and in the Service Area is annexed into the City or the Town, the Authority, County and annexing entity shall work cooperatively to ensure that the fees, rates and charges collected from or attributable to the annexed property are equitably apportioned. Upon completion of the construction of the Project Improvements, all such Improvements shall be owned by the Authority, except as otherwise expressly agreed and documented in writing by all Members. It is the intent of the Members that annexation of property within the Authority boundaries by a non-Member municipality will not alter the Authority's power or the rates, fees or other charges imposed by the Authority upon such property, except as expressly agreed in writing by the Authority and such annexing municipality.

Section 8.03. Financial Obligations of Members. At the option of any Member obligated to make any payment hereunder, such payment may, at such Member's discretion, constitute an obligation of such Member or its respective Stormwater Utility Enterprise. Obligations of the Members pursuant to this Agreement are hereby made expressly contingent upon the respective governing bodies of the County, Town or the City appropriating annually any funds necessary for the fulfillment of such obligations.

Section 8.04. Miscellaneous.

(a) This Agreement shall be binding upon and inure to the benefit of the Members hereto (including their respective Stormwater Utility Enterprises) and their respective successors and assigns.

(b) This Agreement is made in and shall be construed and interpreted in accordance with the laws of the State of Colorado.

(c) This Agreement shall not be assigned by any of the Members without the prior written consent of the other Members.

(d) The paragraph headings used herein are for convenience of reference and in no way shall define, limit or prescribe the scope or intent of any provision of this Agreement.

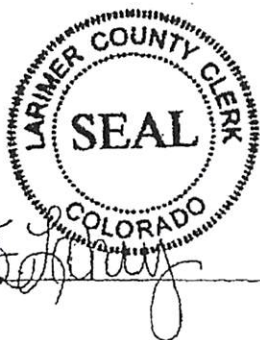
(e) This Agreement shall be construed according to its fair meaning and as if prepared by all Members and shall be deemed to be and contain the understanding and agreement among the Members with respect to the subject matter of this Agreement. There shall be deemed to be no other terms, conditions, promises, understandings, except as expressly agreed in writing by the Members.

(f) Statements or representations, either expressed or implied, concerning this Agreement shall not be binding on any Member except as set forth in any official action or subsequent writing signed by all of the Members. Amendment of this Agreement shall require unanimous consent of all Members.

(g) The Members agree to cooperate in good faith in fulfilling the terms of this Agreement. The Members agree that they will attempt to resolve, by good faith negotiations before reverting to litigation, any disputes concerning the interpretation of this Agreement and any unforeseen questions and difficulties which may arise in implementing this Agreement.

(h) Notwithstanding any other provision of this Agreement or any other incorporated provision, the Members recognize that there are legal constraints imposed upon each of the Members as governmental entities by the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States, and by the respective charters and codes of such Members. Each Member agrees that, subject to such constraints, such Member expects to carry out the terms and conditions of this Agreement. Such constraints include, without limitation, the constraints of TABOR relating to governmental entities incurring multi-year fiscal obligations. Therefore, notwithstanding any other provision of this Agreement to the contrary, in no event shall any Member exercise any power or take any action that shall be prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law.

IN WITNESS WHEREOF, the Members have executed this Agreement as of the date and year first above written.



ATTEST:

Melissa T. Kelly
Deputy Clerk

APPROVED AS TO FORM:

Aug 8-14-08
Assistant County Attorney



ATTEST:

Heidi M. Resnick
City Clerk

APPROVED AS TO FORM:

Carl D. A.
Deputy City Attorney

ATTEST:

Long Long
Town Clerk

APPROVED AS TO FORM:

Scott M. B.
Town Attorney

BOARD OF COUNTY COMMISSIONERS,
LARIMER COUNTY, COLORADO

By: Allen D. Gibson
Chair

THE CITY OF FORT COLLINS, COLORADO,
a Municipal Corporation

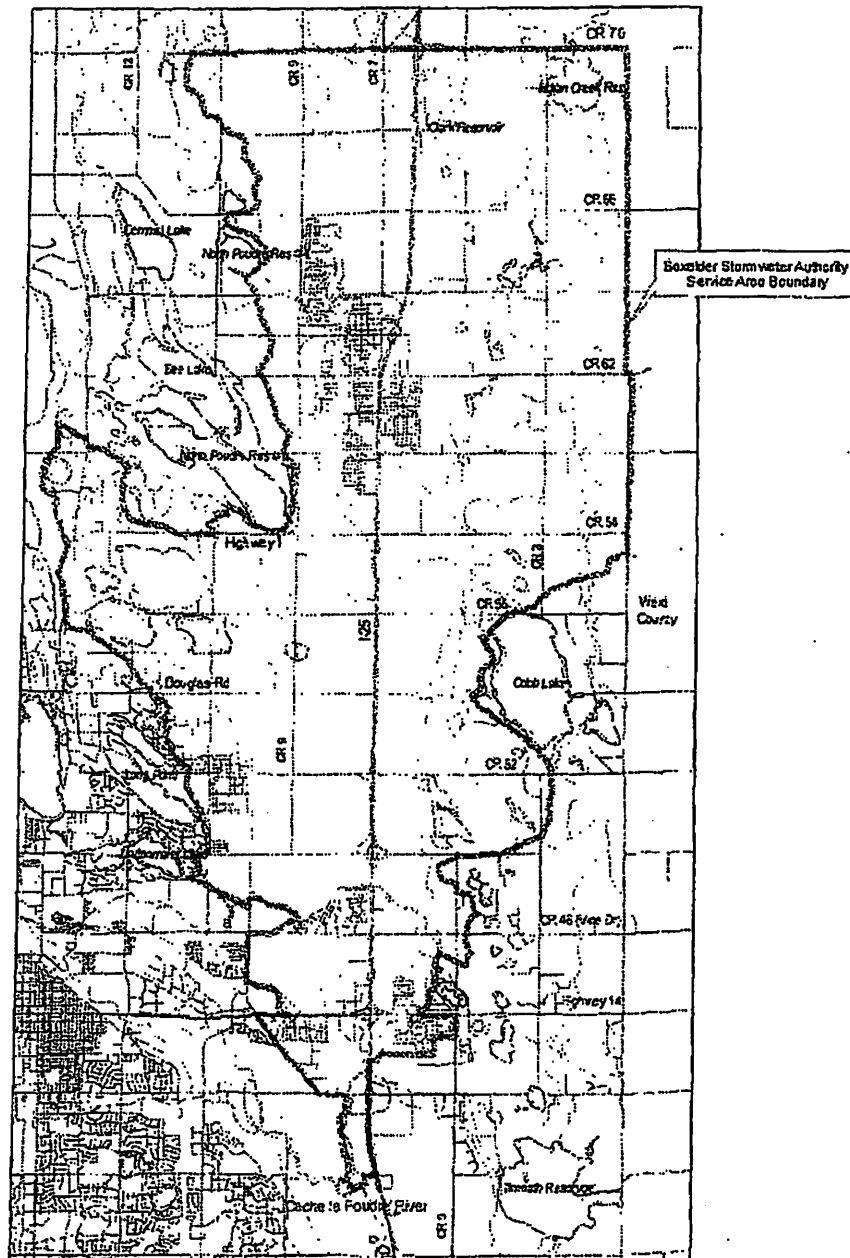
By: Walter D. Hadden
Mayor

PAID IN FULL

THE TOWN OF WELLINGTON, COLORADO,
a Statutory Municipality

By: John D. Ad
Mayor

Exhibit A



**INTERGOVERNMENTAL AGREEMENT
(REGARDING COST SHARING FOR BOXELDER BASIN STORMWATER
MITIGATION IMPROVEMENTS)**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made and entered into this 15th day of NOVEMBER 2012, by and between THE TIMNATH DEVELOPMENT AUTHORITY, COLORADO, an urban renewal authority established pursuant to Title 31, Article 25, Part 1 of the Colorado Revised Statutes (hereinafter referred to as the "TDA"), and THE BOXELDER BASIN REGIONAL STORMWATER AUTHORITY, a Colorado regional stormwater authority (hereinafter referred to as the "Authority") formed by an Intergovernmental Agreement dated August 20, 2008, among Larimer County, the City of Fort Collins, and the Town of Wellington (hereinafter each individually referred to as a "Member").

RECITALS

WHEREAS, the Members have previously adopted the Boxelder Creek Regional Stormwater Master Plan, effective as of October of 2006 (the "**Master Plan**"), pursuant to which the Authority will construct various project improvements, including but not limited to detention areas or flood storage facilities; reservoirs; open channels; irrigation canal overflow or spill structures; diversion or confinement berms; utility relocations; road and railroad crossing structures; water quality enhancement features; and landscaping of disturbed areas, all as identified in the Master Plan; and

WHEREAS, recent growth in the Timnath Growth Management Area, the Fort Collins Growth Management Area, and the Wellington Growth Management Area suggests that increased coordination and cooperation between the TDA and the Authority may result in better management, design, construction, maintenance, and joint financing of stormwater mitigation facilities; and

WHEREAS, the TDA and the Authority have identified mutually beneficial projects to address flood impacts in the Boxelder Creek Basin as it impacts the parties, which projects are conceptually described below and visually depicted on "**Exhibit A**", a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, the TDA and the City of Fort Collins have separately identified mutually beneficial projects to address flood impacts to the Boxelder Creek Basin generally located south and west of the crossing of Boxelder Creek under Interstate 25 and down to Boxelder Creek's confluence with the Cache La Poudre River; and

WHEREAS, the TDA and the Authority desire to move forward cooperatively in order to provide for the investigation, conceptual planning, preliminary design, and construction of the projects described herein; and

WHEREAS, accordingly, the parties enter into this Agreement to clarify and document their intentions and mutual rights and responsibilities with respect to funding, administration, planning, design, land acquisition, and construction of the projects.

NOW, THEREFORE, in consideration of the mutual promises of the parties and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE I

DEFINITIONS

Definitions. In this Agreement, capitalized terms not otherwise defined shall have the meanings respectively assigned thereto in the Recitals to this Agreement or as provided in this Section 1, unless the context clearly requires a different meaning:

"Boxelder Basin Regional Stormwater Authority" or "Authority" shall mean the regional stormwater authority formed by agreement of the Board of Commissioners of Larimer County, Colorado, City of Fort Collins, Colorado, and the Town of Wellington, Colorado entitled Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008.

"Boxelder Basin Regional Stormwater Authority Master Plan" or "Master Plan" shall mean the Boxelder Creek Regional Stormwater Master Plan adopted by the Authority's members in October of 2006, and as may be amended from time to time.

"Projects" shall mean the two projects for storm drainage improvements to significantly reduce the 100-Year stormwater runoff within the Boxelder Creek Drainage Basin that contribute to the flooding potential in Boxelder Creek as identified in Section 2.1 of this Agreement.

"East Side Detention Facility" shall mean that particular stormwater detention facility described in Subsection 2.1 (a) and the work required to design, engineer, and construct the same.

"Larimer and Weld Canal Crossing" shall mean that crossing of the Larimer and Weld Canal described in Subsection 2.1 (b), and the work required to design, engineer, and construct the same.

"Construction Costs" shall mean all costs incurred by the Authority for the Projects including, but not limited to, administration, legal fees, land acquisition, design, engineering, permit fees, and construction.

"Financing Costs" shall mean all financing costs incurred by the Authority for the Projects including, but not limited to, loan application fees, legal fees, interest, and loan fees.

ARTICLE 2

BOXELDER CREEK FLOOD MITIGATION PROJECTS

2.1 Projects. The parties agree and hereby acknowledge that it is in the best interest of both the Authority and the TDA to work cooperatively to design and construct the Projects along Boxelder Creek and its associated flow paths to mitigate the impacts of flooding for the mutual benefit of the parties as well as the region. Accordingly, the Authority has developed a plan for two storm drainage improvement facilities to significantly reduce the 100-year stormwater runoff within the Boxelder Creek Drainage Basin that contribute to the flooding potential in Boxelder Creek, which include the following conceptual elements, which are together referred to as the Projects and are to be constructed concurrently:

(a) East Side Detention Facility/Gray Lakes Reservoirs:

1. Construction of an earthen embankment (dam) and un-gated outlet to create detention storage upstream of County Road 50.

(b) Larimer and Weld Canal Crossing:

1. Construction of a side spill weir crossing of the Larimer and Weld canal to allow Boxelder Creek storm runoff to continue downstream (south).

2.2 Design Engineering. The Authority hereby acknowledges that the Projects are or will be included in the Boxelder Basin Regional Stormwater Authority Master Plan. The Authority has initiated preliminary design engineering for said Projects, but continuation of this design engineering is necessary in order to determine actual design and related costs and to allow the Projects to proceed.

(a) Funding. The TDA agrees to provide \$500,000 immediately to the Authority for the design engineering services described in Subsection (b).

(b) Scope of Services. The Authority shall provide the following services:

1. Preparation of the Feasibility Study and Final Application for a Colorado Water Conservation Board loan to the Authority for the East Side Detention Facility and the Larimer and Weld Canal Crossing and accompanying improvements;

2. Complete the conceptual design of the East Side Detention Facility and Larimer and Weld Canal Crossing, including modeling and collaboration with the Lake Canal Ditch Company to determine the acceptable crossing structure to accomplish the goals of the Authority's Master Plan;
3. Initiate Final Design efforts (including Phase II of the geotechnical investigation - seismic site, seepage and stability analysis) for the East Side Detention Facility and Larimer and Weld Canal Crossing in order to prepare estimated costs for use in a loan application to the Colorado Water Conservation Board;
4. Initial coordination, meetings and preparation for United States Army Corps of Engineers permitting and coordination with the Colorado Office of the State Engineer; and
5. Coordination, preparation, design and engineering for conditional letter of map revision (CLOMR) and letter of map revision (LOMR) which are required by the Projects extending from the detention facility to where Boxelder Creek crosses under Interstate 25.

(c) The work described in Subsection 2.2(b) is intended to allow Authority to maintain an efficient design, submittal and construction schedule focused on an expedited completion of the Projects in a timely manner with a targeted completion by the end of 2014.

(d) The Authority hereby agrees to maintain appropriate documentation and make any reports, data or design deliverables produced for the Authority available for the TDA's review and use.

2.3 Funding.

(a) Following the design engineering phase described above, the TDA hereby agrees that it shall provide funds toward the Authority's Construction Costs and Financing Costs of the Projects ("Costs") in an amount not to exceed twenty-five percent (25%) of the Costs actually incurred by the Authority (the "Funding Contribution"). The Costs of the Projects are currently estimated to be \$9,900,000. Payments under this agreement shall be due within 45 days of receipt of an invoice prepared by the Authority and are contingent upon a satisfactory showing that the Authority has readily available funds to match the funds requested from the TDA in the amount of three (3) dollars for every one (1) dollar requested from the TDA by the Authority. In the event that the Costs exceed the estimate stated above, the Authority agrees to meet with TDA and provide documentation to TDA confirming the need to increase the estimated Costs of the Projects. Moreover, the parties agree that any Project Cost increases in excess of 25% of the estimated budget shall be subject to mutual approval by the parties. The parties understand and agree that a part of the purpose of the ongoing design and engineering for the Projects is to provide more accurate information as to the Costs of the Projects.

Notwithstanding any provision in this Agreement to the contrary, the Authority and the TDA agree that each party shall pay its own costs in the negotiation and preparation of this Agreement.

(b) The Authority will seek a loan through the Colorado Water Conservation Board for the Projects. The TDA understands that the Authority is relying on TDA's Funding Contribution for adequate revenue to repay any loan obtained through the Colorado Water Conservation Board. TDA agrees to provide any necessary documentation, including financial documentation, deemed necessary by the Authority to be included in the loan application.

(c) If the Authority obtains funds to finance construction of the Projects through combination loans or any other debt arrangements from the Colorado Water Conservation Board or any other entity, the TDA shall time its Funding Contribution payments so they coincide with the debt service schedule or schedules agreed to by the Authority in connection with such loan, combination of loans, or other debt arrangement, including any prepayment of principal and/or interest on the loan by the Authority.

(d) The parties acknowledge that the Funding Contributions provided by the TDA are intended as a match only to Authority payment on invoices for work directly attributable to the Projects. Any amounts not applied by the Authority for up to twenty-five percent (25%) of its actual costs for the same shall be returned to the TDA upon final completion of the Projects or termination of this agreement, whichever occurs first. The TDA shall be entitled to review all invoices and other documentation related to the Projects in order to verify use of the funds in accordance with this Agreement

2.4 CLOMR & LOMR. The Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR) required by these Projects will extend from the East Side Detention Facility to where Boxelder Creek crosses under Interstate 25. This agreement covers the costs of preparing these documents, and coordinating their approval by FEMA. This CLOMR and LOMR will be submitted to FEMA along with the corresponding CLOMR and LOMR for the areas west of Interstate 25. The costs associated with the CLOMR and LOMR for the areas west of Interstate 25 are not part of this agreement and are to be covered by separate instrument between TDA and the City of Fort Collins.

2.5 Construction Deadlines. The Authority hereby agrees that it will complete construction of the Projects by July 1, 2015.

2.6 Pledged Revenues. The Authority intends to pledge the funds received from the TDA pursuant to Section 2.3 above as collateral for the repayment of the Colorado Water Conservation Board loan. The TDA agrees to approve and execute any documents required by the Colorado Water Conservation Board for said funds to be used as collateral for repayment of the loan and to comply with all requirements of the Colorado Water Conservation Board,

including execution of any security interest agreement associated with such funds as may be required by the Colorado Water Conservation Board.

2.7 CWCB Loan Feasibility Study. The funds made available by TDA pursuant to Section 2.3 above shall be included in the Loan Feasibility Study which is part of the application by the Authority to obtain approval of the CWCB loan. TDA agrees to provide all documentation including, but not limited to, availability of funds to meet the obligations of TDA pursuant to the terms and conditions of this Agreement.

ARTICLE 3

TARGETED TIMELINE

Attached hereto as "Exhibit B" and incorporated herein by this reference, is the anticipated timeline for completion the various components of the Projects. The parties understand and agree that completion of the individual components of the timeline are subject to change, including extension thereof, due to factors beyond the control of and unforeseen by the parties at this time. Unforeseen factors include, but are not limited to:

- (a) unforeseeable design and/or engineering factors, which are not caused by acts or omissions of the Authority, and which delay the ability of the Authority to design and engineer the Projects or any portion thereof;
- (b) unforeseeable regulatory issues, which are not caused by acts or omissions of the Authority, with any federal, state or local government agency having jurisdiction over the Projects or any part thereof, including, but not limited to, 404 permit, State Engineers approval and FEMA approval of CLOMR;
- (c) unforeseeable cause(s) beyond the control of the Authority including, but not limited to, acts of God, national emergencies, or other incidents beyond the control and not due to the fault of the Authority; and
- (d) unforeseeable issues in the acquisition of appropriate land, easements, and/or right-of-ways to allow the Authority to construct the Projects which are not caused by acts or omissions of the Authority.

ARTICLE 4

CONTINGENCIES

The obligation of the Authority to finalize the design and construct the Projects shall be specifically contingent upon the occurrence of the following events:

- (a) Approval of the loan for construction of the Projects by the Colorado Water Conservation Board on terms and conditions acceptable to the Authority including the approval by all of the Members of the loan's terms and conditions.

ARTICLE 5

MISCELLANEOUS PROVISIONS

5.1. Binding Agreement. Both the TDA and the Authority intend that this Agreement shall be binding upon them.

5.2. Amendments. This Agreement may only be amended, changed, modified or altered in writing, signed by both parties hereto.

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

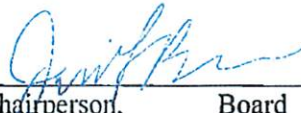
5.4. Jointly Drafted; Rules of Construction. The parties hereto agree that this Agreement was jointly drafted, and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

5.5. Defined Terms. Capitalized terms used in this Agreement but not otherwise defined herein shall have the meanings set forth in the Master Plan.

[The Remainder of Page Intentionally Left Blank. Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

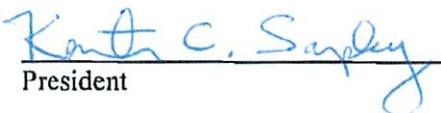
**THE TIMNATH DEVELOPMENT
AUTHORITY**

By: 
Chairperson, Board of
Commissioners

ATTEST:


Clerk, Board of Commissioners

**THE BOXELDER BASIN REGIONAL
STORMWATER AUTHORITY**

By: 
President

PAID IN FULL

EXHIBIT A

Visual Depiction of Boxelder Creek Flood Mitigation Projects

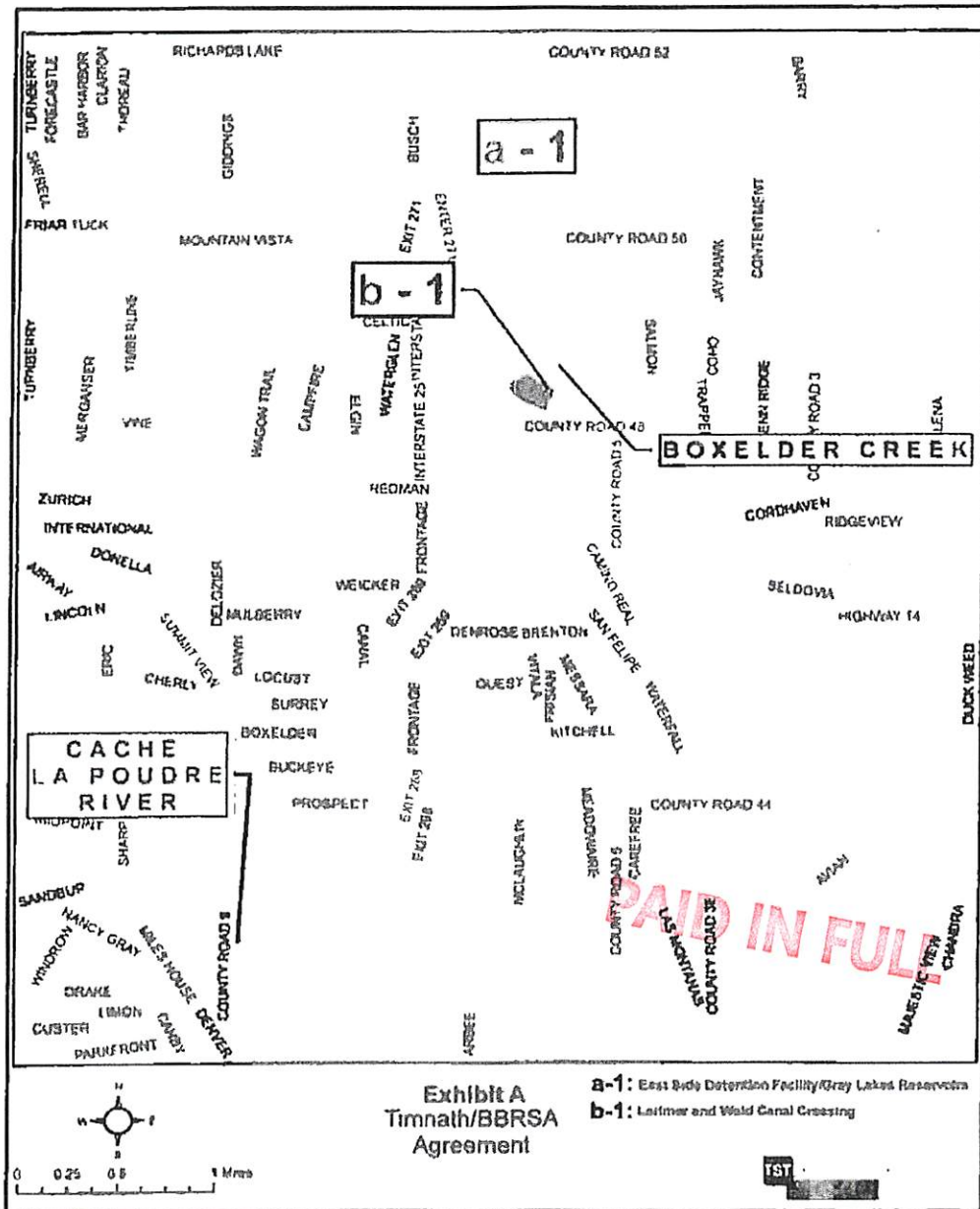


EXHIBIT B

Targeted Schedule Dates for CWCB Loan Application and Construction of Projects

CWCB Loan Application and Feasibility Study - February 1, 2013

Loan Closing and Funding – May 2013

Begin Construction – October 2013

Substantial Completion & Loan Finalization – October 2014

End of Construction – December 2014

PAID IN FULL

TIMNATH DEVELOPMENT AUTHORITY

RESOLUTION NO. TDA-6, SERIES 2012

**A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN
THE BOXELDER BASIN STORMWATER AUTHORITY AND THE TIMNATH DEVELOPMENT
AUTHORITY**

WHEREAS, the Town of Timnath ("Town") has established the Timnath Development Authority ("TDA") pursuant to a resolution dated November 10, 2004; and

WHEREAS, the Town and the TDA are governed by an identical governing body; and

WHEREAS, attached hereto as Exhibit A is the Intergovernmental Agreement with the Boxelder Basin Stormwater Authority ("Agreement"); and

NOW THEREFORE, be it hereby resolved by the Board of Commissioners of the TDA as follows:

WHEREAS, the Timnath Development Authority, has the power to pass resolutions; and

WHEREAS, the Authority is familiar with the Agreement and finds it to be in the best interest of the Town, its residents, and the general public.

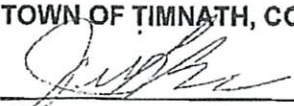
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO as follows:

Section 1. Approval

The Commission hereby approves the Agreement.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON NOVEMBER 13, 2012,

TOWN OF TIMNATH, COLORADO



Jill Grossman-Belisle, Chair

ATTEST:



Milissa Peters, Secretary

PAID IN FULL



FW: CWCB Boxelder Loan Contracts

1 message

Stan Myers <stanm@pinnacleconsultinggroupinc.com>

Wed, Jun 19, 2013 at 4:21 PM

To: "Peg Mason (peg.mason@state.co.us)" <peg.mason@state.co.us>

Peg

Sorry I dropped the ball! Here are Greg's answers to your initial questions. Please let me know if you have additional concerns.

Stan

Stan A. Myers PE



Loveland: (970) 669-3611

Denver: (303) 333-4380

Fax: (970) 669-3612

Cell: (970) 219-1357

stanm@pinnacleconsultinggroupinc.com

Loveland

5110 Granite Street, Suite C

Loveland CO, 80538

Denver

5300 DTC Parkway, Suite 260

Greenwood Village, Colorado 80111

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From: Greg White [mailto:greg@gawwhite.com]

Sent: Wednesday, June 12, 2013 2:24 PM

To: Stan Myers

Subject: RE: CWCB Boxelder Loan Contracts

Stan Here Is my response to the questions re the CWCB loan.

1. Pinnacle is a private entity providing administrative services to the Authority by contract.
2. Boxelder is a "Drainage Authority" pursuant to the provisions of Section 29-1-204.2 CRS.
3. There is no resolution establishing a Water Activity Enterprise. As a Drainage Authority without the power to tax, Boxelder is not subject to the provisions of Article X, Section 20 of the Colorado Constitution.
4. The statement should read as follows;

The Boxelder Basin Regional Stormwater Authority is a drainage authority formed pursuant to and governed by C.R.S. 29-1-204.2 and the Intergovernmental Agreement dated August 20, 2008, by and among The Board of Commissioners of Larimer County, Colorado, The City of Fort Collins, Colorado, and The Town of Wellington, Colorado, including all amendments thereto.

If you need anything further, let me know.

Greg White

From: Stan Myers [<mailto:stanm@pinnacleconsultinggroupinc.com>]

Sent: Tuesday, June 11, 2013 9:15 AM

To: Greg White (greg@gawhite.com)

Subject: FW: CWCB Boxelder Loan Contracts

Importance: High

Greg:

Please see below some questions from CWCB on our loan. Can you provide some input here?

Thanks

Stan

Stan A. Myers PE



Loveland: (970) 669-3611

Denver: (303) 333-4380

Fax: (970) 669-3612

Cell: (970) 219-1357

stanm@pinnacleconsultinggroupinc.com

Loveland

5110 Granite Street, Suite C

Loveland CO, 80538

Denver

5300 DTC Parkway, Suite 260

Greenwood Village, Colorado 80111

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From: Mason - DNR, Peg [<mailto:peg.mason@state.co.us>]

Sent: Monday, June 10, 2013 4:17 PM

To: Stan Myers

Subject: CWCB Boxelder Loan Contracts

Importance: High

Stan-

I am drafting the loan contracts for Boxelder and have some questions.

- Is Pinnacle a DBA for Boxelder or just a c/o? Does the Pinnacle name belong in the contract as part of the party's name?
- What type of entity is Boxelder? Is it just an "Authority" or a "Drainage Authority" per C.R.S. 29-1-204.2(2)?
- I need the bylaws of the Water Activity Enterprise. Can you also give me the Resolution number and date establishing the Water Activity Enterprise?
- Once it is completed, is the following paragraph accurate:

The Boxelder Basin Regional Stormwater Authority

is a drainage(?) authority formed pursuant to and governed by C.R.S. 29-1-204.2(2) and is located in Larimer County. The Boxelder Basin Regional Stormwater Authority Water Activity Enterprise is a water activity enterprise established by the Authority pursuant to Resolution No. __, dated __, pursuant to Article 45.1, Title 37, C.R.S., which resolution is incorporated herein by reference. The Enterprise was formed and is operated as an enterprise within the meaning of COLO. CONST. Art. X, Section 20.

Thank you,

Peg Mason, Contracts Manager

Finance & Administration Section

Colorado Water Conservation Board

Department of Natural Resources

1580 Logan Street, Suite 600

Denver, CO 80203

Phone: (303) 866-3441 ext. 3227

Fax: (303) 894-2578

peg.mason@state.co.us

www.cwcb.state.co.us