PURCHASE AND SALE AGREEMENT
(Turnberry Parcel O)

This PURCHASE AND SALE AGREEMENT (the "**Agreement**") is made and entered into by and between the **CITY OF COMMERCE CITY**, a Colorado home rule municipality whose address is 7887 60th Avenue, Commerce City, CO ("**City**" or "**Buyer**"), the **CITY OF COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT**, a public improvement district and body corporate duly organized pursuant to Part 6, Article 25, Title 31, C.R.S., and Ordinance 1212, Series 1997, of the City of Commerce City, whose address is 7887 East 60th Avenue, Commerce City, CO 80022 ("**NIGID**"), and **CATELLUS CC NOTE, LLC**, a Delaware limited liability company whose principal business address is 66 Franklin Street, Suite 200, Oakland, CA 94607 ("**Seller**").

RECITALS

WHEREAS, Seller is the owner of certain real property consisting of approximately 25.43 acres in the City of Commerce City, County of Adams, State of Colorado, as more specifically defined as the "Property" below; and

WHEREAS, Buyer desires to buy the Property from Seller, and Seller desires to sell the Property to Buyer, for the payment of a purchase price and the execution of certain agreements by Buyer, Seller, and the NIGID in accordance with the terms of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration for the mutual covenants and agreements contained in this Agreement, the sufficiency of which is acknowledged, the parties agree as follows:

ARTICLE I

1.1. **Definitions.** In addition to terms defined elsewhere in this Agreement, capitalized terms used in this Agreement shall have the meanings described:

a. "**Ancillary Agreements**" means the agreements to be executed at Closing as defined in Section 3.2.

b. "**Appurtenances**" means Seller's right, title and interest in any rights of way, easements, improvements, fixtures, structures, development rights, and other property rights of any kind located on or otherwise appurtenant to the Property.

c. "**Closing**" means the closing of the purchase and sale of the Property and the execution of the Ancillary Agreements as described in Article III.

d. "**Closing Date**" means the date the Closing will take place.

e. "**Mineral Rights**" means minerals, mineral rights, oil, gas, and all other components of the mineral estate of the Property, whether like or unlike the foregoing, except as may have been reserved in a recorded document by Seller's predecessors in title to the Property.

f. "**Option Agreement**" means the Option Agreement between Buyer and Seller dated February 25, 2015.

g. "**Party**" means Buyer, the NIGID, or Seller as required by the context in which it is used, and "**Parties**" means Buyer, the NIGID, and Seller, collectively.

h. "**Permitted Exceptions**" means those exceptions to title contained in the Title Commitment.

i. "**Person**" means any individual or legal entity, including any corporation, limited liability company, association, unincorporated organization, trust, or otherwise, including any government entity or agency or subdivision thereof, and any heir, executor, administrator, legal representative, successor, or assign of any such Person.

j. "**Property**" means the real property commonly referred to as Turnberry Parcel O and more specifically described as Lot 1, Block 13, Turnberry Filing No.1, as recorded in the real property records of Adams County at Reception No. 20050630000693950 on June 30, 2005.

k. "**Seller's Knowledge**" means the actual knowledge of Tom Marshall.

l. "**Title Commitment**" means the title commitment issued by Title Company and approved by the Parties.

m. "**Title Company**" means Fidelity National Title Company.

n. "**Title Policy**" means the policy of title insurance on the Property issued pursuant to the Title Commitment in the amount of the Total Purchase Price and subject only to the Permitted Exceptions.

o. "**Purchase Price**" means the price to be paid by Buyer to Seller as provided in Section 2.2.

p. "**Water Rights**" means water and water rights, ditch and ditch rights, water taps, water agreements, wells, underground water (whether tributary, non-tributary, or not non-tributary), and all other rights in and to the use of water of any kind or nature, which are located on, under, or historically used in connection with or otherwise appurtenant to the Property.

1.2. **Effective Date.** This Agreement shall be effective on the date of execution by the last Party to sign this Agreement (the "**Effective Date**").

1.3. **Incorporation.** The following exhibits are attached to and incorporated in this Agreement by reference:

a. **Exhibit A Special Warranty Deed**

b. **Exhibit B Option Agreement for Purchase of ERUs**

c. Exhibit C Reimbursement Fee Agreement & Building Permit Restriction

d. **Exhibit D Public Improvement & Reimbursement Agreement**

e. **Exhibit E Reimbursement Fee Agreement & Building Permit Restriction (BCX Development LLC)**

1.4. **Rules of Construction.** Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and shall be construed and interpreted according to the

ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement will be construed or resolved in favor of or against the City or Owner on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

ARTICLE II

2.1. **Agreement to Purchase and Sell.** In consideration for the payment of the Purchase Price and the execution of Ancillary Agreements by the City at Closing, the NIGID, and Seller, Buyer agrees to Purchase from Seller, and Seller agrees to sell to Buyer, the Property and all of Seller's right, title, and interest in and to all Appurtenances, Mineral Rights and Water Rights on the terms and conditions stated in this Agreement.

2.2. **Purchase Price.** The Purchase Price for the Property shall be **One-Million Three-Hundred Thousand Dollars and Zero Cents ($1,300,000.00)**.

ARTICLE III

3.1. **Closing.** The Closing Date shall be a date as the Parties mutually agree, but not later than thirty (30) days from the Effective Date. Closing shall take place at such place or places as the Parties mutually agree.

3.2. **Closing Acts.** The following shall occur at Closing, each being a condition precedent to the others and all being considered as occurring simultaneously:

a. Seller will execute, have acknowledged, and deliver to Buyer the "Special Warranty Deed" conveying title to the Property substantially in the form attached as **Exhibit A**.

b. Buyer shall pay the Purchase Price to Seller, less the amount of any payments made by Buyer to Seller pursuant to the Option Agreement.

c. Buyer and Seller will execute the "Option Agreement for Purchase of ERUs" substantially in the form attached as **Exhibit B**.

d. Buyer, the NIGID, and Seller will execute the "Reimbursement Fee Agreement & Building Permit Restriction" substantially in the form attached as **Exhibit C**.

e. Buyer and Seller will execute the "Public Improvement & Reimbursement Agreement" substantially in the form attached as **Exhibit D**.

f. Buyer, the NIGID, and BCX Development, LLC will execute the Reimbursement Fee Agreement & Building Permit Restriction substantially in the form attached as **Exhibit E**.

3.3. **Additional Documents.** The Parties shall execute and deliver at or after Closing such other documents as either Party may reasonably request to fully effectuate the transfer of the Property to Buyer and carry out the intent and purposes of the Parties as set forth in this Agreement, including

execution of such affidavits as may be reasonably required by the Title Company to issue the Title Policy to Buyer.

3.4. **Closing Costs.** At Closing, the following costs and expenses shall be paid or prorated as follows:

a. On or promptly after Closing, Seller will file the proper returns and pay to the appropriate governmental authorities all sales, use, transfer, or other similar taxes, if any, due on or as a result of the transfer of the Property.

b. Buyer will pay all closing fees of the Title Company, the cost of the Title Policy and the cost of any endorsements thereto.

c. Real estate property taxes and assessments on the Property for the year of Closing, if any, shall be apportioned between Seller and Buyer as of the date of Closing, with the amount of taxes to be based upon the most recent available levy applied to the most recent available assessment, which apportionment shall be deemed final.

d. All water, gas, electrical, and other public utility charges relating to the Property, shall be apportioned between Seller and Buyer as of the date of Closing, based on the most recent applicable statements and meter readings, which apportionment shall be deemed final.

e. Each Party shall pay its own legal, consulting, and accounting fees.

3.5. **Possession.** Buyer shall be entitled to possession of the Property immediately after Closing.

ARTICLE IV

4.1. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer that, as of the date of this Agreement and as of the Closing Date:

a. Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware, and has full right, power, and authority to sell the Property to Buyer as provided in this Agreement, to execute the Ancillary Agreements as provided in this Agreement, and to perform its obligations under this Agreement;

b. Seller has good and marketable fee simple title to the Property and any Appurtenances, free and clear of all liens, property taxes, encumbrances, and restrictions, except for those appearing of record, Permitted Exceptions and taxes not yet due and payable;

c. Except as disclosed in writing by Seller to Buyer prior to Closing, Seller is not in default, and to Seller's knowledge, is not alleged to be in default, and has fulfilled all contractual obligations of Seller that are contractually obligated to be fulfilled prior to the Closing with respect to the Property;

d. The execution, delivery, and performance of this Agreement by Buyer will not and does not require the consent or approval of any other person or entity and will not and does not constitute a default or result in a breach of any indenture, loan, credit agreement, mortgage, deed of trust, or other agreement;

e. Except as disclosed in writing by Seller to Buyer prior to Closing, to the best of Seller's knowledge there is no pending or threatened litigation, demand, claim, action, cause of action, complaint, or legal proceeding against Seller in any way directly affecting or concerning the Property or any portion of it;

f. Other than Buyer, no Person has, or to Seller's knowledge claims to have, any existing right to purchase or occupy any portion of the Property except as disclosed in the Permitted Exceptions;

g. Except for the Permitted Exceptions, to the best of Seller's knowledge there are no third parties who may have the right to claim or assert any easement, right-of-way, or claim of possession not shown by record, whether by grant, prescription, adverse possession, or otherwise, as to any part of the Property, and, other than the Permitted Exceptions, Seller has not placed or caused to be placed any lien against the Property since the date of the Option Agreement;

h. There are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy or pursuant to any debtor relief laws filed by Seller, or, to the best of Seller's knowledge, pending, contemplated, or threatened against Seller; and

4.2. **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that, as of the date of this Agreement and as of the date of Closing, Buyer is a home rule city duly incorporated under the Colorado Constitution and has full right, power, and authority to purchase the Property as provided in this Agreement, to execute the Ancillary Agreements to which it is a party as provided in this Agreement, and to perform its obligations under this Agreement.

4.3. **NIGID's Representations and Warranties.** The NIGID represents and warrants to Seller that, as of the date of this Agreement and as of the date of Closing, the NIGID is a public improvement district duly organized under the laws of the State of Colorado and has full right, power, and authority to execute the Ancillary Agreements to which it is a party as provided in this Agreement and to perform its obligations under this Agreement.

4.4. **Limitations.** No Party shall have any liability to another Party for the falsity of any representation or the breach of any warranty to the extent that the Party not making the representation or warranty, or any of its employees, agents, or contractors, had knowledge of the falsity of such representation or of the breach of such warranty when made.

ARTICLE V

5.1. **Default.** A Party will be in default if that Party fails to comply with or satisfy any covenant or agreement of that Party contained in this Agreement, or a breach by that Party of any representation or warranty of that Party contained in this Agreement, if that Party does not cure such default within ten (10) days of receipt of written notice of such default or, if such default cannot reasonably be cured in ten (10) days with the exercise of reasonable diligence, such longer period as may be reasonably necessary to cure such default with the exercise of reasonable diligence not to exceed thirty (30) days.

5.2. **Seller Remedies.** If Buyer or the NIGID is in default, Seller may elect to treat this Agreement as canceled and Seller may recover such damages as may be proper, or Seller may elect to treat this Agreement as being in full force and effect and Seller shall have the right to specific

performance of the transfer of the Property in exchange for the Purchase Price, and specific performance of the transactions referenced in the Ancillary Agreements for the consideration referenced therein.

5.3. **Buyer & NIGID Remedies.** If Seller is in default, Buyer or the NIGID may elect to treat this Agreement as canceled and Buyer and the NIGID may recover such damages as may be proper and, if so treated by Buyer, any payments made by Buyer to Seller pursuant to the Option Agreement shall be returned to Buyer; or Buyer may elect to treat the Agreement as being in full force and effect and Buyer shall have the right to specific performance of the transfer of the Property in exchange for the Purchase Price, and specific performance of the transactions referenced in the Ancillary Agreements for the consideration referenced therein.

5.4. **Limitation of Remedies.** The execution of the Ancillary Agreements is a critical component of the purchase and sale of the Property pursuant to this Agreement. However, the breach or non-performance of any Ancillary Agreement by any party will not affect the validity of the transfer of the Property to Buyer. The performance of each Ancillary Agreement shall be governed according to its own terms.

5.5. **Contingencies.** Performance by Buyer and the NIGID under this Agreement is expressly contingent on Buyer's inspection of the Property, review of all agreements and information affecting the Property, and review and approval of the Title Commitment and any title documents ("**Buyer's Due Diligence**"). Accordingly, Buyer shall have until ten (10) days following the Effective Date (the "**Due Diligence Period**") to complete Buyer's Due Diligence. If Buyer has any objections to any of Buyer's Due Diligence, Buyer shall deliver written notice of such objections ("**Objection Notice**") to Seller during the Due Diligence Period. Seller shall have thirty (30) days after receipt of the Objection Notice to cure the objections made by Buyer, and the Closing Date shall be automatically extended as necessary to accommodate such cure period. If Seller fails to cure any matter in the Objection Notice to Buyer's reasonable satisfaction, Buyer may (1) terminate this Agreement by delivery of written notice of termination to Seller, or (2) waive any uncured objections and proceed to Closing. If this Agreement is terminated due to the failure of any contingency, the Parties shall have no further rights or obligations under this Agreement.

ARTICLE VI

6.1. **Holidays.** If the deadline for any act, event, or notice required under this Agreement falls on a Saturday, Sunday, or legal holiday, the deadline for such act, event, or notice shall be extended to the next business day.

6.2. **Notices.** Written notices required under this Agreement and all other correspondence between the Parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

To Buyer or the NIGID:

James Hayes
Deputy City Manager
City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022

To Seller:

Catellus CC Note, LLC
Attn: C. William Hosler
66 Franklin Street, Suite 200
Oakland, CA 94607

Electronic copy to:

Jim Marshall
jimmarshall@bcxdevelopment.com

and to:
John Heronimus
jheronimus@DuffordBrown.com

Nothing in this Agreement shall be construed to restrict the transmission of routine communications between the Parties.

6.3. **Brokerage Commissions.** The Parties acknowledge that there are no brokerage commissions to be paid by any Party in regards to the sale of the Property.

6.4. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, representatives, successors, and assigns.

6.5. **Assignment.** No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Parties, which consent will not be unreasonably withheld.

6.6. **No Third-Party Beneficiaries.** Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties and then only to the extent of their interests in this Agreement. The Parties expressly intend that any Person other than Buyer, the NIGID, and Seller shall be deemed to be only an incidental beneficiary under this Agreement.

6.7. **No Waiver.** The waiver of any breach of a term, provision or requirement of this Agreement, including the failure to insist on strict compliance or to enforce any right or remedy, shall not be construed or deemed as a waiver of: any subsequent breach of such term, provision or requirement or of any other term, provision or requirement; any right to insist on strict compliance with any term, provision or requirement; or any right to enforce any right or remedy with respect to that breach or any other prior, contemporaneous, or subsequent breach.

6.8. **Governing Law; Jurisdiction and Venue; Recovery of Costs.** This Agreement shall be governed by the laws of the State of Colorado without regard to its conflicts of laws provisions. For all claims arising out of or related to this Agreement, each Party consents to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. Each Party waives any exception to jurisdiction because of residence, including any right of removal to federal court based on diversity of citizenship. If legal action is brought to resolve any dispute among the Parties related to this Agreement, the prevailing Party in such action shall be entitled to recover court costs and reasonable attorney fees from the non-prevailing Party.

6.9. **Governmental Immunity.** No term or condition of this Agreement 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, C.R.S. §§ 24-10-101, et seq.

6.10. **Authority.** The signatories to this Agreement represent and warrant that they are legally authorized to execute this Agreement on behalf of the Parties and to bind the Parties to its terms.

6.11. **Severability.** Any holding by a court of competent jurisdiction that any provision of this Agreement is invalid or unenforceable shall not invalidate or render unenforceable any other provision of this Agreement.

6.12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

6.13. **Entire Agreement; Modification.** This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and, except as expressly provided, may not be modified or amended except by validly executed written agreement of the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

6.14. **Survival.** The representations, warranties, and covenants set forth in this Agreement shall not merge into any document associated with this Agreement and shall survive Closing and the delivery of all closing documents and shall be enforceable at law and equity.

(Signatures contained on following pages.)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE CITY,

a Colorado home rule municipality

By:_____ ATTEST: _____
Laura J. Bauer, MMC, City Clerk

Name: Sean Ford,

Title: Mayor APPROVED AS TO FORM: _____
Robert Gehler, City Attorney

Date:_____

CITY OF COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT,

a Colorado public improvement district

By:_____ ATTEST: _____
Laura J. Bauer, Secretary

Name: Sean Ford,

Title: Chairperson APPROVED AS TO FORM: _____
Robert Gehler, General Counsel

Date:_____

CATELLUS CC NOTE, LLC,

a Delaware limited liability company

By:_____

Name: Tom Marshall,

Title: Executive Vice President

Date:_____

EXHIBIT A TO PURCHASE AND SALE AGREEMENT
(Turnberry Parcel O)

Special Warranty Deed

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is dated _____, 2015, and is made between CATELLUS CC NOTE, LLC (the "Grantor"), a Delaware limited liability company whose legal address is 66 Franklin Street, Suite 200, Oakland, CA 94607, and the CITY OF COMMERCE CITY (the "Grantee"), a Colorado home rule municipality whose legal address is 7887 East 60th Avenue, Commerce City, Adams County, Colorado.

WITNESS, that the Grantor, for and in consideration of the sum of **ONE-MILLION THREE-HUNDRED THOUSAND DOLLARS ($1,300,000.00)**, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, grant, bargain, sell and confirm unto the Grantee, and the Grantee's heirs and assigns, forever, all the real property, together with any improvements thereon, located in the County of Adams and State of Colorado, described as follows:

Lot 1, Block 13, Turnberry Filing No.1, as recorded in the real property records of Adams County at Reception No. 20050630000693950 on June 30, 2005,

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest, demand, and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the Grantee, and the Grantee's heirs and assigns, forever.

The Grantor, for the Grantor and the Grantor's heirs and assigns, does covenant and agree that the Grantor shall and will **WARRANT THE TITLE AND DEFEND** the above described premises, but not any adjoining vacated street or alley, if any, in the quiet and peaceable possession of the Grantee and the heirs and assigns of the Grantee, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor except and subject to the following matters: exceptions of record and those matters set forth on **Exhibit A**, attached hereto and made a part hereof.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

CATELLUS CC NOTE, LLC

By: _____
Name: Tom Marshall
Title: Executive Vice President

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Tom Marshall, as Executive Vice President of Catellus CC Note, LLC, a Delaware limited liability company.

Witness my hand and official seal:

My commission expires:

_____
Notary Public

EXHIBIT B TO PURCHASE AND SALE AGREEMENT
(Turnberry Parcel O)

Option Agreement for Purchase of ERUs

OPTION AGREEMENT FOR PURCHASE OF ERUS

This AGREEMENT ("Agreement") is made and entered into this _____day of _____, 2015, by and between the CITY OF COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT ("NIGID"), the CITY COMMERCE CITY, a Colorado Home Rule municipality ("Commerce City") and CATELLUS CC NOTE, LLC a Delaware limited liability company ("Catellus"). The NIGID, Commerce City and Catellus shall be termed individually a "Party" and collectively the "Parties".

WITNESSETH:

WHEREAS, Catellus desires to build a development within Commerce City for which it will require potable water service and wastewater services; and

WHEREAS, the NIGID has purchased ERU Water Credits and Option Fee Credits under the FRICO Participant Water Resources Agreements attached hereto as **Exhibits 1 and 2**; and

WHEREAS, the NIGID has previously assigned said ERU Water Credits and Option Fee Credits to Commerce City.

NOW, THEREFORE, in consideration of the premises and the following mutual covenants and agreements, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I.
DEFINITIONS

1.1 Effective Date. The date upon which this Agreement is fully executed.

1.2 ERUs. South Adams ERU Water Credits and Option Fee Credits, as defined in the FRICO Participant Water Resources Agreements, attached hereto as Ex**hibits 1 and 2**, that have been purchased by the NIGID and assigned to Commerce City. The term of said ERUs is perpetual.

1.3 Option ERUs. Those ERUs for which the NIGID is granting Catellus an option under this Agreement, as specified on the ERU Purchase Schedule attached hereto as **Exhibit 3** and incorporated by reference herein ("ERU Purchase Schedule")**.**

1.4 South Adams. South Adams County Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado, acting in an enterprise capacity by and through its Water and Sewer Enterprise.

ARTICLE II.
THE OPTION

2.1 Grant of Option. The NIGID hereby grants to Catellus the right and Option to purchase the 200 Option ERUs from the NIGID as set forth in the ERU Purchase Schedule, upon and subject to the terms and conditions set forth herein.

2.2 Limitation of Agreement. Catellus acknowledges that the exercise of the Option granted herein and the purchase of the Option ERUs is limited by and shall be subject to the conditions and restrictions in the FRICO Participant Water Resources Agreements under which the Option ERUs were issued by South Adams.

2.3 Term and Exercise of Option. The term of this Option shall commence on the Effective Date and shall continue in effect until December 15, 2019 or at such time as the Option is earlier terminated pursuant to the provisions of this Agreement. At any time prior to expiration of the Option, Catellus may exercise the Option by delivering written notice of exercise of the Option to the NIGID in accordance with the provisions of Article 3 of this Agreement. Catellus may not extend the term of the Option unless agreed upon by the NIGID.

ARTICLE III.
PURCHASE OF THE OPTION ERUs

3.1 Exercise of Option. At any time prior to expiration of the Option, Catellus may exercise the Option by delivering written notice of exercise of the Option to Commerce City (the "Exercise Notice"). The Exercise Notice deadline shall be on or before October 31, 2016 for the first 50 Option ERUs, and in accordance with the ERU Purchase Schedule for each subsequent purchase. In the Exercise Notice, Catellus shall specify the number of Option ERUs to be purchased; provided, that the required Minimum Option ERUs are specified by Catellus in accordance with the ERU Purchase Schedule.

3.2 Right of Purchase. Upon Catellus's delivery of an Exercise Notice to the NIGID, Catellus shall purchase from the NIGID, and Commerce City shall convey to Catellus, the Minimum Option ERUs in accordance with the ERU Purchase Schedule and any additional Option ERUs which Catellus elects to purchase in accordance with the terms and conditions contained in this Agreement subject to Section 5.1(b). Any Option ERUs

purchased by Catellus in excess of the Minimum Option ERUs will be credited to the next ensuing Minimum Option ERU requirement under this Agreement.

3.3 Purchase Price. The Purchase Price to be paid by Catellus to the NIGID for the Option ERUs shall be $7,500 per Option ERU for the first 100 Option ERUs, and $12,000 per Option ERU for any subsequent Option ERU, subject to Section 5.1(b), below, and subject to the price reduction remedy of Catellus set forth in that certain Public Improvement & Reimbursement Agreement by and between the City and Catellus entered into contemporaneously with this Agreement.

3.4 Payment of Purchase Price. Subject to the full and timely performance by Catellus hereunder, the Purchase Price for the Option ERUs shall be payable to the NIGID by check or wire transfer to the NIGID by Catellus, on the Purchase Date, as set forth in the ERU Purchase Schedule.

3.5 Acceleration. Subject to the provision of Section 3.3, the ERU Payment Schedule may be accelerated by Catellus and the ERU Purchase Price may be prepaid in whole or in part at any time. The ERU Purchase Schedule requires no prepayment premiums or penalties.

3.6 Closing Adjustments. All closing costs, transfer fees and adjustments required by South Adams or any other applicable entity shall be paid by Catellus. There shall be no other closing costs or transfer fees imposed by the NIGID or Commerce City.

3.7 South Adams Charges. The Option ERUs shall be purchased by Catellus subject to the Rules and Regulations of South Adams, and payment by Catellus to South Adams of all transfer fees, development or capital charges, or any other charges and fees necessary to the use of or appurtenant to the Option ERUs and the provision by South Adams of water service.

3.8 Purchase Date. The transactions shall be closed at a time and place mutually agreed upon by the Parties on or before the applicable Annual Purchase Deadline as set forth in the ERU Purchase Schedule (each, a "Purchase Date").

ARTICLE IV.
CONVEYANCE OF THE OPTION ERUS

4.1 Conveyance of the ERUs. On or before each Purchase Date, Commerce City shall convey to Catellus the Option ERUs that Catellus has purchased, subject to receipt of the closing delivery requirements below.

4.2 Limitations. Commerce City makes no representations or warranties regarding the availability of sanitary sewer service from South Adams.

4.3 Closings. If Catellus exercises any part of the Option in accordance with the provisions of Article III, closings shall occur on or before the applicable Annual Purchase Deadline as set forth in the ERU Purchase Schedule.

4.4 Closing Documents and Requirements. At any applicable closing, Catellus shall deliver the following:

(a) To the NIGID, the Purchase Price for the Option ERUs being purchased by Catellus as of each Purchase Date, without adjustment for any closing or transfer costs. All closing, transfer costs or other fees and charges of any kind whatsoever, shall be paid by Catellus.

(b) To the NIGID, such information as may be reasonably required by Commerce City pursuant to the FRICO Participant Water Resources Agreements to document the conveyance of the Option ERUs acquired by Catellus as of each Purchase Date.

4.5 Documents. At any applicable closing, Commerce City shall deliver the following:

(a) To Catellus, an assignment, generally in the form of **Exhibits 4 or 5** attached hereto, evidencing the Option ERUs purchased by Catellus as of each Purchase Date. The Option ERUs purchased by Catellus shall be free and clear of all liens and encumbrances, security interests, demands or claims of any kind whatsoever by the NIGID, Commerce City or any third person as of the applicable Purchase Date.

4.6 South Adams Approval. Because the assignment of the Option ERUs is not effective until approved by South Adams, the Parties shall obtain such approval on or immediately after each Purchase Date and each closing shall be consummated and the closing documents and consideration exchanged upon receiving said approval.

4.7 Continuing Cooperation. Each of the Parties shall, whenever and as often as it shall be reasonably requested to do so by the other Party, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered any and all conveyances, assignments and all other instruments and documents as may be reasonably necessary

in order to complete the transaction herein provided and to carry out the intent and purposes of this Agreement.

4.8 Representations and Warranties of the City and NIGID. The City and NIGID represent and warrant to Catellus that they own a sufficient number of ERUs to be able to sell the Option ERUs to Catellus at any time during the term of this Agreement, regardless of whether the Option ERUs are acquired in accordance with the ERU Purchase Schedule, on a fully accelerated basis, or otherwise.

ARTICLE V.

5.1 Early Termination of Option for Non-Payment of Purchase Price. Time is of the essence hereof and if any payment or any other condition hereof is not made, tendered or performed as herein provided, there shall be the following remedies. If Catellus fails to timely pay the Purchase Price by the applicable Annual Purchase Deadline for the corresponding Minimum Option ERUs as set forth in the ERU Purchase Schedule pursuant to Article 3.3, the Option for such corresponding Minimum Option ERUs ("Missed Option") shall terminate, subject to Sections 5.1(a) and 5.1(b) below.

(a) Commerce City shall give Catellus written notice of such non-payment ("Notice of Non-Payment") that Catellus has failed to make payment for the exercise of its Option to purchase the applicable Minimum Option ERUs.

(b) If Commerce City does not timely receive the payment of the applicable Purchase Price within thirty (30) days of receipt by Catellus of a Notice of Non-Payment, then the right to purchase Option ERUs under the Missed Option shall be terminated without further action by either Party. Upon termination of the right to purchase the Option ERUs under said Missed Option, Catellus shall no longer have the option to purchase said Option ERUs under the Missed Option. Catellus shall have the right to exercise future options pursuant to the terms of the this Agreement, except that Catellus shall have the right to purchase the first 100 Option ERUs hereunder at a cost of $7,500/Option ERU in whatever option period those Option ERUs are purchased.

5.2 Noncompliance by the NIGID and Commerce City. If the NIGID or Commerce City are in default under the terms and conditions of this Agreement, Catellus shall provide the NIGID and Commerce City with written notice thereof and the NIGID or Commerce City shall have thirty (30) days after the NIGID's and Commerce City's receipt of said notice to cure said default. If the NIGID or Commerce City fail to cure said default within said thirty (30) day period, Catellus may elect to treat this

Agreement as terminated and provide written notice thereof to the NIGID and Commerce City. Upon receipt of such notice by the NIGID and Commerce City, the Parties shall thereafter be released from all obligations hereunder. Alternatively, Catellus may, at its election, treat this Agreement as being in full force and effect and shall have all the remedies under Colorado law including, but not limited to, the right to an action for specific performance.

ARTICLE VI.
PROVISIONS OF GENERAL APPLICATION

6.1 Further Instruments. Each Party hereto shall from time to time execute and deliver such further instruments as the other Party or its counsel may reasonably request to effectuate the intent of this Agreement.

6.2 Governing Law. The Parties hereto hereby expressly agree that the terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled by the laws of the State of Colorado.

6.3 Headings. Article and Article headings used in this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

6.4 Possession. Upon closing, Catellus shall be entitled to unrestricted possession of the Option ERU's subject hereto.

6.5 Compliance with Laws, Ordinances and Regulations. In performing the obligations, covenants and conditions of this Agreement, the NIGID, Catellus and Commerce City shall comply with all applicable laws, ordinances and regulations; provided however that Catellus shall be solely responsible for compliance with all of South Adams Rules and Regulations regarding the transfer, assignment and use of the Option ERU's and any right to acquire South Adams Sanitary Sewer ERU's.

6.6 Entire Agreement. Alteration or Amendment. The entire agreement of the Parties is herein written and the Parties are not bound by any agreements, understandings, conditions, or inducements otherwise than are expressly set forth and stipulated hereunder. No change, alteration, amendment, modification or waiver of any of the terms or provisions hereof shall be valid unless the same is in writing and signed by the Parties.

6.7 Counterparts. This Agreement may be executed in two or several counterparts

and all counterparts so executed shall constitute one agreement binding on all of the Parties, notwithstanding that all the Parties are not signatories to the original or the same counterpart.

6.8 Severability. The invalidity or unenforceability of any of the provisions of the Agreement shall not affect any other provision of this Agreement which shall thereafter be construed in all respects as if such invalid or unenforceable provision were omitted.

6.9 Assignment. Catellus may assign this Agreement upon ten business days prior written notice to the NIGID and Commerce City provided that, as a condition to such assignment, (i) the assignee of Catellus assumes and agrees to pay and perform the obligations of Catellus hereunder and (ii) the Assignee of Catellus provides the NIGID and Commerce City with its contact information for written notice and other purposes. No assignment shall release a Party herein named from any obligation or liability under this Agreement. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns.

6.10 Notices. All notices provided for hereunder shall be deemed given and received when (a) personally delivered during business hours on a business day or (b) 48 hours after the same is deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the applicable Party at the address indicated below for such Party, or as to each Party, at such other address as shall be designated by such Party in a written notice to the other Party:

To Commerce City and NIGID:

City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022
Attn: City Manager
Tel: (303) 289-3758
Fax: (303) 289-3688

with a copy to:

Paul J. Zilis, Esq.
Vranesh and Raisch, LLP
1720 14th Street, Suite 200
P. O. Box 871
Boulder, CO 80306-0871
Tel: (303) 443-6151
Fax: (303) 443-9586

Robert Sheesley, Esq.
7887 East 60th Avenue
Commerce City, CO 80022
Tel: (303)289-8130
Fax: (303)289-3688

To Catellus:

Catellus CC Note, LLC
Attn: C. William Hosler
66 Franklin Street, Suite 200
Oakland, CA 94607

with electronic copy to:

Jim Marshall
jimmarshall@bcxdevelopment.com

John Heronimus
jheronimus@DuffordBrown.com

6.11 Attorneys' Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing Party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

6.12 Survival of Closing. The terms and conditions of this Agreement shall survive the closing on the Option ERUs provided herein.

6.13 Authority. The individuals executing this Agreement on behalf of their respective entities are authorized by the entities to execute this Agreement on behalf of their respective entities.

6.14 Governmental Immunity. Nothing in this Agreement waives or is intended to waive any general protections that may be applicable to the NIGID or Commerce City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, or any other law, except that the NIGID, Commerce City or Catellus are entitled to commence actions for specific performance, injunctive relief, damages and all other relief or remedies available under Colorado law for breach of this Agreement. If any person allegedly aggrieved by any provision of this Agreement and who is not a Party to this Agreement shall sue the NIGID, Commerce City or Catellus under this Agreement or because of claims asserted to arise as a result of this Agreement, the other Party shall be notified promptly.

IN WITNESS WHEREOF, the Parties hereto have caused this Option Agreement to be executed and delivered as of the day and year first above written.

SELLER: CITY OF COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT

APPROVED AS TO FORM:

By:_____
Chairperson

_____
General Counsel

ATTEST:_____
Secretary

Date of Seller's Signature:_____

Seller's Address: 7887 E. 60th Avenue, Commerce City, CO 80022

ASSIGNOR: CITY OF COMMERCE CITY

APPROVED AS TO FORM:

By: _____
Mayor

_____
City Attorney

ATTEST:_____
City Clerk

Date of Assignor's Signature: _____

Assignor's Address: 7887 E. 60th Avenue, Commerce City, Colorado 80022

BUYER: CATELLUS CC NOTE, LLC

By:_____
Tom Marshall
Title: Executive Vice President

Date of Buyer's Signature: _____

Buyer's Address:

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2015, by Tom Marshall, as Executive Vice President of Catellus CC Note, LLC.

Witness my hand and official seal.

My Commission Expires:_____.

(SEAL)

_____
Notary Public

REVISED
PLAN B PROJECT
PARTICIPANT
WATER RESOURCES
AGREEMENT

BETWEEN

CRAIG RANCH GOLF COURSE, LLC,
a Nevada limited liability company,

LAS VEGAS GAMING INVESTMENTS, LLC
a Nevada limited liability company,

and

SOUTH ADAMS COUNTY
WATER AND SANITATION DISTRICT,
a Colorado special district, also acting in an enterprise capacity pursuant to its
WATER AND SEWER ENTERPRISE

EXHIBIT 1

REVISED PLAN B PROJECT PARTICIPANT WATER RESOURCES AGREEMENT

This Revised Plan B Project Participant Water Resources Agreement ("Revised Agreement") is entered into by and between CRAIG RANCH GOLF COURSE, a Nevada limited liability company, LAS VEGAS GAMING INVESTMENTS, a Nevada Limited Liability Company (together, "Participant") and SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT, a Colorado special district, acting in its enterprise capacity pursuant to the SOUTH ADAMS WATER AND SEWER ENTERPRISE (collectively referred to as the "District"), and constitutes the Parties' agreement to the following:

RECITALS

WHEREAS, Participant is the owner of, or has a contract or option to purchase, land located within the District as generally depicted in Exhibit A attached hereto; and

WHEREAS, pursuant to the District's Rules and Regulations, the inclusion by the District of land owned or to be acquired by Participant requires that water resources agreements be entered into providing for the dedication of water; and

WHEREAS, based on the FRICO Participant Water Resources Agreement dated November 2, 2001, ("the Original Agreement"), the District has entered into an Amended Stock Purchase Agreement dated September 15, 2006 with Farmers Reservoir and Irrigation Company ("FRICO"), Burlington Ditch and Land Company ("Burlington") and Henrylyn Irrigation District ("Henrylyn") to purchase water ("FRICO Agreement"), attached hereto as Exhibit B, that is the subject of a Settlement Agreement among the City and County of Denver ("Denver") and FRICO, Burlington and Henrylyn dated August 31, 1999 ("Denver Contract"); and

WHEREAS, the District has entered into a water delivery agreement with the Denver Water Board dated September 8, 2006 for the direct delivery of water from Denver Water to the District ("the Delivery Agreement"); and

WHEREAS, the District has determined that it currently has available 777 acre-feet of consumptive use credit water, that when combined with the Denver Contract water to be obtained pursuant to the FRICO Agreement, yields a total project supply of 5,777 acre-feet; and

WHEREAS, the District has determined from its planning that each acre-foot of Plan B Project water can supply 3.77 equivalent residential units for both in-house domestic use and outdoor irrigation use; and

WHEREAS, the District has determined that the water to be purchased and delivered pursuant to the Plan B Project would be suitable for satisfaction of water dedication requirements of the District for water service to land within the District subject to the terms of this Agreement; and

WHEREAS, the Plan B Project requires substantial capital investment over the next 20 years to be fully implemented, and the District is unable to commit to such investment absent the agreement of Participant and other participants to provide funding pursuant to the conditions of this Agreement; and

WHEREAS, the Parties desire to specify the terms for the District to provide ERU Water Credits, as defined herein, in exchange for Participant funding the purchase of a portion of the Plan B Project, and to delineate conditions under which such ERU Water Credits may be used to obtain ERU Water Connections, as defined herein.

WHEREAS, pursuant to an Assignment and Bill of Sale dated October 14, 2004 ("the Assignment"), which the District approved on October 21, 2004, Participant succeeded in interest to a portion of rights under the Plan B Project. Attached to this Revised Agreement is Schedule 2, which specifies Participant's Plan B Project Participation Amount, as obtained via the Assignment and reflects Participant's payment requirements and resulting ERU Water Credits as of the date of this Revised Agreement based upon Participant's Participation Amount; and

WHEREAS, the District's implementation of the Plan B Project under the FRICO Agreement and the Delivery Agreement requires revisions to the Original Agreement, which this Revised Agreement supersedes and replaces; and

NOW THEREFORE, in consideration of the mutual covenants and promises between the Parties, which the Parties acknowledge and agree constitute adequate consideration, with such consideration having been received, the Parties agree as follows with the foregoing Recitals being incorporated as part of this Revised Agreement by this reference:

ARTICLE 1
DEFINITIONS

1.1 "BFI Rebate Fees" are those fees charged to owners, developers, and builders for property benefiting from the BFI Water and Wastewater Facilities Extension described in the Resolution of the Board of Directors of South Adams County Water and Sanitation District Approving the BFI Rebate Fee adopted February 13, 2002 ("BFI Resolution"). A schedule of BFI Rebate Fees, as well as a map depicting properties benefiting from the BFI Water and Wastewater Facilities Extension, are attached hereto as Exhibit C.

1.2 "BFI Water and Wastewater Facilities Extension Costs" are those costs BFI Waste Systems of North America, Inc. ("BFI") incurred in constructing the substantial public water and wastewater main line extensions described in the BFI Resolution and that the District resolved to rebate to BFI in the BFI Resolution.

1.3 "ERU" is an equivalent residential unit. The District has determined that each acre-foot of Plan B Project water can supply 3.77 ERUs for both in-house domestic and outdoor irrigation uses.

1.4 "ERU Water Connection" is the potable and irrigation water connection to a single family residential structure or equivalent, all as set forth in the District's Rules and Regulations. Participant or its successors or assigns may obtain ERU Water Connections in accordance with paragraph 3.2 of this Revised Agreement and by paying all required fees as described in paragraph 3.4 of this Revised Agreement.

1.5 "ERU Water Credit" is a credit in Participant's favor in the District's financial records resulting from Participant's Installment Payments. An ERU Water Credit consists of: (1) an ERU Potable Water Credit, and (2) an ERU Irrigation Water Credit. Pursuant to, and in accordance with the terms and conditions of this Revised Agreement, the District will record in the District's financial records the ERU Potable Water Credits and ERU Irrigation Water Credits being allocated to Participant as Participant makes its annual FRICO Installment and SACWSD Installment Payments. These ERU Water Credits may be used only for participant lands located within the District's boundaries, as such participant lands are depicted on Exhibit A, except as exchanged pursuant to the terms of this Revised Agreement. Upon their recording in the District's financial records, ERU Water Credits will be available for surrender under paragraph 3.2(b) of this Revised Agreement, subject to any assignments and the provisions of this Revised Agreement, including, but not limited to, a Connection Allocation, described in paragraph 4.5 of this Revised Agreement.

a) Connection of a single family residential structure to the District's water system requires: one ERU Potable Water Credit, one ERU Irrigation Water Credit, and payment of Fees described in this Revised Agreement.

b) Commercial, irrigation, multi-family and other uses shall require a combination of ERU Potable Water Credits and/or ERU Irrigation Water Credits as required for that specific use.

1.6 "Incremental Water Payment" is the rate per ERU at which Participant may obtain ERU Water Credits and corresponding ERU Water Connections from the District under this Revised Agreement.

a) The Incremental Water Payment for ERU Water Connection Permits acquired from Participant's Optioned FRICO Participation Amount is $3,183.

b) The Incremental Water Payment for ERU Water Connection Permits acquired from Participant's SACWSD Participation Amount is $3,183 as of the date of execution of this Revised Agreement, but the incremental cost of this water will increase by 3.5 percent annually beginning November 27, 2008 and each November 27 thereafter.

1.7 "Installment Payment" is the amount Participant must pay to the District annually toward its Plan B Project Participation Amount. Each year the District will record in its financial records ERU Water Credits in favor of Participant for the additional amount of the Plan B Project paid for in the previous year.

a) "FRICO Installment Payment" is the amount Participant must pay to the District annually toward its Optioned FRICO Participation Amount. In determining Participant's FRICO Installment Payment for any given year, Participant shall receive credit against such FRICO Installment Payment for the sum of any Incremental Water Payments, as defined in paragraph 1.6(a) of this Revised Agreement, made by Participant or its assigns through September 25 of that year.

b) "SACWSD" Installment Payment" is the amount Participant must pay to the District annually toward its SACWSD Participation Amount. The SACWSD Installment Payment will increase by 3.5 percent annually beginning November 27, 2008 and each November 27 thereafter. In determining Participant's SACWSD Installment Payment for any given year, Participant shall receive credit against such SACWSD Installment Payment for the sum of any Incremental Water Payments, as defined in paragraph 1.6(b) of this Revised Agreement, made by Participant or its assigns through September 25 of that year.

1.8 "Option Fee" is the sum of Participant's Option Payments, including the annual increases thereto, divided by Participant's Optioned FRICO Participation Amount (in ERUs). As described in paragraph 3.2 of this Revised Agreement, Participant or its assigns must pay the Option Fee only to obtain ERU Water Connections from Participant's Optioned FRICO Participation Amount and only when Participant's Option Fee Credits have been exhausted in any given year.

a) For that portion of Participant's Optioned FRICO Amount that Participant has committed to a 6 year Payment Schedule, the Option Fee is $471.

b) For that portion of Participant's Optioned FRICO Amount that Participant has committed to a 15 year Payment Schedule, the Option Fee is $1,387.

The District reserves the right to make future adjustments to the Option Fee as are necessary in its reasonable discretion to meet the District's obligations to FRICO under the FRICO Agreement. In the event that the District makes such changes, it shall within fifteen (15) days of making such adjustment notify Participant in accordance with paragraph 6.3 of this Revised Agreement.

1.9 "Option Fee Credit" is a credit recorded in the District's financial records in favor of Participant resulting from Participant's annual Option Payments.

a) For Option Payments made in association with rights to be exercised over six years, Participant will receive one Option Fee Credit for every $471 of the Option Payment.

b) For Option Payments made in association with rights to be exercised over fifteen years; Participant will receive one Option Fee Credit for every $1,387 of the Option Payment.

1.10 "Option Payment" is the amount Participant must pay to the District annually to maintain its option to make Installment Payments and receive ERU Water Credits and ERU Water Connections under this Revised Agreement. The Option Payment will increase by 3.5 percent annually, beginning November 27, 2007 and each November 27 thereafter. Participant shall receive credit against its Option Payment for the sum of the Option Fees paid by Participant or its assigns in the preceding year through September 25 each year.

1.11 "Payment Group" is the group of participants that have entered into Revised Plan B Project Participant Water Resources Agreements with the District and, through such Revised Plan B Project Participant Water Resources Agreements, have committed to the same Payment Schedule as Participant. A list of the participants within the Payment Group and their respective Plan B Project participation amounts is attached hereto as Exhibit D.

1.12 "Payment Schedule" is the amount of time over which Participant has elected in paragraph 2.6(d) of this Revised Agreement to exercise its option to obtain ERU Water Credits under this Revised Agreement.

1.13 "Plan B Project" is the combined water acquisition and supply project made up of the District's 777 acre-feet of consumptive use credit and the Denver Contract water the District will obtain pursuant to the FRICO Agreement, with participants making certain payments toward the Plan B Project in exchange for which the participants will receive ERU Water Credits as defined herein.

1.14 "Plan B Project Participation Amount" is the total number of ERU Water Credits and corresponding ERU Water Connections Participant has a right to receive under this Revised Agreement. Attached hereto is Schedule 1, which specifies Participant's Plan B Project Participation Amount and associated payment requirements and resulting ERU Water Credits to which Participant subscribed in the Original Agreement. Subsequent to the Original Agreement, Participant may have assigned a portion of its Plan B Project Participation Amount to others. Also attached to this Revised Agreement is Schedule 2, which specifies Participant's Plan B Project Participation Amount, as reduced by any such prior assignments and reflects Participant's payment requirements and resulting ERU Water Credits as of the date of this Revised Agreement based upon Participant's Plan B Project Participation Amount.

a) "FRICO Participation Amount" is the portion of Participant's Plan B Project Participation Amount available from the District that the District will obtain through its acquisition of 5,000 acre-feet of water under the FRICO Agreement.

(1) "Initial FRICO Participation Amount" is the ten percent (10%) portion of Participant's FRICO Participation Amount for which Participant made an initial

deposit and for which Participant has already received ERU Water Credits, which are recorded in the District's financial records.

(2) "Optioned FRICO Participation Amount" is the remaining ninety percent (90%) of Participant's FRICO Participation Amount, which is subject to Annual Installment Payments and Option Payments.

b) "SACWSD Participation Amount" is the portion of Participant's Plan B Project Participation Amount available from the District out of the District's 777 acre-feet of consumptive use credit.

1.15 "Reallocation of Participation Amounts" is the process of the District making the opportunity available to each non-defaulting participant to subscribe to additional increments of the Plan B Project whenever one or more participants do not confirm their commitment to make or do not make required payments as provided in their respective Revised Plan B Project Participant Water Resources Agreement, subject to the provisions of transfer described in paragraph 6.1. Wherever in this Revised Agreement there is referred to a "Reallocation of Participation Amounts" the following terms and procedures shall apply:

a) Upon an event requiring a Reallocation of Participation Amounts, the District shall provide notice to all non-defaulting participants that there is an opportunity to subscribe to additional increments of the Plan B Project and later receive ERU Water Credits after making payments in accordance with such subscription. (The additional increments of the Plan B Project to which a non-defaulting participant may subscribe shall hereinafter be referred to as "the Reallocated Participant Amount"). The notice shall specify (1) the date that a response must be filed with the District, (2) the total payment to be paid and the Payment Group to which the Reallocated Participant Amount belongs, (3) the date on which the payment shall be paid, (4) the ERU Water Credits a responding non-defaulting participant will acquire an option to receive upon making the payment, and (5) any subscription the District has elected to make. The District may also elect to subscribe to all or any portion of the Reallocated Participant Amount.

b) On or before the response date, each non-defaulting participant may submit a response to the District indicating its commitment to subscribe to any or all of the Reallocated Participant Amount and to assume the payments associated with that portion of the Reallocated Participant Amount under the terms described in the Revised Plan B Project Participant Water Resources Agreement under which the District originally granted the Reallocated Participant Amount, together with either a demonstration of the ability to use such reallocated water on lands depicted on Exhibit A or the District's approval of the non-defaulting participant's subscription to the Reallocated Participant Amount in its reasonable discretion. Submission of the response to the District shall constitute the agreement of the responding non-defaulting participant to make the payment described in the response for the entire Payment Schedule to which the Reallocated Participant Amount is subscribed (described in paragraph 2.6(d) of the Revised Plan B Project Participant Water Resources Agreement under which the District *originally* granted the option to the Reallocated Participant Amount) unless earlier

terminated in accordance with paragraph 2.6(b) of this Revised Agreement, regardless of the term of the Payment Group to which the responding non-defaulting participant subscribed in its Revised Plan B Project Participant Water Resources Agreement. In the event that the responses the District receives result in a total payment in excess of the payment in default, the payment by each responding non-defaulting participant shall be reduced by the following formula:

Adjusted Payment = P x (TP/SP)

where

P = Payment responding non-defaulting participant proposed to pay in its response to the District
TP = Total Payment Associated with the Reallocated Participant Amount
SP = Total of proposed payment responses to the District

The District shall provide notice to each responding non-defaulting participant of (1) the acceptance of the response filed with the District or the Adjusted Payment determined pursuant to the foregoing formula, and (2) the number of ERU Water Credits to which the responding non-defaulting participant will have an option to receive upon timely payment of amount specified in the response filed with the District or the Adjusted Payment. Upon timely payment of the amount specified in the response filed with the District or the Adjusted Payment, the District shall designate in the financial records of the District the total ERU Water Credits that will be, upon payment, attributable to each responding non-defaulting participant as a result of the reallocation, which shall be equally divided between ERU Potable Water Credits and ERU Irrigation Water Credits.

c) A non-defaulting participant's response committing to subscribe to a portion of the Reallocated Participant Amount shall be a binding commitment to the District. The portion of the Reallocated Participant Amount to which the non-defaulting Participant subscribes shall be merged into the responding non-defaulting participant's obligation under its Revised Plan B Project Participant Water Resources Agreement, except that the Payment Schedule described in paragraph 2.6(d) of the Revised Plan B Project Participant Water Resources Agreement under which the District *originally* granted the option to the Reallocated Participant Amount will remain unchanged, and the District shall issue that participant a revised Schedule 2, showing its Participation Amount and resulting payments with the inclusion of its subscription to the Reallocated Participant Amount. Any default or failure to pay or make required commitments with regard to the Reallocated Participant Amount shall be considered a default or failure to make required commitments with regard to the responding non-defaulting participant's entire Plan B Project Participation Amount, and its entire Plan B Project Participation Amount will be subject to the provisions of paragraph 2.8 of this Revised Agreement.

d) In the event that the total of the payments proposed to be paid by the responding non-defaulting participants is less than the total payment associated with the

Reallocated Participant Amount, the District shall provide a second notice to each of the responding non-defaulting participants notifying them of the available Reallocated Participant Amount, and shall give those responding non-defaulting participants a period of three (3) business days from the date of such second notice to provide an amended response agreeing to subscribe to additional portions of the Reallocated Participant Amount and pay the Payment associated therewith. If, after such second notice, the responses the District receives result in a total payment in excess of the payment in default, the payment by each responding non-defaulting participant shall be reduced by the formula set forth in Section 1.15(b) above. In the event that the total of the payments proposed to be paid by the responding non-defaulting participants submitting amended responses to the District is still less than the total payment associated with the Reallocated Participant Amount, the District shall use reasonable efforts to subscribe to the remaining Reallocated Participant Amount or offer the opportunity to subscribe to said remaining Reallocated Participant Amount to third parties.

e) If the District receives less money than required under all Revised Plan B Project Participant Water Resources Agreements, even after conducting a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement, and if the District, after making reasonable efforts, has been unable to subscribe to the Reallocated Participant Amount or to find third-party subscribers to the Reallocated Participant Amount, **the options to continue to participate in the Plan B Project water of all participants within the Payment Group to which the Reallocated Participant Amount is subscribed will terminate.**

1.16 "System Development Fee" is the fee the District collects from developers to pay for existing and planned water and wastewater systems to be used, in part, to serve said developer. As of the effective date of this Revised Agreement, the System Development Fee is $1,991. The District anticipates future annual increases to the System Development Fee. At such times as the District adjusts its water resources fees for the District in general, the District shall also adjust the System Development Fee.

1.17 "Water Resources Fee" is the fee the District charges developers to provide the District with funds it needs to develop water supplies for new customers. As of the effective date of this Revised Agreement, the Water Resources Fee is $1,071. The District anticipates future annual increases to the Water Resources Fee. At such times as the District adjusts its water resources fees for the District in general, the District shall also adjust the Water Resources Fee.

ARTICLE 2
PROJECT PURCHASE

2.1 Deposit. On November 14, 2001, Participant deposited into escrow an amount equal to Fifty Thousand Dollars ($50,000.00) ("Deposit"). Land Title Guarantee Company ("Land Title") has held the Deposit pursuant to the terms and conditions of the Escrow Instructions, attached as Exhibit E.

2.2 Initial Payment to Escrow. The Participant has paid into escrow an initial payment of ten percent (10%) ("the Initial Payment"), less the Fifty Thousand Dollar ($50,000) deposit which was credited against the Initial Payment, of its Participation Amount at Twelve Thousand Dollars ($12,000) per acre-foot *(Initial Payment, see Schedule 1)*. The District has recorded in its financial records ERU Water Credits resulting from this Initial Payment and such credits are designated Participant's Initial FRICO Participation Amount.

2.3 DELETED.

2.4 District's Payments to FRICO. On April 12, 2002, the District withdrew money from the escrow and paid to FRICO the amount of Three Million, Five Hundred Thousand Dollars ($3,500,000), leaving Two Million, Five Hundred Thousand Dollars ($2,500,000) of principal in escrow. At that time the District recorded ERU Water Credits in an amount equal to Participant's Initial FRICO Participation Amount *(Initial Payment Allocation, see Schedule 1)*, subject to the provisions of Article 4 hereof.

On December 7, 2006, the District withdrew from escrow and paid to FRICO the remaining principal in escrow of Two Million, Five Hundred Thousand Dollars ($2,500,000).

2.5 Notification Concerning FRICO Agreement. The District gave notice to Participant of the FRICO Agreement on September 15, 2006, indicating that water court approval had been supplanted by the Delivery Agreement. Participant's opportunity to respond to the FRICO Agreement has expired and Participant is deemed to have waived any right to object to the implementation of the Plan B Project.

2.6 Participant Payments.

a) On or before October 27, 2006, Participant had the right to *elect* to pay off any portion of its Participation Amount with an up-front payment of Twelve Thousand Dollars ($12,000) per acre-foot and thus reduce any future Option Payments by Thirteen Thousand, Three Hundred, Thirty-Three Dollars and Thirty-Three Cents ($13,333.33) for every 188.5 ERU Water Credits received for such up-front payment, or, alternatively, to commit to the option payment schedule. Participant elected not to make an up-front payment toward any portion of its Plan B Project Participation Amount and has instead elected to commit to the Payment Schedule for its entire Plan B Project Participation Amount.

b) Having committed to the Payment Schedule, and even if Participant would subsequently choose to prepay the remaining balance of FRICO Installment Payments, Participant *will be liable for all future Option Payments* through the entire Payment Schedule or until all participants within the Payment Group terminate further participation in the Plan B Project.

c) The District, in its sole discretion, reserves the right to pay off the remaining Installment Payments and Option Payments associated with a Payment Group on behalf of Participant prior to receipt of such Installment or Option Payments from Participant and

to continue to collect the FRICO Installment Payments and Option Payments from Participant under the original Payment Schedule determined in paragraph 2.6(d) of this Revised Agreement.

(1) If the District makes such election, it shall provide notice of such election to all participants within the Payment Group, and any participant within that Payment Group may choose to make all remaining FRICO Installment Payments for its FRICO Participation Amount and terminate its obligation to make further Option Payments to the District. Participant shall notify the District of its intent to do so within fifteen (15) days of receipt of the District's notice and shall remit all final payments within fifteen (15) days thereafter.

(2) The District shall retain all SACWSD Installment Payments, and shall be free to use those funds in its sole discretion for capital facilities development.

d) Participant has committed to the Payment Schedule over 6 years, as have other participants of the Plan B Project *(the Payment Group, see Exhibit D)*. Participant therefore made its first Option Payment in the amount of $138,709.11 on December 7, 2006, less any applied credit for interest accrued on the initial payment to escrow described in paragraph 2.2 of this Revised Agreement. It shall make subsequent annual payments to the District on or before each November 27 consisting of the following three parts:

(1) an amount equal to $12,000 per acre-foot for at least one-sixth (16.67%) of Participant's Optioned FRICO Participation Amount *(Participant's FRICO Installment Payment, see Schedule 2)*; and

(2) one-sixth (16.67%) of Participant's SACWSD Participation Amount *(Participant's SACWSD Installment Payment, see Schedule 2)*; and

(3) Participant's Option Payment *(Participant's Option Payment, see Schedule 2)*.

Any additional option to participate in the Plan B Project that Participant may obtain from other Plan B Project Participants shall be subject to the Payment Schedule defined in the Revised Plan B Project Participant Water Resources Agreement initially granting such option.

e) If the total payment that the District anticipates receiving after all participants have had an opportunity to respond and confirm their commitment to timely make their Installment and Option payments is less than that required under all Revised Plan B Project Participant Water Resources Agreements, the District will conduct a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement.

f) DELETED.

g) DELETED.

2.7 Annual Payment Procedure. On or before October 1, 2007, and continuing on or before October 1 of each year during the Payment Schedule, the District shall send a written notice to Participant requesting that it confirm to the District its commitment to timely pay its Option Payment, FRICO Installment Payment and SACWSD Installment Payment, if such payment is applicable, *(see Schedule 2)*, which are due on November 27 of that year. The notice shall inform Participant regarding any accrued Option Fee Credits or credits toward Participant's SACWSD Installment Payment or Participant's FRICO Installment Payment, as such credits are described in paragraph 1.7 of this Revised Agreement. Participant shall respond to the notice either affirming its commitment or terminating its interest in the Plan B Project on or before October 15 of each year. If Participant fails to respond, the District shall provide a second notice giving Participant ten (10) days from the date of such second notice in which to provide a response confirming its commitment to timely make the payments required under this Revised Agreement. If the District has not received a response from Participant within such ten (10) day period, or if at any time Participant responds with its intent to terminate its participation in the Plan B Project, the District shall initiate a Reallocation of Participation Amounts described in Section 1.15 above with respect to Participant's entire Plan B Project Participant Amount toward which Participant has not yet made payments.

On or before each November 27, Participant shall make its FRICO Installment Payment, its SACWSD Installment Payment (if applicable), and its Option Payment *(see Schedule 2)*.

Excess credits resulting from payments of Option Fees or from Option Payments, if any, shall carry over annually. To the extent there may exist at the conclusion of the Payment Schedule any excess payments toward the total of Participant's Option Payments as a result of either payment under Participant's Option Payment obligation or payments by Participant or its assigns for Option Fees, a right to refund of such excess will exist only in favor of Participant. Participant's assigns shall have no right to refund hereunder. Participant's right to any such refund shall extinguish two (2) years following the conclusion of the Payment Schedule to which Participant has subscribed in paragraph 2.6(d) of this Revised Agreement.

2.8 Payment Default. In the event Participant shall fail to make any payment specified in this Article 2, including the failure to make the FRICO Installment Payment or SACWSD Installment Payment described in paragraph 2.6(d) of this Revised Agreement, even if Participant paid some portion of its FRICO Installment Payment or SACWSD Installment Payment under the provisions of paragraph 2.7 of this Revised Agreement or otherwise, Participant's option to make payments and receive ERU Water Credits under the Plan B Project shall terminate. The District shall reallocate Participant's option to continue participation in the Plan B Project to the non-defaulting participants using the procedure described in paragraph 1.15 of this Revised Agreement. Participant shall retain any ERU Water Credits the District allocated to it as a result of making previous FRICO and SACWSD Installment Payments, together with the rights to acquire ERU Water Connection Permits relating to such portion, provided that Participant complies with the provisions of this Revised Agreement relating to such portions of its Plan B Project Participation Amount which have been paid for. If a participant confirms its

commitment to timely make its Installment and Option Payments, but then fails to timely make such payments, the District will conduct a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement.

As described in paragraph 1.15(e) of this Revised Agreement, if the District receives less money than required under all Revised Plan B Project Participant Water Resources Agreements, even after conducting a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement, and if the District, after making reasonable efforts, has been unable to subscribe to the Reallocated Participant Amount or to find third-party subscribers to the Reallocated Participant Amount, **the options to continue to participate in the Plan B Project water of all participants within the Payment Group to which the Reallocated Participant Amount is subscribed will terminate.**

ARTICLE 3
ERU WATER CONNECTIONS

3.1 The District will record ERU Potable Water Credits and ERU Irrigation Water Credits in favor of Participant in accordance with the terms and conditions of this Revised Agreement, subject to the limitations of Article 4. Such ERU Water Credits will apply to the ERU Water Connection Fee, provided that:

a) Participant has provided the funds as described in this Revised Agreement for the purchase of Participant's Plan B Project Participation Amount; and

b) Participant, or its successors or assigns, has provided dual distribution potable and irrigation water systems for the lands within the District depicted on Exhibit A.

3.2 Issuance of ERU Water Connection Permits. The District shall issue ERU Water Connection Permits upon application by Participant, or its successors and assigns, to develop lands within the District depicted on Exhibit A to be served pursuant to this Revised Agreement upon:

a) Presentation of building permits for any structures that are to be the subject of the ERU Water Connection; and

b) Surrender of an appropriate number of ERU Potable Water Credits or ERU Irrigation Water Credits to provide potable and/or irrigation supplies for the building or site. Participant or its successor or assign shall inform the District whether such surrendered credits were recorded in the District's financial records as a result of Participant's SACWSD Installment Payments, FRICO Installment Payments, or Participant's Initial FRICO Participation Amount. Participant shall not be required to surrender ERU Potable Water Credits for irrigation demands.

Where Participant or its successor or assign has exhausted its ERU Water Credits and is therefore unable to surrender such credits in exchange for an ERU Water Connection Permit, the District will alternatively accept the Incremental Water Payment; and

c) For ERU Water Connection Permits acquired out of Participant's Optioned FRICO Participation amount, surrender of an appropriate number of Option Fee Credits.

The intent of paying the FRICO Option Fee at the time of obtaining ERU Water Connection Permits is to reduce the risk to other participants within the Payment Group of termination of their future options under the Plan B Project. The District shall apply any funds paid under the Option Payments and Option Fees to maintain the future options of each Payment Group.

Where Participant or its successor or assign has exhausted its Option Fee Credits and is therefore unable to surrender such credits in exchange for an ERU Water Connection Permit, the District will alternatively accept payment for the Option Fee, described in paragraph 1.8 of this Revised Agreement; and

d) Construction in accordance with paragraphs 3.6, 3.7 and 3.8 below of a dual water distribution system to serve the land that is to be the subject of the ERU Water Connection; and

e) Payment of the then-current System Development Charge and other related fees; and

f) If applicable, payment for the BFI Rebate Fee; and

g) Payment of wastewater connection fees required by the District's Rules and Regulations; and

h) Compliance with all other provisions of this Agreement and the District's Rules and Regulations; and

i) Payment for the then-current Water Resources Fee.

Prior to issuing any ERU Water Connection Permits under the final twenty percent (20%) of the Participant's Optioned FRICO Participation Amount, the District will require payment for the present value, calculated using an annual interest rate of 3.5 percent, of Participant's Option Payments for the remainder of its Payment Schedule period and required under paragraph 2.6(d)(3) of this Revised Agreement. Upon Participant's payment for the present value of such remaining Annual Option Payments, the District shall allocate in its financial records Option Fee Credits. In lieu of Participant's payment for the present value of Participant's remaining Option Payments, the District may in its sole discretion accept other reasonable financial assurances of future payment for the remaining Option Payments.

3.3 Determination of ERUs; Exchange of Lands. The number and type of ERU Water Credits and System Development Charges required for different types of development (e.g., multi-family, parks, etc.) shall be determined according to the then-current District Rules and Regulations. As to the ERU Water Credits available under this Revised Agreement, the District will consider an exchange of new land(s) for a portion of those lands depicted on Exhibit A, so long as the new lands are capable of being served by the District's dual distribution system, described in paragraph 3.6 of this Revised Agreement. The District's approval of such exchange shall not be unreasonably withheld, with any exchange being subject to reasonable terms and conditions determined by the District. Such terms and conditions shall not include surrender of additional ERU Water Credits, or payment of additional compensation (other than a nominal administrative transfer fee), as consideration for such consent.

3.4 Fees. Prior to obtaining an ERU Water Connection Permit, all then-applicable fees must be paid, including, but not limited to, the Water Resources Fee; the System Development Fee; and the Option Fee, where the Option Fee is applicable. The District, in its reasonable discretion, may adopt new fees or increase established fees for the District in general, and such new fees or increased established fees will apply to this Revised Agreement. The District will publish a schedule of applicable fees annually and will provide such schedule to Participant with its annual October 1 notice requesting commitment to make Participant's annual payments.

3.5 Participant acknowledges that this Revised Agreement may not provide water resources to meet all of the water supply needs of the properties depicted on Exhibit A, and that Participant may be obligated to enter into future water resources agreement(s) to meet any additional water supply demands over and above the ERU Potable and Irrigation Water Connections Participant might obtain under this Revised Agreement.

3.6 Construction of Dual Distribution System. The Parties agree that with respect to development of property served by ERU Water Connection Permits purchased pursuant to this Revised Agreement, construction shall include a "dual pipe" water supply system, which shall consist of (1) the Potable Water System, constituting piping for delivery of potable water for indoor uses, including but not limited to, drinking water facilities, bathing facilities, and other sanitary facilities, and outdoor vehicle washing and other non-irrigation outdoor uses, and (2) the Irrigation Water System, constituting piping for delivery of irrigation water for outdoor irrigation systems. The Potable Water System and the Irrigation Water System shall be constructed pursuant to the District's specifications. The District may, at any time, deliver potable water through the Irrigation Water System in lieu of delivery of irrigation water.

3.7 In order to serve the participant lands depicted in Exhibit A, the District shall install, at its sole cost and expense, the main water delivery facilities for the Irrigation Water System in accordance with the Master Utilities Plan of the District, as such plan may be revised from time to time by the District. Provision of ERUs to participants is subject to construction of the main water delivery facilities for the Irrigation Water System in accordance with the Master

Utilities Plan of the District necessary to provide ERUs to the participants. While the District will use reasonable efforts to install such main water delivery facilities for the Irrigation Water System in accordance with its Master Utilities Plan, it cannot guarantee that such main water delivery facilities for the Irrigation Water System will be secured in accordance with a particular schedule of projected development.

3.8 Participant or its successors and assigns shall install, according to the District's then-current specifications, and at their respective sole cost and expense, all piping and facilities required for delivery of water from the main water delivery facilities for the Irrigation Water System installed by the District to each lot or parcel to be served by the water supply. As to extensions of the Potable Water System necessary to serve the participant lands, Participant or its successors and assigns shall be required to extend water mains and construct related facilities at their respective own cost, as set forth in the District's Rules and Regulations. Upon completion by Participant or its successors and assigns of construction of such dual water supply lines, the District shall make appropriate inspection and notation of its records to reflect such construction.

3.9 Facility Design Criteria. The then-current facility design criteria set forth in the District's Design Specifications and Standards, together with any applicable provisions of the District's Rules and Regulations, shall apply to all facilities constructed to supply potable and irrigation water supplies to the participant lands.

ARTICLE 4
WATER AND SANITATION SERVICES

4.1 General. The District shall provide water and sewer service to the participant lands depicted on Exhibit A in accordance with the then current District's Rules and Regulations and Design Standards and Specifications. All public water and sanitary services provided shall require Participant or its successors and assigns to construct the extension of potable main water lines and sewer lines and related facilities to serve their properties, all as set forth in the District's Rules. The issuance of any ERU Water or Sewer Connection Permits shall be subject to the payment of all fees and charges, as specified in this Revised Agreement, compliance with the District's Rules and Regulations, compliance with the District's Design Specifications and Standards, and the completion of needed wastewater plant expansion to provide the requested public sewer services.

4.2 Connection Contingency. The District's obligation to issue Participant or its successors and assigns ERU Water and Sewer Connection Permits is expressly contingent on expansion of the District's existing wastewater treatment plant, certain dead-end improvements, and completion of a regional wastewater plant so as to include capacity for the District. The District shall use reasonable efforts to complete these wastewater projects or complete alternative and additional projects.

4.3 Wastewater Capacity Constraints. Upon written request by Participant or its successors and assigns, the District shall provide a status report regarding the completion of the

foregoing projects. If the issuance of ERU Water and Sewer Connection Permits to Participant or its successors and assigns is constrained by a lack of available wastewater collection and treatment facilities, the Parties shall meet and in good faith try to negotiate an agreement under which pre-payment of sewer connection fees may alleviate, in whole or in part, any constraints on issuance of sewer permits. In the event the wastewater plant expansions described herein are not successfully completed within the time-frames described above, the ERU Water Credits shall remain in full force and effect and may be used at such time when the conditions are satisfied or the District is otherwise able to provide service.

4.4 Connection Thresholds. The District will afford the opportunity to all participants to purchase ERU Water Connection Permits on an as-needed basis each year, unless total demand for new connections by all users in the District has exceeded either of the following thresholds:

a) Utilization of new ERU Water Connection Permits within the District has exceeded an average of 1,800 per year between January 1, 2002 and the date on which the anticipated regional wastewater treatment plant becomes operational, or

b) Utilization of new ERU Water Connection Permits in the District in any one year exceeded or will exceed 2,266.

4.5 Connection Allocation. If total demand for ERU Water Connection Permits has exceeded these thresholds, the District will allocate ERU Water Connection Permits to all participants in annual increments. If the total demand for ERU Water Connection Permits has or will exceed threshold a), then the District will allocate to each participant 3.98% of the participant's entire Plan B Project Participation Amount, not to exceed the portion of the participant's Plan B Project Participation Amount paid for up to that time. In the case of excess of threshold b), the number will be 5.0% of the participant's entire Plan B Project Participation Amount, not to exceed the portion of the participant's Plan B Project Participation Amount paid for up to that point in time. *(See Connection Allocations, Schedule 2).*

4.6 Procedure for Allocations Subject to Rules and Regulations. Specific provisions for implementing these allocations will be developed, if necessary, and included in the District's Rules and Regulations.

4.7 Provisions of Service Subject to Available Water and Wastewater Capacity. Additional water supplies and wastewater treatment capacity necessary to serve participant lands will be pursued by the District. Provision of ERU Water Connection Permits to participants is subject to construction of public water and wastewater facilities necessary to provide ERU Water Connection Permits to the participants. While the District will use reasonable efforts, it cannot guarantee that such water supplies or wastewater treatment capacity will be secured in accordance with a particular schedule of projected development. The District allocates portions of system development fees, wastewater resource fees and similar purpose fees to the acquisition of water supplies, water facilities and wastewater treatment capacity and the District agrees and

commits to continue its policy of using such fees for the acquisition of water supplies, water facilities and wastewater facilities for overall improvements to the District's water and wastewater system which will assist with the provision of service to the participants.

4.8 Reallocation of Annual ERU Allocations. If in any given year any Participant has not purchased the ERU Water Connection Permits allocated to it in accordance with a Connection Allocation under paragraph 4.5 of this Revised Agreement, the District will offer the unused ERU Water Connection Permits available under such Connection Allocation to other Plan B Project Participants.

4.9 No Effect on GID Allocations. The ERU Water and Sewer Connection Permit allocations set forth herein shall not modify or limit Participant's ability to receive ERU Water Connection Permits allocated by the District for those lands originally included within the Northern Infrastructure General Improvement District (see paragraph 6 of the Agreement between the District and the GID dated April 27, 1998); neither Participant, nor any other land owners within the GID, are considered to be beneficiaries, third party or otherwise, of such agreement.

4.10 Agreement to Negotiate. The parties agree to negotiate in good faith as to water and sewer connection permit allocation issues that arise.

ARTICLE 5
DELETED

5.1 DELETED.

5.2 DELETED.

5.3 DELETED.

ARTICLE 6
MISCELLANEOUS

6.1 Transfer of Participation Amounts. The District has entered into agreements with other persons and entities for participation in the Plan B Project. Participant may transfer all or any portion of Participant's right to participate in the Plan B Project and receive ERU Water Credits and to purchase corresponding ERU Water Connection Permits under this Revised Agreement to other persons and entities with whom the District has entered into Revised Plan B Project Participant Water Resources Agreements, upon consent of the District, which consent shall not be unreasonably withheld. Such transfers to other participants or participants' related entities of options to participate in the Plan B Project and receive ERU Water Connection Permits and ERU Water Credits shall not be subject to the additional conditions of this paragraph 6.1. Participant or its related entities may also acquire all or a portion of agreements from other persons and entities for participation in the Plan B Project, upon consent of the District, which

consent shall not be unreasonably withheld and upon such acquisition shall not be subject to the additional conditions of this paragraph 6.1. Nor will a transfer of any of Participant's Initial Participation Amount be subject to the additional conditions described below.

Participant may transfer any contractual interest it holds under this Revised Agreement to a subsequent purchaser of Participant's property depicted on Exhibit A, or a corporate or business entity successor for use on that property subject to the conditions described below.

If and only if no other participant or participant's related entity is interested in acquiring any portion of Participant's Plan B Project Participation Amount, Participant is also entitled to transfer such interest to other persons and entities that own land within the District, upon consent of the District and on certain conditions described below. However, Participant is entitled to transfer any contractual interest it holds under this Revised Agreement to a subsequent purchaser of Participant's property depicted on Exhibit A notwithstanding another Plan B Project participant's or its related entity's interest in acquiring the same interest.

The District will not recognize any transfer by Participant of all or a portion of Participant's contractual interest under this Revised Agreement unless and until the District has reviewed and consented to such transfer. The District will not review any transfer without receipt of payment for the then-current transfer fee.

a) If the proposed transfer entails a right to obtain 50 ERU Water Connection Permits or fewer, the Participant may only transfer such right to obtain ERU Water Connection Permits for which it has already made the associated Installment Payments and has therefore been allocated in the District's financial records ERU Water Credits and is entitled to the issuance of ERU Water Connection Permits upon compliance with the requirements listed in Paragraph 3.2 of this Revised Agreement. The District may approve such transfer only upon receipt of payment for all FRICO Option Fees associated with the transferred rights. In lieu of payment for all FRICO Option Fees associated with the transferred rights, the District may, in its sole discretion, accept other reasonable financial assurances of future payment for those FRICO Option Fees.

b) If the Participant proposes to transfer the right to purchase more than 50 ERU Water Connection Permits, the District may approve such transfer only upon the District's reasonable determination that the proposed transferee is financially solvent such that the transfer to the transferee will not unreasonably jeopardize the District's ability to continue to obtain Plan B Project water for the remaining participants within the Payment Group to which the transferred Participation Amount belongs. Additionally, the District may impose reasonable terms and conditions on the transfer, including, but not limited to, reasonable financial assurances of the transferee's ability to make future payments under this Revised Agreement.

c) The District's approval of any transfer of a portion of Participant's contractual interest under this Revised Agreement shall not modify Participant's obligation to make annual Installment and Option Payments as required in paragraph 2.6(c) hereof, except as

described below. Participant shall continue to make annual Installment and Option Payments as contained in Schedule 2, subject to any credit Participant may receive for payments made by Participant or by Participant's assigns under this Revised Agreement. The District shall provide ERU Water Connection Permits to Participant's approved assigns in accordance with the District's obligation under this Revised Agreement to provide ERU Water Connection Permits to Participant. Participant's approved assigns shall not, however, succeed to any of Participant's contractual interest under this Revised Agreement, nor shall Participant's assigns become participants of the Plan B Project, except as provided in subsections (c)(1) and (c)(2), below. Participant's assigns shall have no rights from or obligations directly to the District; Participant's assigns shall have rights and obligations pursuant only to their agreements with Participant.

(1) Where Participant transfers any portion of its contractual interest in the Plan B Project to another participant or a participant's related entity, however, Participant shall no longer be obligated to make annual Installment and Option Payments associated with the transferred interest, so long as the participant-assignee assumes such obligation in the transfer document. Where the participant-assignee assumes such obligation, the District shall issue Participant and the participant-assignee each a revised Schedule 2 reflecting the transfer and resulting new payment obligations.

(A) The participant-assignee's assumption of the obligation to make annual Installment and Option Payments associated with the transferred interest shall be in accordance with Participant's payment obligation, including, but not limited to, the Payment Schedule described in paragraph 2.6(d) of this Revised Agreement.

(B) The participant-assignee's assumption of the obligation to make annual Installment and Option Payments associated with the transferred interest shall merge the transferred interest into the participant-assignee's obligation under its Revised Plan B Project Participant Water Resources Agreement, except that the Payment Schedule described in paragraph 2.6(d) of the Revised Plan B Project Participant Water Resources Agreement under which the District originally granted rights to the transferred participation amount will remain unchanged, and therefore participant-assignee's failure to make an annual Installment Payment or Option Payment associated with the transferred amount shall constitute a payment default under paragraph 2.8 of its Revised Plan B Project Participant Water Resources Agreement.

(2) Where Participant transfers its entire contractual interest under this Revised Agreement, the transferee shall become a participant of the Plan B Project. Participant's transferee shall succeed to this Revised Agreement in its entirety, with no modifications, and shall obtain rights directly from and have obligations directly to the District, subject to the District's ability to impose reasonable terms as described in subparagraph (b), above.

6.2 Executory Interest. Participant's rights under this Revised Agreement are contract rights and depend on and are contingent upon the complete and full performance by Participant of all of its obligations hereunder. Notwithstanding anything herein to the contrary, the District

may re-allocate Participant's rights hereunder if there is an event requiring a Reallocation of Participation Amounts as described hereunder.

6. 3 Commitment to Re-negotiate with FRICO. The Parties hereby confirm their intent to attempt to work on the potential renegotiation of the District's acquisition of this water supply from FRICO. The District will appoint a representative to lead a committee of participants of the Plan B Project to draft a proposal to FRICO, Burlington, and Henrylyn to amend some of the terms regarding the District's acquisition of Plan B Project water resources. The District shall establish such committee no later than May 15, 2007. The committee shall prepare such proposal for presentation to FRICO, Burlington, and Henrylyn no later than August 1, 2007. The Parties affirm that this Revised Agreement is controlling absent any modifications in accordance with paragraph 6.9 of this Revised Agreement.

6. 4 Encumbrances. Where Participant voluntarily pledges its contract interests in this Revised Agreement as security for a loan, it shall notify the District of such pledge and encumbrance. The notice shall issue jointly from Participant and the lender holding the encumbered interest and shall confirm that the lender, its successors and assigns, will further promptly notify the District of any alleged default by Participant on its obligation to such lender.

a) Upon receipt of any such notice of default or event of default, the District will discontinue issuance of ERU Water Connection Permits to Participant or its successors, assigns, and transferees (including lender and its designee) until it receives further notice from such lender or a court of competent jurisdiction that Participant's obligation is no longer in default and any performance and monetary defaults of Participant or any successor under this Revised Agreement have been satisfied in full.

b) Any voluntary or involuntary transfer to a lender or any third party as a result of a default under such loan secured by an interest in this Revised Agreement shall be subject to the consent of the District, which consent shall not be unreasonably withheld.

c) A lender's notice to the District of Participant's alleged default or event of default shall not modify Participant's obligation to make annual payments under paragraph 2.6(d) of this Revised Agreement or the District's ability to conduct a Reallocation of Participant Amounts under paragraph 1.15 of this Revised Agreement in the event of a Payment Default as described in paragraph 2.8 of this Revised Agreement.

6. 5 Notices. Whenever any notice, demand, or request is required or provided for under this Revised Agreement, such notice, demand, or request shall be provided in writing to the following addresses or such other addresses as may be designated by a party by notice. Notice shall be deemed received when personally delivered, or three days after having been deposited in a U. S. Postal Service depository to be sent by registered or certified mail, return receipt requested, with all required postage prepaid, or one business day after having been sent by overnight courier. Notice may be concurrently sent via email, but will not be deemed received

until personally delivered or three days after having been deposited in a U.S. Postal Service depository:

To Participant:	Craig Ranch Golf Course, LLC Attn: Donald E. Nelson, Manager P.O. 62467 Boulder City, Nevada 89006-2467 Email: slampman3@cox.net; hashold@aol.com
Copy to:	Stanley Parry Ballard, Spahr, Andrews & Ingersoll, LLP 300 South Fourth Street, Suite 1201 Las Vegas, Nevada 89101 Email: parrys@ballardspahr.com
To the District:	General Manager South Adams County Water and Sanitation District 6595 East 70th Avenue Commerce City, Colorado 80037-0597 Email: PlanBProject@sacwsd.org
Copy to:	Timothy J. Beaton, Esq. Moses, Wittemyer, Harrison and Woodruff, P.C. P.O. Box 1440 1002 Walnut, Suite 300 Boulder, Colorado 80306 Email: tbeaton@mwhw.com

Participant shall promptly notify the District at the above-listed addresses of any changes to the address to which the District may send any notices pertaining to Participant's interest under this Revised Agreement.

6. 6 Time is of the Essence. Time is of the essence with respect to each and every aspect of this Revised Agreement, and strict compliance with all time requirements is at the heart of this Revised Agreement and shall be strictly enforced.

6. 7 Authority. The individuals executing this Revised Agreement on behalf of their respective entities are authorized by the entities to execute this Revised Agreement on behalf of their respective entities.

6. 8 Default. The failure of a party to this Revised Agreement after closing to perform or observe of any of the covenants, terms, or conditions of this Revised Agreement other than Participant's obligation to annually notify the District of its commitment to timely make requirement payments or Participant's obligation to make Annual Installment or Option

Payments shall, after reasonable notice and the opportunity to cure, be an event of default. It is expressly understood and agreed that the failure of Participant to make an Option Payment or Annual Installment Payment described herein shall not be considered an event of default with respect to this paragraph 6.8, provided, however, that following the failure to make an Option Payment or Installment Payment required under paragraph 2.7 of this Revised Agreement, Participant will not retain any future rights to exercise the option to participate in the Plan B Project pursuant to paragraph 2.8 of this Revised Agreement.

a) Any default resulting in a threat to public health, safety, or welfare shall be cured immediately by the defaulting party. As to any other default, a party who claims that another party has failed to perform as required by this Revised Agreement shall provide written notice to the other party setting forth the specific failure complained of and shall provide that party a minimum of thirty (30) days within which to cure or within which to agree with the complaining party on a plan to cure the default, except that where an emergency circumstance exists which requires injunctive or other immediate relief, a party may commence a suit prior to the running of the cure period. If the defaulting party does not cure within the time allowed, it shall be deemed to constitute an Event of Default.

b) Upon the occurrence of an Event of Default, the non-defaulting party will have the right to enforce its rights under this Revised Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this Revised Agreement. If the District is the non-defaulting party, it may suspend the defaulting Participant's right to obtain further ERU Water Connection Permits until satisfactory cure of the Event of Default. Except as otherwise provided for herein, all rights and remedies of the Parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy.

c) The failure of a party to insist, on one or more occasions, upon the strict observation of any of the terms of this Revised Agreement shall not be construed as a waiver or relinquishment in any future occasion of any of the terms of this Revised Agreement.

6. 9 Entire Agreement; Modifications. The making, execution and delivery of this Revised Agreement by the parties has been induced by no representations, statements, warranties or agreements other than those expressed in this Revised Agreement. This Revised Agreement embodies the entire understanding of the parties as to the subject matter hereof and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to its subject matter unless expressly referred to in this Revised Agreement. Modification of this Revised Agreement by the parties may be made only by a writing signed by the party or parties to be bound by the modification.

6. 10 Recording. This Revised Agreement shall be recorded at the office of the Adams County Clerk and Recorder at or following the Closing.

person or entity other than the parties, any right, remedy or claim under or by reason of this Revised Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Agreement contained by and on behalf of the parties shall be for the sole and exclusive benefit of the parties.

6.19 Effective Date of Agreement. This Revised Agreement shall be effective on the last date it is signed by the Parties.

PARTICIPANT,
CRAIG RANCH GOLF COURSE, LLC,
a Nevada limited liability company

By: Donald E. Nelson
Donald E. Nelson, Manager

Date: 11-21-07

LAS VEGAS GAMING INVESTMENTS, LLC,
a Nevada limited liability company

By: Donald E. Nelson
Donald E. Nelson, Manager

Date: 11-21-07

SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT, a Colorado Special District
by and through its WATER AND SEWER ENTERPRISE

By: Mike Benallo
Mike Benallo, President

Date: DEC 12, 2007

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me this 21ST day of November 2007 by Donald E. Nelson, Manager, Craig Ranch Golf Course, a Nevada limited liability company.

WITNESS my hand and official seal.

My commission expires: May 16, 2010

Sarah A. Walton
Notary Public

SARAH WALTON
Notary Public State of Nevada
No. 06-105804-14
My appt. exp. May 16, 2010

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me this 21ST day of November 2007 by Donald E. Nelson, Manager, Las Vegas Gaming Investments, a Nevada limited liability company.

WITNESS my hand and official seal.

My commission expires: May 16, 2010

Sarah A. Walton
Notary Public

SARAH WALTON
Notary Public State of Nevada
No. 06-105804-14
My appt. exp. May 16, 2010

STATE OF COLORADO)
)ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this 12th day of December 2007, by Mike Benallo as President of South Adams County Water and Sanitation District, a Colorado special district, acting by and through its Water and Sewer Enterprise.

WITNESS my hand and official seal.

My commission expires: My Commission Expires 01/31/2011

Notary Public

SELEST DOMINGUEZ
Notary Public
State of Colorado

SCHEDULE 2
CRAIG RANCH

Total Plan B Project Participation Amount out of 5,777 acre-feet (sum of Participant's Initial FRICO, SACWSD, and Optioned FRICO amounts)	
acre-feet	591.51
ERUs	2,230
Optioned FRICO Participation Amount out of 4,500 acre-feet	
acre-feet	520.16
ERUs	1,961
Initial FRICO Participation Amount out of 500 acre-feet	
acre-feet	0.00
ERUs	0.00
SACWSD Participation Amount out of 777 acre-feet	
acre-feet	71.35
ERUs	269
Remaining SACWSD ERUs (after obtaining any connection permits)	269
Credit for interest earned on initial payment to escrow	$0
Term of Option Right (years)*	6
Annual Option Payment 2006 (subsequent payments will increase by 3.5% annually)	$138,709.11
Annual FRICO Installment Payment	$1,040,318.30
Minimum Annual FRICO Purchase Amount	
acre-feet	86.69
ERUs	326.83
Annual SACWSD Installment Payment 2007 (subsequent payments will increase by 3.5% annually)	$142,705.57
Minimum Annual SACWSD Purchase Amount	
acre-feet	11.89
ERUs	44.83
Connection allocation threshold a (ERUs)	88.77
Connection allocation threshold b (ERUs)	111.50

* Pursuant to paragraph 2.7 of the Revised Plan B Project Participant Water Resources Agreement ("Revised Agreement"), if Participant has made Option Payments or Option Fees in excess of those described in this Schedule 2, it has a right to refund of any such excess. Such right of refund extinguishes two (2) years following the conclusion of the Payment Schedule to which Participant has subscribed. The District shall notify Participant in accordance with paragraph 6.5 of the Revised Agreement no later than sixty (60) days prior to extinguishing any such right of refund.

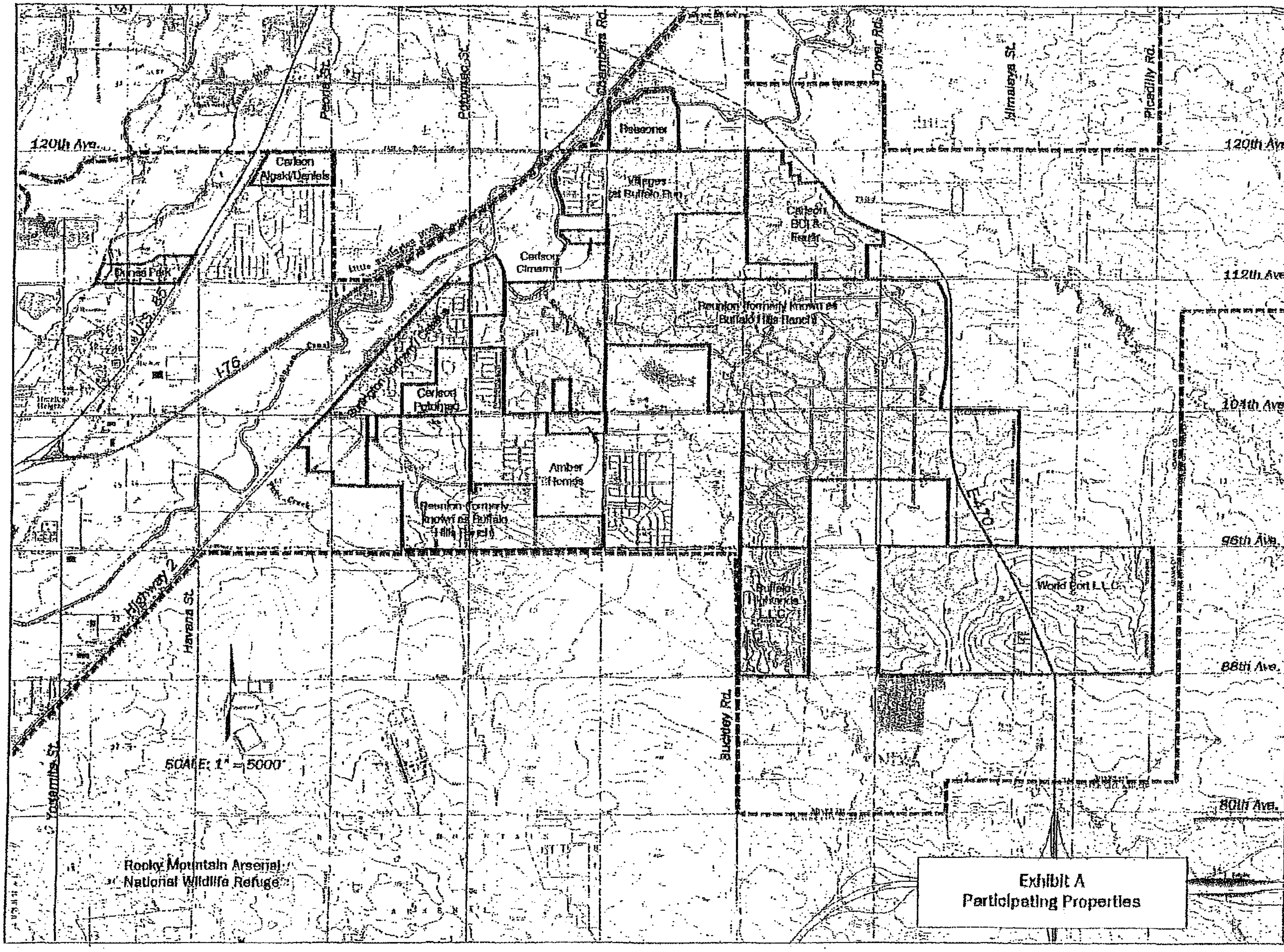


Exhibit A
Participating Properties

Exhibit B

AMENDED STOCK PURCHASE AGREEMENT

This Amended Stock Purchase Agreement is entered into this 6th day of September 2006, between SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT, a Colorado special district, also acting in an enterprise capacity pursuant to its WATER AND SEWER ENTERPRISE (collectively referred to as the "DISTRICT") and THE FARMER'S RESERVOIR AND IRRIGATION COMPANY, a Colorado mutual ditch company ("FRICO"); THE BURLINGTON DITCH RESERVOIR AND LAND COMPANY, a Colorado mutual ditch company ("BURLINGTON"); and THE HENRYLYN IRRIGATION DISTRICT, a statutory irrigation district ("HENRYLYN"), collectively referred to as the "COMPANIES" is as follows:

WHEREAS, the DISTRICT and the COMPANIES entered into a Stock Purchase Agreement on the 5th day of December, 2001 (the "initial Agreement"); and

WHEREAS, changed circumstances necessitate that the initial Agreement be amended; and

WHEREAS, the COMPANIES have certain contract rights to water, that may provide a municipal water supply for the DISTRICT; and

WHEREAS, the DISTRICT has a present need for water for municipal uses both to meet present demands and to provide for the reasonable future needs of the businesses and inhabitants within the DISTRICT's service area as the same may exist from time to time; and

WHEREAS, the DISTRICT and the COMPANIES desire to enter into an agreement to amend the initial Agreement ("the Amended Agreement") that provides for the allocation of certain contract rights to water for the benefit of the DISTRICT as a shareholder of FRICO to meet the reasonable future needs of the DISTRICT as a shareholder of FRICO; and

WHEREAS, FRICO, BURLINGTON and HENRYLYN have previously entered into various agreements through which the COMPANIES have provided for the allocation of water rights and use of facilities to provide water to the shareholders and landowners entitled to the delivery of water by the COMPANIES; and

WHEREAS, the DISTRICT and the COMPANIES desire to provide for the allocation of certain contract rights and facilities to shares of stock in a division of FRICO that will provide municipal use water to the DISTRICT; and

WHEREAS, the COMPANIES entered into an Agreement dated August 31, 1999 ("DENVER CONTRACT") with the CITY AND COUNTY OF DENVER, acting by and through its Board of Water Commissioners ("Denver"), which was recorded in the books and records of the Clerk and Recorder of Adams County on _____, 2001 as Reception No. _____ and was recorded in the books and records of the Clerk and Recorder of Weld County on _____, 2001 in Book

_____at Page _____; and

WHEREAS, the DENVER CONTRACT provided for an annual delivery of 5,000 acre feet of fully consumable water to FRICO ("Contract Water"); and

WHEREAS, subject to acceptable agreements between Denver, South Adams, and the Companies, the Denver Contract, in part, can provide a source of municipal water for direct delivery to the District as a shareholder of FRICO; and

WHEREAS, the District, the Companies, and Denver are working on terms and conditions that would allow for the direct delivery of the Contract Water to the District; and, if these terms and conditions can be agreed upon, Denver will enter into an agreement with the District for direct delivery of the Contract Water ("Delivery Agreement"); and

WHEREAS, the District and the Companies have agreed to terms and conditions for the direct delivery of the Contract Water to the DISTRICT.

NOW THEREFORE, the parties to this Amended Agreement agree as follows:

1. New Water Delivery Divisions. Within thirty (30) days after the execution of the initial Agreement and in compliance with the initial Agreement, FRICO and BURLINGTON, each in accord with the terms and provisions of their Articles of Incorporation respectively, at their annual stockholder meetings or special meetings of their shareholders called for such purpose, proposed amendments to the articles of incorporation of each company creating a separate division in each corporation for water delivery purposes and for the purpose of fulfilling the terms and conditions of the initial Agreement and this Amended Agreement. Each of the divisions shall be entitled "MUNICIPAL DIVISION," and shall be governed by and operated pursuant to the terms and conditions of this Agreement.

There shall be allocated to the FRICO Municipal Division a total of one hundred (100) shares of stock in FRICO. The shares of stock in the FRICO Municipal Division may be issued in fractional increments of a share, not less than 1/10th of one share, so long as the DISTRICT owns at least one full share. All assessments on stock allocated to the FRICO Municipal Division shall be assessed on the same basis as all other stock in FRICO.

The amendments and documents approved by the shareholders of FRICO and BURLINGTON are attached as Exhibits_____. In order to evidence the shareholder consent to assignment of the Initial Municipal Division Water, as hereinafter defined, and the Additional Contract Water, as hereinafter defined, to the Municipal Division and the sale of stock in the Municipal Division to the DISTRICT in accordance with the terms and conditions of the initial Agreement and this Amended Agreement, shareholders constituting not less than a majority of shares of FRICO outstanding approved a resolution in the form of the attached Exhibit _____ and shareholders constituting not

less than a majority of shares of BURLINGTON outstanding approved a resolution in the form of the attached Exhibit _____.

At least 10 days prior to the meetings to approve the resolutions, FRICO and BURLINGTON mailed to the respective shareholders at the addresses specified in the books and records of each company, a copy of the Initial Agreement and a Notice of Meeting in the form of the attached Exhibits __. After the Closing on the Initial Municipal Division Water copies of the resolutions adopted by the shareholders of each company were delivered to the DISTRICT, and the Initial Agreement was recorded at the office of the Adams County Clerk and Recorder and Weld County Clerk and Recorder. In addition, FRICO and BURLINGTON delivered to the DISTRICT an opinion of legal counsel for FRICO and BURLINGTON indicating that the actions of the shareholders and board of directors of each company required by the Initial Agreement were completed and are consistent with the Articles of Incorporation, Bylaws and Colorado law.

Henrylyn's interest in the Initial Agreement and this Amended Agreement is pursuant to the following Agreements: Agreement between the Companies and Third Creek Corporation dated January 1991; Settlement Agreement between the Companies and Denver Water Board dated August 31, 1999; and Agreement between the Companies dated October 1999. The Board of Directors of Henrylyn is authorized to enter into the Initial Agreement and this Amended Agreement pursuant to the provisions of Colorado Revised Statutes Sections 37-41-113(1), 37-41-113(7), 37-41-114, 37-41-115, and 37-41-116(1). Additionally, pursuant to paragraph 4. of the January 1991 Agreement, the Initial Agreement was subject to majority approval of the Henrylyn landowners who vote on the planned exchange. Such approval was obtained at a regular or special election of Henrylyn held not more than seventy days after the effective date of the Initial Agreement. At the initial closing under the Initial Agreement, Henrylyn delivered to the District an opinion of legal counsel for Henrylyn that the actions of the Henrylyn Board of Directors and vote of the Henrylyn landowners required by this Agreement were completed and are consistent with Colorado law.

A. Contingent upon the DISTRICT purchasing ten (10) shares of stock in FRICO that are allocated for water delivery purposes to the FRICO Municipal Division as provided below, which the District did, FRICO allocated the Contract Water for delivery to the FRICO Municipal Division shares. FRICO was required to and did obtain the beneficial interest in the Contract Water from Burlington and Henrylyn at its sole cost and expense. FRICO shall allocate its share of the Contract Water together with the share of Contract Water that it has acquired from Burlington and Henrylyn for the purpose of providing a source of replacement water for the FRICO Municipal Division shares.

The allocation of the Contract Water, in proportion to a total allocation of five thousand acre feet (5,000 acre feet) of fully consumable municipal use water to the aggregate number of one hundred (100) FRICO Municipal Division shares, shall

become irrevocable upon the purchase of each Municipal Division share by the District under the terms provided in this Amended Agreement.

During the term of this Amended Agreement, FRICO shall have the sole and exclusive right to purchase the beneficial interest in the Contract Water from Burlington and Henrylyn upon terms and provisions previously agreed to among the Companies. During the pendency of this Amended Agreement, the Contract Water available to the Companies shall be held solely for the purpose of providing water for delivery to the FRICO Municipal Division shares, and following the purchase of the Municipal Division shares by the District, such Contract Water to the full extent necessary to provide for water for delivery to the FRICO Municipal Division shares shall be irrevocably held by the Companies for the purpose of providing water to the Municipal Division shares owned by the District.

B. Each share of the FRICO Municipal Division shall be entitled to the delivery of fifty (50) acre feet of Contract Water per Delivery Year, being from _____ to _____ of each calendar year The fifty acre feet of Contract Water shall be measured and delivered to the District at a location agreed to by Denver and the District.

C. The sole water available for delivery to the FRICO Municipal Division shares shall be the Contract Water that is delivered pursuant to the DENVER CONTRACT. The Contract Water shall be deliverable to the Municipal Division shareholders as provided by the terms and provisions of the DENVER CONTRACT or as agreed to between Denver and South Adams.

D. Use of the Contract Water to provide for the water supply for the FRICO Municipal Division is subject to the review and approval of the Denver Water Board pursuant to the terms of the DENVER CONTRACT. Pursuant to Paragraph 3.9 of the DENVER CONTRACT, Denver must approve proposed agreements with "End Users," as defined in the DENVER CONTRACT, to ascertain compliance with the terms of the DENVER CONTRACT. The Denver Water Board has approved the delivery of Contract Water to the DISTRICT.

E. At closing, FRICO shall provide for the cash payment to BURLINGTON and HENRYLYN from the proceeds of sale of FRICO Municipal division shares to the DISTRICT in accord with the terms and provisions of the agreements between the COMPANIES. So long as the DISTRICT makes the payments described in this Amended Agreement, FRICO, BURLINGTON and HENRYLYN waive any and all claims against the DISTRICT pertaining to or arising out of any division of the payments among FRICO, BURLINGTON and HENRYLYN, and FRICO, BURLINGTON and HENRYLYN, jointly and severally, agree to indemnify the DISTRICT against any such claims.

F. Unless Denver and South Adams agree otherwise, the Initial Water shall be delivered to the DISTRICT at the locations specified in Paragraph 3.2 of the DENVER CONTRACT and at the rates of delivery specified in Paragraph 3.3 of the

DENVER CONTRACT. The determination of the location of delivery and rate of delivery of the Initial Water shall be within the sole discretion of the DISTRICT, subject to the limitations of the DENVER CONTRACT. The parties shall request that the Delivery Notice specified in Paragraph 3.5 of the DENVER CONTRACT be provided simultaneously to the COMPANIES and to the DISTRICT, but if Denver fails to provide the Delivery Notice to the DISTRICT, the COMPANIES shall provide the Delivery Notice to the DISTRICT. The District shall have the first opportunity to divert any Reusable Water delivered pursuant to the DENVER CONTRACT at such times and in such amounts as requested by the DISTRICT. The Initial Water shall be perpetually delivered to the DISTRICT pursuant to the terms of this Amended Agreement, and the COMPANIES shall not assess any charge, carriage fee or other cost to the DISTRICT for deliveries of the Initial Water, except the share assessments for the stock purchased by the DISTRICT as described in this Amended Agreement. The delivery of the Initial Water to the District shall be on a "space available" basis within the Companies' facilities and shall be assessed a pro rata share of all ditch losses from the point of delivery by the Denver Water Board to the point of delivery to the District. After successful completion of the Delivery Agreement, the Initial Water may be used pursuant to the terms of this paragraph and pursuant to the terms of the Delivery Agreement, subject to the additional payment on the Initial Water described in this Amended Agreement. After execution of the Delivery Agreement as provided herein, the delivery of the Initial Water shall become part of the "Additional Contract Water" as provided below and shall be delivered pursuant to the terms of the Delivery Agreement.

G. In the event the Water Court, the State Engineer, the Division Engineer, or any other judicial or administrative agency, enters a final non-appealable order prohibiting or limiting the use of the Initial Municipal Division Water pursuant to the terms and conditions of the preceding paragraph at any time prior to or within ninety (90) days following the notice of the contemplated closing, as described in this Amended Agreement, upon delivery by the DISTRICT of the ten (10) shares of stock in FRICO, FRICO agrees to repay to the DISTRICT three million five hundred thousand dollars ($3,500,000.00).

H. The Companies agree that the aggregate amount of five thousand (5,000) acre feet of Contract Water shall be allocated or made available for delivery to the FRICO Municipal Division shareholders as provided below.

I. The Additional Contract Water shall be allocated to the FRICO Municipal Division shares on the basis of fifty (50) acre feet of water per Delivery Year per share in the FRICO Municipal Division. FRICO and BURLINGTON Municipal Division shares that are not purchased by the DISTRICT pursuant to this Agreement shall not have any water allocated to them for delivery. In the event that not all the FRICO Municipal Division shares are ultimately purchased by the DISTRICT as provided herein, the COMPANIES shall be free to reallocate any remaining Additional Contract Water as the COMPANIES determine to be in their best interest or to adjudicate any water right changes or exchanges incorporating any remaining Contract Water or any other water

or water rights not irrevocably allocated to the FRICO and BURLINGTON Municipal Division shares as the COMPANIES determine to be in their best interests.

J. Delivery of water to the FRICO Municipal Division shareholders shall be on a Delivery Year basis as specified in the Denver Contract, unless otherwise agreed upon by Denver and the District in the Delivery Agreement.

K All shares of stock issued by FRICO for the FRICO Municipal Division shares shall state on the face of the stock certificate that such shares of stock are subject to the terms and provisions of this Agreement.

2. Additional Payment for Initial FRICO Municipal Division shares. In the event the COMPANIES, the DISTRICT, and Denver, are able to agree on terms between themselves which result in the DISTRICT entering into the Delivery Agreement, the DISTRICT shall make an additional payment to the COMPANIES for the initial ten (10) FRICO Municipal Division shares in the amount of two million five hundred thousand dollars ($2,500,000). Payment shall be made within ninety 90 days after the DISTRICT enters into the Delivery Agreement.

3. Option to Purchase Stock: FRICO hereby grants to the DISTRICT the option to purchase up to ninety (90) shares of stock in the FRICO's Municipal Division on the terms and subject to the conditions contained herein. The option shall expire by its own terms, unless fully exercised or terminated as provided below on the fifteenth (15th) anniversary date of the execution of the Delivery Agreement, unless otherwise extended by the mutual agreement of the parties. The purchase price for each FRICO Municipal Division share shall be the sum of six hundred thousand dollars ($600,000.00). The conditions of the option are set forth below:

A. Each share of FRICO Municipal Division stock shall be entitled to the delivery of fifty (50) acre feet of Contract Water per Delivery Year in the manner described in paragraph 2. *supra*,

B. To and including one-hundred and twenty (120) days following the date of the execution of the Delivery Agreement, the DISTRICT shall have the option to purchase all or any portion of the remaining ninety (90) FRICO Municipal Division shares (in increments not less than 1/10th share), and such option shall be effective without payment of additional consideration.

C. Beginning as of the date of the date of the execution of the Delivery Agreement, the DISTRICT shall have the option to purchase all or any portion (limited to a minimum increment of 1/10th share) of the remaining ninety (90) shares of stock in FRICO's Municipal Division at a purchase price of six-hundred thousand dollars ($600,000.00) per share. The option shall extend for a period of fifteen years following the execution of the Delivery Agreement, subject to earlier termination as hereafter provided.

D. Upon the sale of any FRICO Municipal Division shares by FRICO to the DISTRICT, FRICO shall pay to BURLINGTON and HENRYLYN the percentage amounts previously agreed between the COMPANIES that are necessary to provide for the delivery of the Additional Contract Water to the FRICO Municipal Division shareholder. So long as the DISTRICT makes the payments described in this Agreement, FRICO, BURLINGTON and HENRYLYN waive any and all claims against the DISTRICT pertaining to or arising out of any division of the payments among FRICO, BURLINGTON and HENRYLYN, and FRICO, BURLINGTON and HENRYLYN, jointly and severally, agree to indemnify the DISTRICT against any such claims. The annual option payment and exercise date (Option Date) for the purchase of shares shall be the anniversary date of the execution of the Delivery Agreement.

E. The option set forth in paragraph C, above, shall be divided into three separate and independent option rights. Option right "A" shall permit the aggregate purchase of fifty-two (52) FRICO Municipal Division shares. Option right "B" shall permit the aggregate purchase of nineteen (19) FRICO Municipal Division shares. Option right "C" shall permit the aggregate purchase of nineteen (19) FRICO Municipal Division shares. The number of shares in each independent option right set forth herein shall be adjusted for any shares purchased outright by the District pursuant to paragraph B, above. In exercising the right to purchase as set forth in paragraph B, the District shall designate the distribution of the shares purchased *from* each of the three option rights. The number of shares remaining in each option shall thereupon be adjusted to reflect the shares that were initially purchased pursuant to paragraph B, above.

The specific number of Municipal Division shares associated with each of the three Option Rights may be revised by separate addendum to this Amended Agreement, as such may be approved by the DISTRICT and the COMPANIES, subject to any bondholder consent that may be required.

The option rights may be exercised as follows:

Option Right A:

1). Aggregate initial number of FRICO Municipal Division shares within Option Right A: fifty-two shares (52). Annual option payment: Based upon the initial 52 shares subject to Option A the annual option payment is six hundred ninety- three thousand three hundred thirty-three and 34/100 ($693,333.34) payable within 120 days of the date of the execution of the Delivery Agreement. In the event that shares allocated to Option Right A are purchased pursuant to paragraph B, above, the initial annual option payment shall be reduced by the sum of thirteen thousand three hundred thirty- three and 33/100 dollars ($13,333.33) per share initially purchased.

2). The annual option payment shall be increased in each year by 3.5%, compounded annually.

3). The option date shall be determined annually based upon the execution of the Delivery Agreement. The "Option Date" shall be the first business day in each calendar year following the execution of the Delivery Agreement.

4). The District may exercise the right to purchase shares under the option at any time and on as many dates during the option year as the District shall desire.

5). A closing for the sale of Municipal Division shall be scheduled within ten business days of the date of notice of intent to exercise by the District.

Option Right A shall expire upon the earlier of the following:

1. Non-payment of the annual option payment on or before the annual Option Date; or

2. The failure to purchase a minimum of three (3) FRICO Municipal Division shares in any single "Option Year" (determined as 364 days following the Option Date in each calendar year).

Option Right B:

1). Aggregate initial number of FRICO Municipal Division shares within Option Right B: nineteen (19) shares.

2). Annual option payment: Based upon the initial 19 shares subject to Option B the annual option payment is two hundred fifty-three thousand, three hundred thirty-three and 33/100 dollars ($253,333.33) payable within 120 days of the DISTRICT entering into the Delivery Agreement. In the event that shares allocated to Option Right B are purchased pursuant to paragraph B, above, the initial annual option payment shall be reduced by the sum of thirteen thousand three hundred thirty-three and 33/100 dollars ($13,333.33) per share initially purchased.

3). The annual option payment shall be increased in each year by 3.5%, compounded annually.

4). The option date shall be determined annually based upon the execution of the Delivery Agreement. The "Option Date" shall be

the first business day in each calendar year following the execution of the Delivery Agreement.

5). The District may exercise the right to purchase shares under the option at any time and on as many dates during the option year as the District shall desire.

6). A closing for the sale of Municipal Division shall be scheduled within ten business days of the date of notice of intent to exercise by the District.

Option Right B shall expire upon the earlier of the following:

1. Non-payment of the annual option payment on or before the annual Option Date; or

2. The failure to purchase a minimum of one (1) FRICO Municipal Division shares in any single "Option Year" (determined as 364 days following the Option Date in each calendar year).

Option Right C:

1). Aggregate initial number of FRICO Municipal Division shares within Option Right A: nineteen (19) shares.

2). Annual option payment: Based upon the initial 19 shares subject to Option C the annual option payment is two hundred fifty-three thousand three hundred thirty-three and 33/100 ($253,333.33) payable within 120 days of the DISTRICT entering into the Delivery Agreement. In the event that shares allocated to Option Right C are purchased pursuant to paragraph B, above, the initial annual option payment shall be reduced by the sum of thirteen thousand three hundred thirty-three and 33/100 dollars ($13,333.33) per share initially purchased.

3). The annual option payment shall be increased in each year by 3.5%, compounded annually.

4). The option date shall be determined annually based upon the execution of the Delivery Agreement. The "Option Date" shall be the first business day in each calendar year following the execution of the Delivery Agreement.

5). The District may exercise the right to purchase shares under the option at any time and on as many dates during the option year as the District shall desire.

6). A closing for the sale of Municipal Division shall be scheduled within ten (10) business days of the date of notice of intent to exercise by the District.

Option Right C shall expire upon the earlier of the following:

1. Non-payment of the annual option payment on or before the annual Option Date; or

2. The failure to purchase a minimum of one (1) FRICO Municipal Division shares in any single "Option Year" (determined as 364 days following the Option Date in each calendar year).

The District shall pay the purchase price by certified funds or wire transfer deposited to an account to be designated by FRICO, in writing, not less than ten days prior to Closing. FRICO shall provide for the forthwith payment of funds received at closing to BURLINGTON and HENRYLYN as the COMPANIES have previously agreed. So long as the DISTRICT makes the payments described in this Agreement, FRICO, BURLINGTON and HENRYLYN waive any and all claims against the DISTRICT pertaining to or arising out of any division of the payments among FRICO, BURLINGTON and HENRYLYN, and FRICO, BURLINGTON and HENRYLYN, jointly and severally, agree to indemnify the DISTRICT against any such claims.

4. Nonrecourse. The parties acknowledge and agree that the financial obligations of the DISTRICT under this Amended Agreement payable after the current fiscal year, are contingent upon funds for this Amended Agreement being appropriated, budgeted and otherwise made available. In the event funds for this Amended Agreement are not budgeted and appropriated by the DISTRICT in any year subsequent to the fiscal year of execution of this Amended Agreement, the DISTRICT may terminate this Amended Agreement by giving the COMPANIES notice of such non-appropriation. Upon the giving of such notice, this Amended Agreement shall terminate and all sums paid will be retained by the COMPANIES. For purposes of this Amended Agreement, the DISTRICT's fiscal year commences January 1 and ends December 31. The fact that the DISTRICT may enter into agreements with persons and entities that provide for payment of funds to the DISTRICT in exchange for water and sewer service from the DISTRICT shall not be construed as modifying or abrogating the terms and conditions of this paragraph.

5. Disclosure. A portion of the property that will be served by the water purchased by and delivered to the DISTRICT is owned by or under contract to purchase or being developed by Shea Homes Limited Partnership, a California limited partnership ("Shea Homes"). Representatives of Shea Homes also serve on the Board of Directors and are otherwise affiliated with Centennial Water and Sanitation District.

6. Notices. Whenever any notice, demand, or request is required or provided for under this Amended Agreement, such notice, demand, or request shall be provided in writing, or by facsimile to the following addresses or such other addresses as may be designated by a party by notice. Notice shall be deemed received when personally delivered, or when transmitted by facsimile, or three (3) days after having been deposited in a U. S. Postal Service depository to be sent by registered or certified mail, return receipt requested, with all required postage prepaid, or one (1) business day after having been sent by overnight courier:

To the DISTRICT: General Manager
South Adams County Water and Sanitation District
6595 East 70th Avenue
Commerce City, CO 80037 0597
Facsimile: (303) 288 9531

To FRICO: Manager
Farmers Reservoir and Irrigation Company
80 South 27th Avenue
Brighton, CO 80601
Facsimile: (303) 659 6077

To BURLINGTON: Manager
BURLINGTON Ditch Reservoir and Land Company
80 South 27th Avenue
Brighton, CO 80601
Facsimile: (303) 659 6077

To HENRYLYN: Rod Baumgartner, Secretary/Manager
P.O. Box 85
Hudson, CO 80642
Copy to: Steven Janssen, Esq.
3990 Pleasant Ridge Rd.
Boulder, CO 80301
Facsimile: (303) 443-4337

7. Time is of the Essence. Time is of the essence with respect to each and every aspect of this Amended Agreement and strict compliance with all time requirements is at the heart of this Amended Agreement and shall be strictly enforced.

8. Authority. The individuals executing this Amended Agreement on behalf of their respective entities are authorized by the entities to execute this Amended Agreement on behalf of their respective entities.

9. Default. The failure of a party to this Amended Agreement to perform or observe of any of the covenants, terms or conditions of this Amended Agreement shall, after reasonable notice and the opportunity to cure, be event of default.

A. Upon the occurrence of Event of Default, the non defaulting party will have the right to enforce its rights under this Amended Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this Amended Agreement. Except as otherwise provided for herein, all rights and remedies of the parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy.

B. The failure of a party to insist, on one or more occasions, upon the strict observation of any of the terms of this Amended Agreement shall not be construed as a waiver or relinquishment in any future occasion of any of the terms of this Amended Agreement.

C. Any default resulting in a threat to public health, safety, or welfare shall be cured immediately by the defaulting party. As to any other default, a party who claims that other party has failed to perform as required by this Amended Agreement shall provide written notice to the other party setting forth the specific failure complained of and shall provide that party a minimum of thirty (30) days within which to cure or within which to agree with the complaining party on a plan to cure the default. If the defaulting party does not cure within the time allowed, it shall be deemed to constitute Event of Default.

D. Upon the occurrence of Event of Default, the non-defaulting party will have the right to enforce its rights under this Amended Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this Amended Agreement. Except as otherwise provided for herein, all rights and remedies of the parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy.

E. To the extent Event of Default occurs prior to the Closing on the Initial Municipal Division Water, the non-defaulting party shall specifically have the right of termination of this Amended Agreement. In the event the non-defaulting party intends to terminate this Amended Agreement, the non-defaulting party shall provide a notice of termination prior to the closing on the Initial Municipal Division Water and this Amended Agreement shall be terminated upon such notice.

F. To the extent Event of Default occurs after the Closing on the Initial Municipal Division Water and prior to the first closing on the Additional Contract Water, the terms of this Amended Agreement shall remain in full force and effect

with respect to the Initial Municipal Division Water, but the non-defaulting party shall specifically have the right of termination of this Amended Agreement with respect to the provisions regarding the Additional Contract Water. In the event the non-defaulting party intends to terminate this Amended Agreement with respect to the Additional Contract Water, the non-defaulting party shall provide a notice of termination prior to the next closing on the Additional Contract Water and the provisions of this Amended Agreement with respect to the portions of the Additional Contract Water that have not been purchased by the DISTRICT shall be terminated upon such notice.

G. To the extent Event of Default occurs after the first closing on the Additional Contract Water, the terms of this Amended Agreement shall remain in full force and effect with respect to Initial Municipal Division Water and the portion of the Additional Contract Water that has not been purchased by the DISTRICT, but the non-defaulting party shall specifically have the right of termination of this Amended Agreement with respect to the remaining portion of the Additional Contract Water. In the event the non-defaulting party intends to terminate this Amended Agreement with respect to the remaining portion of the Additional Contract Water, the non- defaulting party shall provide a notice of termination prior to the closing next closing on the Additional Contract Water and the provisions of this Amended Agreement with respect to the remaining portion of the Additional Contract Water shall be terminated upon such notice.

10. Entire Agreement; Modifications. The making, execution and delivery of this Amended Agreement by the parties have been induced by no representations, statements, warranties or agreement other than those expressed in this Amended Agreement. This Amended Agreement embodies the entire understanding of the parties as to the subject matter hereof and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to its subject matter unless expressly referred to in this Amended Agreement. Modification of this Amended Agreement by the parties may be made only by a writing signed by the party or parties to be bound by the modification.

11. Recording. This Amended Agreement shall be recorded at the office of the Adams County Clerk and Recorder and the Weld County Clerk and Recorder.

12. Estoppel and Waiver. No term or condition of this Amended Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Amended Agreement, except by a signed written instrument of the party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated in its terms. Each such waiver shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.

13. Assignment and Delegation. The District may assign or partially assign this Amended Agreement at any time. Any assignee shall assume in writing all obligations imposed pursuant to this Amended Agreement to be assigned by the District, subject to approval by Denver as, described in the DENVER CONTRACT. Any assignment not approved by Denver shall be void. The Companies shall have the right to approve any assignment, without any additional compensation, and such approval shall be limited to whether the assignment is likely to result in litigation (which shall be a reasonable basis for not approving the assignment of this Amended Agreement), and such assignment shall not be unreasonably withheld.

14. Survival. The rights and obligations of the parties hereunder shall survive the Closing, shall not be merged into the deeds of conveyance, and remain fully enforceable thereafter until such time as any and all terms and conditions of this Amended Agreement are completely fulfilled.

15. Construction. The headings of sections and subsections in this Amended Agreement are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Amended Agreement.

16. Counterparts. This Amended Agreement may be executed in two or several counterparts and all counterparts so executed shall constitute one agreement binding, on all of the parties, notwithstanding that all the parties are not signatories to the original or the same counterpart.

17. No Third Party Beneficiaries. There are no third party beneficiaries to this Amended Agreement. Nothing in this Amended Agreement expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity other than the parties, any right, remedy or claim under or by reason of this Amended Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Amended Agreement contained by and on behalf of the parties shall be for the sole and exclusive benefit of the parties.

18. Controlling Law and Venue. This Amended Agreement shall be governed under and controlled pursuant to the laws of the State of Colorado, and the venue for any disputes hereunder shall be in the DISTRICT Court, Adams County, State of Colorado.

19. Effective Date of Amended Agreement. This Amended Agreement shall be effective on the last date it is signed by the parties.

SOUTH ADAMS COUNTY WATER and SANITATION DISTRICT, a Colorado Special District

By: Mike Benello
President

Date: Sept. 6, 2006

SACWSD WATER and SEWER ENTERPRISE

By: Mike Benello
President

Date: Sept. 6, 2006

FARMERS RESERVOIR and IRRIGATION ~~COMPANY~~

By: Manuel Montoya
~~President~~ General Manager

Date: Sep 15 06

ATTEST: Mary Hanna

Date: 9-15-06

FARMERS RESERVOIR & IRRIGATION CO. CORPORATE SEAL COLORADO

BURLINGTON DITCH RESERVOIR and LO COMPANY

By: Manuel Montoya
~~President~~ General Manager

Date: Sep 15 06

ATTEST: Mary Hanna

Date: 9-15-06

HENRYLYN IRRIGATION DISTRICT

By: _____
President

Date: 12-15-06

ATTEST: _____

Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by _____, as _____ of the South Adams County Water and Sanitation District, a Colorado special district.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by _____, as _____ of the SACWSD Water and Sewer Enterprise.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
CITY and COUNTY OF)

The foregoing instrument was acknowledged before me this 15th day of September, 2006, by Manuel Montoya as General Manager and by Mary Janssen as Corporate Secretary of the Farmers Reservoir and Irrigation Company.

WITNESS my hand and official seal.

My commission expires: 7-30-09

LAURA J. MITZNER NOTARY PUBLIC STATE OF COLORADO

My Comm. Expires _____

STATE OF COLORADO)
) ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this 15th day of September, 2006, by Manuel Montoya as General Manager and by Mary Janssen as Corporate Secretary of the Burlington Ditch Reservoir and Land Company.

WITNESS my hand and official seal.

My commission expires: 7-30-09

LAURA J. MITZNER NOTARY PUBLIC STATE OF COLORADO

My Comm. Expires _____

STATE OF COLORADO)
) ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 15th day of September, 2006, by Bud Baumgartner as _____ and by _____, as _____ of the Henrylyn Irrigation District.

WITNESS my hand and official seal.

My commission expires 1-7-2009

Notary Public

My Comm. Expires _____

EXHIBIT C

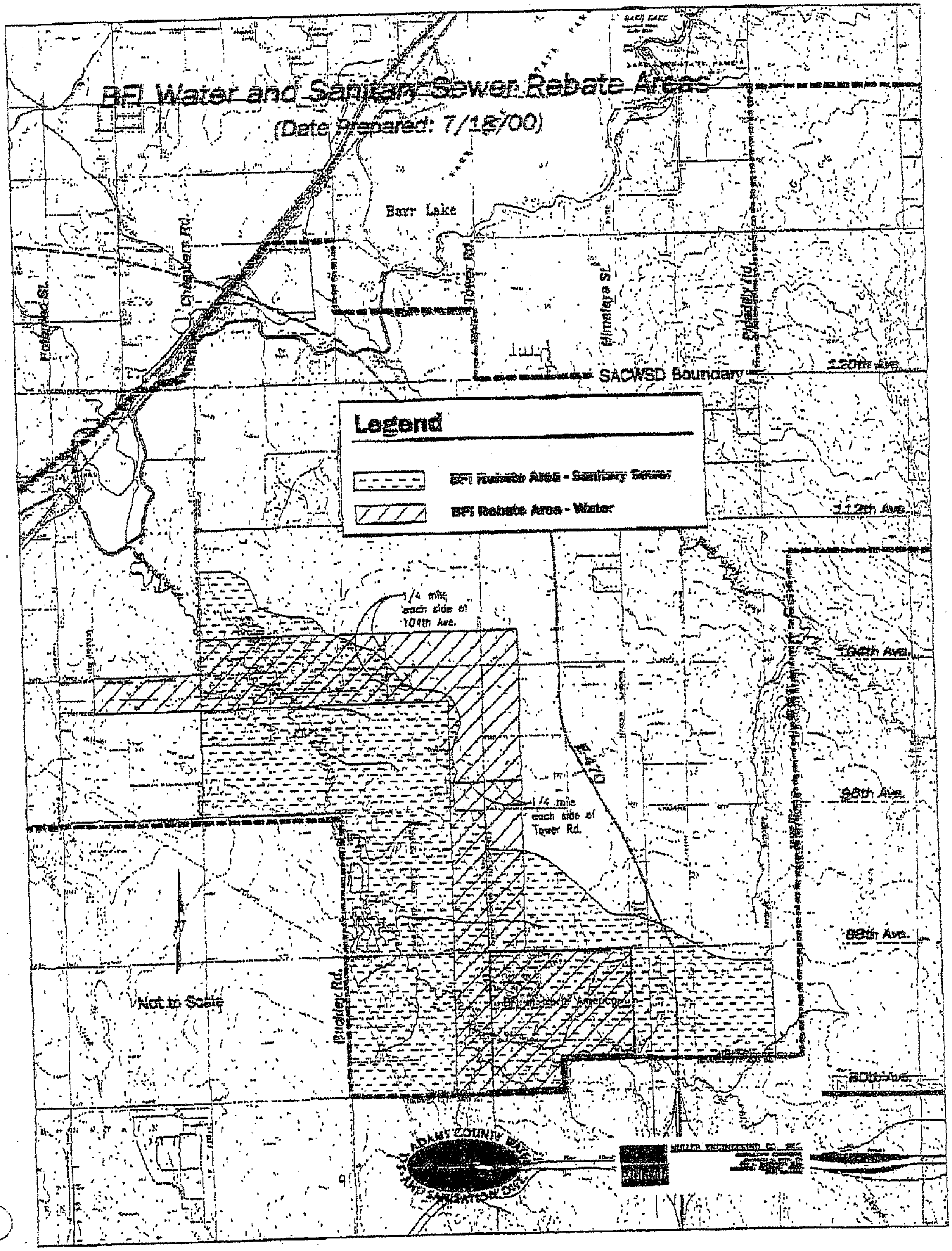

BFI Water and Sanitary Sewer Rebate Areas
(Date Prepared: 7/18/00)
Barr Lake
Chambers Rd.
Tower Rd.
Himalaya St.
Picadilly Rd.
SACWSD Boundary
120th Ave.
Legend
BFI Rebate Area - Sanitary Sewer
BFI Rebate Area - Water
112th Ave.
1/4 mile each side of 104th Ave.
104th Ave.
96th Ave.
1/4 mile each side of Tower Rd.
88th Ave.
Not to Scale
Buckley Rd.
80th Ave.

EXHIBIT C

BFI REBATE AGREEMENT
EFFECTIVE MARCH 13, 2002

WATER METER SIZE	WATER ($)	WASTEWATER ($)
Single Family Residential 5/8 inch	464	244
Multi-Family Residential First Unit	311	163
Each Additional Unit	311	163
Commercial/Irrigation 3/4 inch	603	317
1 inch	1,183	622
1-1/2 inch	2,385	1,254
2 inch	4,134	2,174
3 inch	9,312	4,897
4 inch	16,748	8,281
6 inch	35,784	18,817

1) These amounts need to be added to the water/wastewater connection fees - Please contact South Adams County Water and Sanitation District for exact details

EXHIBIT D
15 YEAR PAYMENT GROUP

Participant	**ERUs**
104th Avenue Investment Partners	1,514
Aigaki/Daniels	234
Buffalo Highlands	647
Business Center Investors	706
Harmon Family Partnership	554
SW Chambers	200
SW Chambers via Swink	375
WorldPort	250

EXHIBIT E

(Instructions)

1. Escrow will receive payments from each of the Participants in the District's Phase 2 Project as specified in each of the respective FRICO Participant Water Resources Agreements ("Agreement"). There are anticipated to be 12 Participants; payments are expected to total $6,000,000. Upon receipt of each payment the Escrow Agent shall place the payment in an interest accruing account comprised of United States re-purchase agreements. As provided in the Agreement, in the event any one or more Participants fail to make the required Initial Payment, that Participant's remaining interest in the Project may be reallocated to others. Within 3 days of the date specified for each payment, the Escrow Agent will report to the District which if any Participants have not made the required payment. The District will then conduct a Reallocation of Purchase Amounts under the agreement. The Escrow Agent will thereafter make a report to the District of the payments made by all Participants.

2. At closing of the FRICO Agreement (Exhibit B of the Agreement) on the Initial Municipal Division water, the Escrow Agent will pay to FRICO the sum of $3,500,000. If this closing does not take place, then the Escrow Agent shall hold the funds until directed by the District that the Agreements have been terminated, and the Initial Payments and Deposits made by each Participant shall be returned to that Participant together with accrued interest.

3. If the closing of the FRICO Agreement does occur, the remaining funds ($2,500,000) will be held by the Escrow Agent until receipt of notice by the District that it has notified FRICO of the acceptability of the Water Court decree and direction by the District to pay FRICO. The Escrow Agent will then pay $2,500,000 to FRICO. Accrued interest shall be paid to the District, who will then credit it against payment of Participants. Escrow will report to the District the interest accrued on account of each Participant. In the event that FRICO has not obtained an acceptable decree by January 1, 2007, unless extended by Participants, the District will so notify the Escrow Agent and the remaining $2,500,000 will be refunded to the Participants in proportion to their payments, together with accrued interest.

EXHIBIT 2

REVISED
PLAN B PROJECT
PARTICIPANT
WATER RESOURCES
AGREEMENT

BETWEEN

DUNES INVESTMENT PARTNERS, LLC,
a Colorado limited liability company

and

SOUTH ADAMS COUNTY
WATER AND SANITATION DISTRICT,
a Colorado special district, also acting in an enterprise capacity pursuant to its
WATER AND SEWER ENTERPRISE

REVISED PLAN B PROJECT PARTICIPANT WATER RESOURCES AGREEMENT

This Revised Plan B Project Participant Water Resources Agreement ("Revised Agreement") is entered into by and between DUNES INVESTMENT PARTNERS, LLC, a Colorado limited liability company ("Participant") and SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT, a Colorado special district, acting in its enterprise capacity pursuant to the SOUTH ADAMS WATER AND SEWER ENTERPRISE (collectively referred to as the "District"), and constitutes the Parties' agreement to the following:

RECITALS

WHEREAS, Participant is the owner of, or has a contract or option to purchase, land located within the District as generally depicted in Exhibit A attached hereto; and

WHEREAS, pursuant to the District's Rules and Regulations, the inclusion by the District of land owned or to be acquired by Participant requires that water resources agreements be entered into providing for the dedication of water; and

WHEREAS, based on the FRICO Participant Water Resources Agreement dated November 2, 2001, ("the Original Agreement"), the District has entered into an Amended Stock Purchase Agreement dated September 15, 2006 with Farmers Reservoir and Irrigation Company ("FRICO"), Burlington Ditch and Land Company ("Burlington") and Henrylyn Irrigation District ("Henrylyn") to purchase water ("FRICO Agreement"), attached hereto as Exhibit B, that is the subject of a Settlement Agreement among the City and County of Denver ("Denver") and FRICO, Burlington and Henrylyn dated August 31, 1999 ("Denver Contract"); and

WHEREAS, the District has entered into a water delivery agreement with the Denver Water Board dated September 8, 2006 for the direct delivery of water from Denver Water to the District ("the Delivery Agreement"); and

WHEREAS, the District has determined that it currently has available 777 acre-feet of consumptive use credit water, that when combined with the Denver Contract water to be obtained pursuant to the FRICO Agreement, yields a total project supply of 5,777 acre-feet; and

WHEREAS, the District has determined from its planning that each acre-foot of Plan B Project water can supply 3.77 equivalent residential units for both in-house domestic use and outdoor irrigation use; and

WHEREAS, the District has determined that the water to be purchased and delivered pursuant to the Plan B Project would be suitable for satisfaction of water dedication requirements of the District for water service to land within the District subject to the terms of this Agreement; and

WHEREAS, the Plan B Project requires substantial capital investment over the next 20 years to be fully implemented, and the District is unable to commit to such investment absent the agreement of Participant and other participants to provide funding pursuant to the conditions of this Agreement; and

WHEREAS, the Parties desire to specify the terms for the District to provide ERU Water Credits, as defined herein, in exchange for Participant funding the purchase of a portion of the Plan B Project, and to delineate conditions under which such ERU Water Credits may be used to obtain ERU Water Connections, as defined herein.

WHEREAS, pursuant to the Original Agreement Participant or its predecessor-in-interest indicated it would participate in the Plan B Project to the extent of 46 acre-feet, made up of 39.81 acre-feet the District will obtain under the FRICO Agreement and 6.19 acre-feet of District water, and agreed to provide to the District the portion of the funding required for the purchase of the Plan B Project. Participant has already paid for ten percent (10%) of the rights it will obtain from the District via the FRICO Agreement and has received ERU Water Credits therefor; and

WHEREAS, the District's implementation of the Plan B Project under the FRICO Agreement and the Delivery Agreement requires revisions to the Original Agreement, which this Revised Agreement supersedes and replaces; and

NOW THEREFORE, in consideration of the mutual covenants and promises between the Parties, which the Parties acknowledge and agree constitute adequate consideration, with such consideration having been received, the Parties agree as follows with the foregoing Recitals being incorporated as part of this Revised Agreement by this reference:

ARTICLE 1
DEFINITIONS

1.1 "BFI Rebate Fees" are those fees charged to owners, developers, and builders for property benefiting from the BFI Water and Wastewater Facilities Extension described in the Resolution of the Board of Directors of South Adams County Water and Sanitation District Approving the BFI Rebate Fee adopted February 13, 2002 ("BFI Resolution"). A schedule of BFI Rebate Fees, as well as a map depicting properties benefiting from the BFI Water and Wastewater Facilities Extension, are attached hereto as Exhibit C.

1.2 "BFI Water and Wastewater Facilities Extension Costs" are those costs BFI Waste Systems of North America, Inc. ("BFI") incurred in constructing the substantial public water and wastewater main line extensions described in the BFI Resolution and that the District resolved to rebate to BFI in the BFI Resolution.

1.3 "ERU" is an equivalent residential unit. The District has determined that each acre-foot of Plan B Project water can supply 3.77 ERUs for both in-house domestic and outdoor irrigation uses.

1.4 "ERU Water Connection" is the potable and irrigation water connection to a single family residential structure or equivalent, all as set forth in the District's Rules and Regulations. Participant or its successors or assigns may obtain ERU Water Connections in accordance with paragraph 3.2 of this Revised Agreement and by paying all required fees as described in paragraph 3.4 of this Revised Agreement.

1.5 "ERU Water Credit" is a credit in Participant's favor in the District's financial records resulting from Participant's Installment Payments. An ERU Water Credit consists of: (1) an ERU Potable Water Credit, and (2) an ERU Irrigation Water Credit. Pursuant to, and in accordance with the terms and conditions of this Revised Agreement, the District will record in the District's financial records the ERU Potable Water Credits and ERU Irrigation Water Credits being allocated to Participant as Participant makes its annual FRICO Installment and SACWSD Installment Payments. These ERU Water Credits may be used only for participant lands located within the District's boundaries, as such participant lands are depicted on Exhibit A, except as exchanged pursuant to the terms of this Revised Agreement. Upon their recording in the District's financial records, ERU Water Credits will be available for surrender under paragraph 3.2(b) of this Revised Agreement, subject to any assignments and the provisions of this Revised Agreement, including, but not limited to, a Connection Allocation, described in paragraph 4.5 of this Revised Agreement.

a) Connection of a single family residential structure to the District's water system requires: one ERU Potable Water Credit, one ERU Irrigation Water Credit, and payment of Fees described in this Revised Agreement.

b) Commercial, irrigation, multi-family and other uses shall require a combination of ERU Potable Water Credits and/or ERU Irrigation Water Credits as required for that specific use.

1.6 "Incremental Water Payment" is the rate per ERU at which Participant may obtain ERU Water Credits and corresponding ERU Water Connections from the District under this Revised Agreement.

a) The Incremental Water Payment for ERU Water Connection Permits acquired from Participant's Optioned FRICO Participation Amount is $3,183.

b) The Incremental Water Payment for ERU Water Connection Permits acquired from Participant's SACWSD Participation Amount is $3,183 as of the date of execution of this Revised Agreement, but the incremental cost of this water will increase by 3.5 percent annually beginning November 27, 2008 and each November 27 thereafter.

1.7 "Installment Payment" is the amount Participant must pay to the District annually toward its Plan B Project Participation Amount. Each year the District will record in its financial

records ERU Water Credits in favor of Participant for the additional amount of the Plan B Project paid for in the previous year.

a) "FRICO Installment Payment" is the amount Participant must pay to the District annually toward its Optioned FRICO Participation Amount. In determining Participant's FRICO Installment Payment for any given year, Participant shall receive credit against such FRICO Installment Payment for the sum of any Incremental Water Payments, as defined in paragraph 1.6(a) of this Revised Agreement, made by Participant or its assigns through September 25 of that year.

b) "SACWSD" Installment Payment" is the amount Participant must pay to the District annually toward its SACWSD Participation Amount. The SACWSD Installment Payment will increase by 3.5 percent annually beginning November 27, 2008 and each November 27 thereafter. In determining Participant's SACWSD Installment Payment for any given year, Participant shall receive credit against such SACWSD Installment Payment for the sum of any Incremental Water Payments, as defined in paragraph 1.6(b) of this Revised Agreement, made by Participant or its assigns through September 25 of that year.

1.8 "Option Fee" is the sum of Participant's Option Payments, including the annual increases thereto, divided by Participant's Optioned FRICO Participation Amount (in ERUs). As described in paragraph 3.2 of this Revised Agreement, Participant or its assigns must pay the Option Fee only to obtain ERU Water Connections from Participant's Optioned FRICO Participation Amount and only when Participant's Option Fee Credits have been exhausted in any given year.

a) For that portion of Participant's Optioned FRICO Amount that Participant has committed to a 6 year Payment Schedule, the Option Fee is $471.

b) For that portion of Participant's Optioned FRICO Amount that Participant has committed to a 15 year Payment Schedule, the Option Fee is $1,387.

The District reserves the right to make future adjustments to the Option Fee as are necessary in its reasonable discretion to meet the District's obligations to FRICO under the FRICO Agreement. In the event that the District makes such changes, it shall within fifteen (15) days of making such adjustment notify Participant in accordance with paragraph 6.3 of this Revised Agreement.

1.9 "Option Fee Credit" is a credit recorded in the District's financial records in favor of Participant resulting from Participant's annual Option Payments.

a) For Option Payments made in association with rights to be exercised over six years, Participant will receive one Option Fee Credit for every $471 of the Option Payment.

b) For Option Payments made in association with rights to be exercised over fifteen years. Participant will receive one Option Fee Credit for every $1.387 of the Option Payment.

1.10 "Option Payment" is the amount Participant must pay to the District annually to maintain its option to make Installment Payments and receive ERU Water Credits and ERU Water Connections under this Revised Agreement. The Option Payment will increase by 3.5 percent annually, beginning November 27, 2007 and each November 27 thereafter. Participant shall receive credit against its Option Payment for the sum of the Option Fees paid by Participant or its assigns in the preceding year through September 25 each year.

1.11 "Payment Group" is the group of participants that have entered into Revised Plan B Project Participant Water Resources Agreements with the District and, through such Revised Plan B Project Participant Water Resources Agreements, have committed to the same Payment Schedule as Participant. A list of the participants within the Payment Group and their respective Plan B Project participation amounts is attached hereto as Exhibit D.

1.12 "Payment Schedule" is the amount of time over which Participant has elected in paragraph 2.6(d) of this Revised Agreement to exercise its option to obtain ERU Water Credits under this Revised Agreement.

1.13 "Plan B Project" is the combined water acquisition and supply project made up of the District's 777 acre-feet of consumptive use credit and the Denver Contract water the District will obtain pursuant to the FRICO Agreement, with participants making certain payments toward the Plan B Project in exchange for which the participants will receive ERU Water Credits as defined herein.

1.14 "Plan B Project Participation Amount" is the total number of ERU Water Credits and corresponding ERU Water Connections Participant has a right to receive under this Revised Agreement. Attached hereto is Schedule 1, which specifies Participant's Plan B Project Participation Amount and associated payment requirements and resulting ERU Water Credits to which Participant subscribed in the Original Agreement. Subsequent to the Original Agreement, Participant may have assigned a portion of its Plan B Project Participation Amount to others. Also attached to this Revised Agreement is Schedule 2, which specifies Participant's Plan B Project Participation Amount, as reduced by any such prior assignments and reflects Participant's payment requirements and resulting ERU Water Credits as of the date of this Revised Agreement based upon Participant's Plan B Project Participation Amount.

a) "FRICO Participation Amount" is the portion of Participant's Plan B Project Participation Amount available from the District that the District will obtain through its acquisition of 5,000 acre-feet of water under the FRICO Agreement.

(1) "Initial FRICO Participation Amount" is the ten percent (10%) portion of Participant's FRICO Participation Amount for which Participant made an initial

deposit and for which Participant has already received ERU Water Credits. which are recorded in the District's financial records.

(2) "Optioned FRICO Participation Amount" is the remaining ninety percent (90%) of Participant's FRICO Participation Amount. which is subject to Annual Installment Payments and Option Payments.

b) "SACWSD Participation Amount" is the portion of Participant's Plan B Project Participation Amount available from the District out of the District's 777 acre-feet of consumptive use credit.

1.15 "Reallocation of Participation Amounts" is the process of the District making the opportunity available to each non-defaulting participant to subscribe to additional increments of the Plan B Project whenever one or more participants do not confirm their commitment to make or do not make required payments as provided in their respective Revised Plan B Project Participant Water Resources Agreement, subject to the provisions of transfer described in paragraph 6.1. Wherever in this Revised Agreement there is referred to a "Reallocation of Participation Amounts" the following terms and procedures shall apply:

a) Upon an event requiring a Reallocation of Participation Amounts, the District shall provide notice to all non-defaulting participants that there is an opportunity to subscribe to additional increments of the Plan B Project and later receive ERU Water Credits after making payments in accordance with such subscription. (The additional increments of the Plan B Project to which a non-defaulting participant may subscribe shall hereinafter be referred to as "the Reallocated Participant Amount"). The notice shall specify (1) the date that a response must be filed with the District, (2) the total payment to be paid and the Payment Group to which the Reallocated Participant Amount belongs. (3) the date on which the payment shall be paid, (4) the ERU Water Credits a responding non-defaulting participant will acquire an option to receive upon making the payment. and (5) any subscription the District has elected to make. The District may also elect to subscribe to all or any portion of the Reallocated Participant Amount.

b) On or before the response date, each non-defaulting participant may submit a response to the District indicating its commitment to subscribe to any or all of the Reallocated Participant Amount and to assume the payments associated with that portion of the Reallocated Participant Amount under the terms described in the Revised Plan B Project Participant Water Resources Agreement under which the District originally granted the Reallocated Participant Amount, together with either a demonstration of the ability to use such reallocated water on lands depicted on Exhibit A or the District's approval of the non-defaulting participant's subscription to the Reallocated Participant Amount in its reasonable discretion. Submission of the response to the District shall constitute the agreement of the responding non-defaulting participant to make the payment described in the response for the entire Payment Schedule to which the Reallocated Participant Amount is subscribed (described in paragraph 2.6(d) of the Revised Plan B Project Participant Water Resources Agreement under which the District *originally* granted the option to the Reallocated Participant Amount) unless earlier

terminated in accordance with paragraph 2.6(b) of this Revised Agreement, regardless of the term of the Payment Group to which the responding non-defaulting participant subscribed in its Revised Plan B Project Participant Water Resources Agreement. In the event that the responses the District receives result in a total payment in excess of the payment in default, the payment by each responding non-defaulting participant shall be reduced by the following formula:

Adjusted Payment = P x (TP/SP)

where

P = Payment responding non-defaulting participant proposed to pay in its response to the District
TP = Total Payment Associated with the Reallocated Participant Amount
SP = Total of proposed payment responses to the District

The District shall provide notice to each responding non-defaulting participant of (1) the acceptance of the response filed with the District or the Adjusted Payment determined pursuant to the foregoing formula, and (2) the number of ERU Water Credits to which the responding non-defaulting participant will have an option to receive upon timely payment of amount specified in the response filed with the District or the Adjusted Payment. Upon timely payment of the amount specified in the response filed with the District or the Adjusted Payment, the District shall designate in the financial records of the District the total ERU Water Credits that will be, upon payment, attributable to each responding non-defaulting participant as a result of the reallocation, which shall be equally divided between ERU Potable Water Credits and ERU Irrigation Water Credits.

c) A non-defaulting participant's response committing to subscribe to a portion of the Reallocated Participant Amount shall be a binding commitment to the District. The portion of the Reallocated Participant Amount to which the non-defaulting Participant subscribes shall be merged into the responding non-defaulting participant's obligation under its Revised Plan B Project Participant Water Resources Agreement, except that the Payment Schedule described in paragraph 2.6(d) of the Revised Plan B Project Participant Water Resources Agreement under which the District *originally* granted the option to the Reallocated Participant Amount will remain unchanged, and the District shall issue that participant a revised Schedule 2, showing its Participation Amount and resulting payments with the inclusion of its subscription to the Reallocated Participant Amount. Any default or failure to pay or make required commitments with regard to the Reallocated Participant Amount shall be considered a default or failure to make required commitments with regard to the responding non-defaulting participant's entire Plan B Project Participation Amount, and its entire Plan B Project Participation Amount will be subject to the provisions of paragraph 2.8 of this Revised Agreement.

d) In the event that the total of the payments proposed to be paid by the responding non-defaulting participants is less than the total payment associated with the

Reallocated Participant Amount, the District shall provide a second notice to each of the responding non-defaulting participants notifying them of the available Reallocated Participant Amount, and shall give those responding non-defaulting participants a period of three (3) business days from the date of such second notice to provide an amended response agreeing to subscribe to additional portions of the Reallocated Participant Amount and pay the Payment associated therewith. If, after such second notice, the responses the District receives result in a total payment in excess of the payment in default, the payment by each responding non-defaulting participant shall be reduced by the formula set forth in Section 1.15(b) above. In the event that the total of the payments proposed to be paid by the responding non-defaulting participants submitting amended responses to the District is still less than the total payment associated with the Reallocated Participant Amount, the District shall use reasonable efforts to subscribe to the remaining Reallocated Participant Amount or offer the opportunity to subscribe to said remaining Reallocated Participant Amount to third parties.

e) If the District receives less money than required under all Revised Plan B Project Participant Water Resources Agreements, even after conducting a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement, and if the District, after making reasonable efforts, has been unable to subscribe to the Reallocated Participant Amount or to find third-party subscribers to the Reallocated Participant Amount, the **options to continue to participate in the Plan B Project water of all participants within the Payment Group to which the Reallocated Participant Amount is subscribed will terminate.**

1.16 "System Development Fee" is the fee the District collects from developers to pay for existing and planned water and wastewater systems to be used, in part, to serve said developer. As of the effective date of this Revised Agreement, the System Development Fee is $1,991. The District anticipates future annual increases to the System Development Fee. At such times as the District adjusts its water resources fees for the District in general, the District shall also adjust the System Development Fee.

1.17 "Water Resources Fee" is the fee the District charges developers to provide the District with funds it needs to develop water supplies for new customers. As of the effective date of this Revised Agreement, the Water Resources Fee is $1,071. The District anticipates future annual increases to the Water Resources Fee. At such times as the District adjusts its water resources fees for the District in general, the District shall also adjust the Water Resources Fee.

ARTICLE 2
PROJECT PURCHASE

2.1 Deposit. On November 14, 2001, Participant deposited into escrow an amount equal to Fifty Thousand Dollars ($50,000.00) ("Deposit"). Land Title Guarantee Company ("Land Title") has held the Deposit pursuant to the terms and conditions of the Escrow Instructions, attached as Exhibit E.

2.2 Initial Payment to Escrow. The Participant has paid into escrow an initial payment of ten percent (10%) ("the Initial Payment"), less the Fifty Thousand Dollar ($50,000) deposit which was credited against the Initial Payment, of its Participation Amount at Twelve Thousand Dollars ($12,000) per acre-foot *(Initial Payment, see Schedule 1)*. The District has recorded in its financial records ERU Water Credits resulting from this Initial Payment and such credits are designated Participant's Initial FRICO Participation Amount.

2.3 DELETED.

2.4 District's Payments to FRICO. On April 12, 2002, the District withdrew money from the escrow and paid to FRICO the amount of Three Million. Five Hundred Thousand Dollars ($3,500,000), leaving Two Million. Five Hundred Thousand Dollars ($2,500,000) of principal in escrow. At that time the District recorded ERU Water Credits in an amount equal to Participant's Initial FRICO Participation Amount *(Initial Payment Allocation, see Schedule 1)*, subject to the provisions of Article 4 hereof.

On December 7, 2006, the District withdrew from escrow and paid to FRICO the remaining principal in escrow of Two Million. Five Hundred Thousand Dollars ($2,500,000).

2.5 Notification Concerning FRICO Agreement. The District gave notice to Participant of the FRICO Agreement on September 15, 2006, indicating that water court approval had been supplanted by the Delivery Agreement. Participant's opportunity to respond to the FRICO Agreement has expired and Participant is deemed to have waived any right to object to the implementation of the Plan B Project.

2.6 Participant Payments.

a) On or before October 27, 2006, Participant had the right to *elect* to pay off any portion of its Participation Amount with an up-front payment of Twelve Thousand Dollars ($12,000) per acre-foot and thus reduce any future Option Payments by Thirteen Thousand, Three Hundred, Thirty-Three Dollars and Thirty-Three Cents ($13,333.33) for every 188.5 ERU Water Credits received for such up-front payment, or, alternatively, to commit to the option payment schedule. Participant elected not to make an up-front payment toward any portion of its Plan B Project Participation Amount and has instead elected to commit to the Payment Schedule for its entire Plan B Project Participation Amount.

b) Having committed to the Payment Schedule, and even if Participant would subsequently choose to prepay the remaining balance of FRICO Installment Payments, Participant *will be liable for all future Option Payments* through the entire Payment Schedule or until all participants within the Payment Group terminate further participation in the Plan B Project.

c) The District, in its sole discretion, reserves the right to pay off the remaining Installment Payments and Option Payments associated with a Payment Group on behalf of Participant prior to receipt of such Installment or Option Payments from Participant and

to continue to collect the FRICO Installment Payments and Option Payments from Participant under the original Payment Schedule determined in paragraph 2.6(d) of this Revised Agreement.

(1) If the District makes such election, it shall provide notice of such election to all participants within the Payment Group, and any participant within that Payment Group may choose to make all remaining FRICO Installment Payments for its FRICO Participation Amount and terminate its obligation to make further Option Payments to the District. Participant shall notify the District of its intent to do so within fifteen (15) days of receipt of the District's notice and shall remit all final payments within fifteen (15) days thereafter.

(2) The District shall retain all SACWSD Installment Payments, and shall be free to use those funds in its sole discretion for capital facilities development.

d) Participant has committed to the Payment Schedule over 6 years, as have other participants of the Plan B Project *(the Payment Group, see Exhibit D)*. Participant therefore made its first Option Payment in the amount of $9,619.81 on December 7, 2006, less any applied credit for interest accrued on the initial payment to escrow described in paragraph 2.2 of this Revised Agreement. It shall make subsequent annual payments to the District on or before each November 27 consisting of the following three parts:

(1) an amount equal to $12,000 per acre-foot for at least one-sixth (16.67%) of Participant's Optioned FRICO Participation Amount *(Participant's FRICO Installment Payment, see Schedule 2)*; and

(2) one-sixth (16.67%) of Participant's SACWSD Participation Amount *(Participant's SACWSD Installment Payment, see Schedule 2)*; and

(3) Participant's Option Payment *(Participant's Option Payment, see Schedule 2)*.

Any additional option to participate in the Plan B Project that Participant may obtain from other Plan B Project Participants shall be subject to the Payment Schedule defined in the Revised Plan B Project Participant Water Resources Agreement initially granting such option.

e) If the total payment that the District anticipates receiving after all participants have had an opportunity to respond and confirm their commitment to timely make their Installment and Option payments is less than that required under all Revised Plan B Project Participant Water Resources Agreements, the District will conduct a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement.

f) DELETED.

g) DELETED.

2.7 Annual Payment Procedure. On or before October 1, 2007, and continuing on or before October 1 of each year during the Payment Schedule, the District shall send a written notice to Participant requesting that it confirm to the District its commitment to timely pay its Option Payment, FRICO Installment Payment and SACWSD Installment Payment, if such payment is applicable, *(see Schedule 2)*, which are due on November 27 of that year. The notice shall inform Participant regarding any accrued Option Fee Credits or credits toward Participant's SACWSD Installment Payment or Participant's FRICO Installment Payment, as such credits are described in paragraph 1.7 of this Revised Agreement. Participant shall respond to the notice either affirming its commitment or terminating its interest in the Plan B Project on or before October 15 of each year. If Participant fails to respond, the District shall provide a second notice giving Participant ten (10) days from the date of such second notice in which to provide a response confirming its commitment to timely make the payments required under this Revised Agreement. If the District has not received a response from Participant within such ten (10) day period, or if at any time Participant responds with its intent to terminate its participation in the Plan B Project, the District shall initiate a Reallocation of Participation Amounts described in Section 1.15 above with respect to Participant's entire Plan B Project Participant Amount toward which Participant has not yet made payments.

On or before each November 27, Participant shall make its FRICO Installment Payment, its SACWSD Installment Payment (if applicable), and its Option Payment *(see Schedule 2)*.

Excess credits resulting from payments of Option Fees or from Option Payments, if any, shall carry over annually. To the extent there may exist at the conclusion of the Payment Schedule any excess payments toward the total of Participant's Option Payments as a result of either payment under Participant's Option Payment obligation or payments by Participant or its assigns for Option Fees, a right to refund of such excess will exist only in favor of Participant. Participant's assigns shall have no right to refund hereunder. Participant's right to any such refund shall extinguish two (2) years following the conclusion of the Payment Schedule to which Participant has subscribed in paragraph 2.6(d) of this Revised Agreement.

2.8 Payment Default. In the event Participant shall fail to make any payment specified in this Article 2, including the failure to make the FRICO Installment Payment or SACWSD Installment Payment described in paragraph 2.6(d) of this Revised Agreement, even if Participant paid some portion of its FRICO Installment Payment or SACWSD Installment Payment under the provisions of paragraph 2.7 of this Revised Agreement or otherwise, Participant's option to make payments and receive ERU Water Credits under the Plan B Project shall terminate. The District shall reallocate Participant's option to continue participation in the Plan B Project to the non-defaulting participants using the procedure described in paragraph 1.15 of this Revised Agreement. Participant shall retain any ERU Water Credits the District allocated to it as a result of making previous FRICO and SACWSD Installment Payments, together with the rights to acquire ERU Water Connection Permits relating to such portion, provided that Participant complies with the provisions of this Revised Agreement relating to such portions of its Plan B Project Participation Amount which have been paid for. If a participant confirms its

commitment to timely make its Installment and Option Payments, but then fails to timely make such payments, the District will conduct a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement.

As described in paragraph 1.15(e) of this Revised Agreement, if the District receives less money than required under all Revised Plan B Project Participant Water Resources Agreements, even after conducting a Reallocation of Participant Amounts in accordance with paragraph 1.15 of this Revised Agreement, and if the District, after making reasonable efforts, has been unable to subscribe to the Reallocated Participant Amount or to find third-party subscribers to the Reallocated Participant Amount, **the options to continue to participate in the Plan B Project water of all participants within the Payment Group to which the Reallocated Participant Amount is subscribed will terminate.**

ARTICLE 3
ERU WATER CONNECTIONS

3.1 The District will record ERU Potable Water Credits and ERU Irrigation Water Credits in favor of Participant in accordance with the terms and conditions of this Revised Agreement, subject to the limitations of Article 4. Such ERU Water Credits will apply to the ERU Water Connection Fee, provided that:

a) Participant has provided the funds as described in this Revised Agreement for the purchase of Participant's Plan B Project Participation Amount; and

b) Participant, or its successors or assigns, has provided dual distribution potable and irrigation water systems for the lands within the District depicted on Exhibit A.

3.2 Issuance of ERU Water Connection Permits. The District shall issue ERU Water Connection Permits upon application by Participant, or its successors and assigns, to develop lands within the District depicted on Exhibit A to be served pursuant to this Revised Agreement upon:

a) Presentation of building permits for any structures that are to be the subject of the ERU Water Connection; and

b) Surrender of an appropriate number of ERU Potable Water Credits or ERU Irrigation Water Credits to provide potable and/or irrigation supplies for the building or site. Participant or its successor or assign shall inform the District whether such surrendered credits were recorded in the District's financial records as a result of Participant's SACWSD Installment Payments, FRICO Installment Payments, or Participant's Initial FRICO Participation Amount. Participant shall not be required to surrender ERU Potable Water Credits for irrigation demands.

Where Participant or its successor or assign has exhausted its ERU Water Credits and is therefore unable to surrender such credits in exchange for an ERU Water Connection Permit, the District will alternatively accept the Incremental Water Payment; and

c) For ERU Water Connection Permits acquired out of Participant's Optioned FRICO Participation amount, surrender of an appropriate number of Option Fee Credits.

The intent of paying the FRICO Option Fee at the time of obtaining ERU Water Connection Permits is to reduce the risk to other participants within the Payment Group of termination of their future options under the Plan B Project. The District shall apply any funds paid under the Option Payments and Option Fees to maintain the future options of each Payment Group.

Where Participant or its successor or assign has exhausted its Option Fee Credits and is therefore unable to surrender such credits in exchange for an ERU Water Connection Permit, the District will alternatively accept payment for the Option Fee, described in paragraph 1.8 of this Revised Agreement; and

d) Construction in accordance with paragraphs 3.6, 3.7 and 3.8 below of a dual water distribution system to serve the land that is to be the subject of the ERU Water Connection; and

e) Payment of the then-current System Development Charge and other related fees; and

f) If applicable, payment for the BFI Rebate Fee; and

g) Payment of wastewater connection fees required by the District's Rules and Regulations; and

h) Compliance with all other provisions of this Agreement and the District's Rules and Regulations; and

i) Payment for the then-current Water Resources Fee.

Prior to issuing any ERU Water Connection Permits under the final twenty percent (20%) of the Participant's Optioned FRICO Participation Amount, the District will require payment for the present value, calculated using an annual interest rate of 3.5 percent, of Participant's Option Payments for the remainder of its Payment Schedule period and required under paragraph 2.6(d)(3) of this Revised Agreement. Upon Participant's payment for the present value of such remaining Annual Option Payments, the District shall allocate in its financial records Option Fee Credits. In lieu of Participant's payment for the present value of Participant's remaining Option Payments, the District may in its sole discretion accept other reasonable financial assurances of future payment for the remaining Option Payments.

3.3 Determination of ERUs; Exchange of Lands. The number and type of ERU Water Credits and System Development Charges required for different types of development (e.g., multi-family, parks, etc.) shall be determined according to the then-current District Rules and Regulations. As to the ERU Water Credits available under this Revised Agreement, the District will consider an exchange of new land(s) for a portion of those lands depicted on Exhibit A, so long as the new lands are capable of being served by the District's dual distribution system, described in paragraph 3.6 of this Revised Agreement. The District's approval of such exchange shall not be unreasonably withheld, with any exchange being subject to reasonable terms and conditions determined by the District. Such terms and conditions shall not include surrender of additional ERU Water Credits, or payment of additional compensation (other than a nominal administrative transfer fee), as consideration for such consent.

3.4 Fees. Prior to obtaining an ERU Water Connection Permit, all then-applicable fees must be paid, including, but not limited to, the Water Resources Fee; the System Development Fee; and the Option Fee, where the Option Fee is applicable. The District, in its reasonable discretion, may adopt new fees or increase established fees for the District in general, and such new fees or increased established fees will apply to this Revised Agreement. The District will publish a schedule of applicable fees annually and will provide such schedule to Participant with its annual October 1 notice requesting commitment to make Participant's annual payments.

3.5 Participant acknowledges that this Revised Agreement may not provide water resources to meet all of the water supply needs of the properties depicted on Exhibit A, and that Participant may be obligated to enter into future water resources agreement(s) to meet any additional water supply demands over and above the ERU Potable and Irrigation Water Connections Participant might obtain under this Revised Agreement.

3.6 Construction of Dual Distribution System. The Parties agree that with respect to development of property served by ERU Water Connection Permits purchased pursuant to this Revised Agreement, construction shall include a "dual pipe" water supply system, which shall consist of (1) the Potable Water System, constituting piping for delivery of potable water for indoor uses, including but not limited to, drinking water facilities, bathing facilities, and other sanitary facilities, and outdoor vehicle washing and other non-irrigation outdoor uses, and (2) the Irrigation Water System, constituting piping for delivery of irrigation water for outdoor irrigation systems. The Potable Water System and the Irrigation Water System shall be constructed pursuant to the District's specifications. The District may, at any time, deliver potable water through the Irrigation Water System in lieu of delivery of irrigation water.

3.7 In order to serve the participant lands depicted in Exhibit A, the District shall install, at its sole cost and expense, the main water delivery facilities for the Irrigation Water System in accordance with the Master Utilities Plan of the District, as such plan may be revised from time to time by the District. Provision of ERUs to participants is subject to construction of the main water delivery facilities for the Irrigation Water System in accordance with the Master

Utilities Plan of the District necessary to provide ERUs to the participants. While the District will use reasonable efforts to install such main water delivery facilities for the Irrigation Water System in accordance with its Master Utilities Plan, it cannot guarantee that such main water delivery facilities for the Irrigation Water System will be secured in accordance with a particular schedule of projected development.

3.8 Participant or its successors and assigns shall install, according to the District's then-current specifications, and at their respective sole cost and expense, all piping and facilities required for delivery of water from the main water delivery facilities for the Irrigation Water System installed by the District to each lot or parcel to be served by the water supply. As to extensions of the Potable Water System necessary to serve the participant lands, Participant or its successors and assigns shall be required to extend water mains and construct related facilities at their respective own cost, as set forth in the District's Rules and Regulations. Upon completion by Participant or its successors and assigns of construction of such dual water supply lines, the District shall make appropriate inspection and notation of its records to reflect such construction.

3.9 Facility Design Criteria. The then-current facility design criteria set forth in the District's Design Specifications and Standards, together with any applicable provisions of the District's Rules and Regulations, shall apply to all facilities constructed to supply potable and irrigation water supplies to the participant lands.

ARTICLE 4
WATER AND SANITATION SERVICES

4.1 General. The District shall provide water and sewer service to the participant lands depicted on Exhibit A in accordance with the then current District's Rules and Regulations and Design Standards and Specifications. All public water and sanitary services provided shall require Participant or its successors and assigns to construct the extension of potable main water lines and sewer lines and related facilities to serve their properties, all as set forth in the District's Rules. The issuance of any ERU Water or Sewer Connection Permits shall be subject to the payment of all fees and charges, as specified in this Revised Agreement, compliance with the District's Rules and Regulations, compliance with the District's Design Specifications and Standards, and the completion of needed wastewater plant expansion to provide the requested public sewer services.

4.2 Connection Contingency. The District's obligation to issue Participant or its successors and assigns ERU Water and Sewer Connection Permits is expressly contingent on expansion of the District's existing wastewater treatment plant, certain dead-end improvements, and completion of a regional wastewater plant so as to include capacity for the District. The District shall use reasonable efforts to complete these wastewater projects or complete alternative and additional projects.

4.3 Wastewater Capacity Constraints. Upon written request by Participant or its successors and assigns, the District shall provide a status report regarding the completion of the

foregoing projects. If the issuance of ERU Water and Sewer Connection Permits to Participant or its successors and assigns is constrained by a lack of available wastewater collection and treatment facilities, the Parties shall meet and in good faith try to negotiate an agreement under which pre-payment of sewer connection fees may alleviate, in whole or in part, any constraints on issuance of sewer permits. In the event the wastewater plant expansions described herein are not successfully completed within the time-frames described above, the ERU Water Credits shall remain in full force and effect and may be used at such time when the conditions are satisfied or the District is otherwise able to provide service.

4.4 Connection Thresholds. The District will afford the opportunity to all participants to purchase ERU Water Connection Permits on an as-needed basis each year, unless total demand for new connections by all users in the District has exceeded either of the following thresholds:

a) Utilization of new ERU Water Connection Permits within the District has exceeded an average of 1,800 per year between January 1, 2002 and the date on which the anticipated regional wastewater treatment plant becomes operational, or

b) Utilization of new ERU Water Connection Permits in the District in any one year exceeded or will exceed 2,266.

4.5 Connection Allocation. If total demand for ERU Water Connection Permits has exceeded these thresholds, the District will allocate ERU Water Connection Permits to all participants in annual increments. If the total demand for ERU Water Connection Permits has or will exceed threshold a), then the District will allocate to each participant 3.98% of the participant's entire Plan B Project Participation Amount, not to exceed the portion of the participant's Plan B Project Participation Amount paid for up to that time. In the case of excess of threshold b), the number will be 5.0% of the participant's entire Plan B Project Participation Amount, not to exceed the portion of the participant's Plan B Project Participation Amount paid for up to that point in time. *(See Connection Allocations, Schedule 2).*

4.6 Procedure for Allocations Subject to Rules and Regulations. Specific provisions for implementing these allocations will be developed, if necessary, and included in the District's Rules and Regulations.

4.7 Provisions of Service Subject to Available Water and Wastewater Capacity. Additional water supplies and wastewater treatment capacity necessary to serve participant lands will be pursued by the District. Provision of ERU Water Connection Permits to participants is subject to construction of public water and wastewater facilities necessary to provide ERU Water Connection Permits to the participants. While the District will use reasonable efforts, it cannot guarantee that such water supplies or wastewater treatment capacity will be secured in accordance with a particular schedule of projected development. The District allocates portions of system development fees, wastewater resource fees and similar purpose fees to the acquisition of water supplies, water facilities and wastewater treatment capacity and the District agrees and

commits to continue its policy of using such fees for the acquisition of water supplies, water facilities and wastewater facilities for overall improvements to the District's water and wastewater system which will assist with the provision of service to the participants.

4.8 Reallocation of Annual ERU Allocations. If in any given year any Participant has not purchased the ERU Water Connection Permits allocated to it in accordance with a Connection Allocation under paragraph 4.5 of this Revised Agreement, the District will offer the unused ERU Water Connection Permits available under such Connection Allocation to other Plan B Project Participants.

4.9 No Effect on GID Allocations. The ERU Water and Sewer Connection Permit allocations set forth herein shall not modify or limit Participant's ability to receive ERU Water Connection Permits allocated by the District for those lands originally included within the Northern Infrastructure General Improvement District (see paragraph 6 of the Agreement between the District and the GID dated April 27, 1998); neither Participant, nor any other land owners within the GID, are considered to be beneficiaries, third party or otherwise, of such agreement.

4.10 Agreement to Negotiate. The parties agree to negotiate in good faith as to water and sewer connection permit allocation issues that arise.

ARTICLE 5
DELETED

5.1 DELETED.

5.2 DELETED.

5.3 DELETED.

ARTICLE 6
MISCELLANEOUS

6.1 Transfer of Participation Amounts. The District has entered into agreements with other persons and entities for participation in the Plan B Project. Participant may transfer all or any portion of Participant's right to participate in the Plan B Project and receive ERU Water Credits and to purchase corresponding ERU Water Connection Permits under this Revised Agreement to other persons and entities with whom the District has entered into Revised Plan B Project Participant Water Resources Agreements, upon consent of the District, which consent shall not be unreasonably withheld. Such transfers to other participants or participants' related entities of options to participate in the Plan B Project and receive ERU Water Connection Permits and ERU Water Credits shall not be subject to the additional conditions of this paragraph 6.1. Participant or its related entities may also acquire all or a portion of agreements from other persons and entities for participation in the Plan B Project, upon consent of the District, which

consent shall not be unreasonably withheld and upon such acquisition shall not be subject to the additional conditions of this paragraph 6.1. Nor will a transfer of any of Participant's Initial Participation Amount be subject to the additional conditions described below.

Participant may transfer any contractual interest it holds under this Revised Agreement to a subsequent purchaser of Participant's property depicted on Exhibit A, or a corporate or business entity successor for use on that property subject to the conditions described below.

If and only if no other participant or participant's related entity is interested in acquiring any portion of Participant's Plan B Project Participation Amount, Participant is also entitled to transfer such interest to other persons and entities that own land within the District, upon consent of the District and on certain conditions described below. However, Participant is entitled to transfer any contractual interest it holds under this Revised Agreement to a subsequent purchaser of Participant's property depicted on Exhibit A notwithstanding another Plan B Project participant's or its related entity's interest in acquiring the same interest.

The District will not recognize any transfer by Participant of all or a portion of Participant's contractual interest under this Revised Agreement unless and until the District has reviewed and consented to such transfer. The District will not review any transfer without receipt of payment for the then-current transfer fee.

a) If the proposed transfer entails a right to obtain 50 ERU Water Connection Permits or fewer, the Participant may only transfer such right to obtain ERU Water Connection Permits for which it has already made the associated Installment Payments and has therefore been allocated in the District's financial records ERU Water Credits and is entitled to the issuance of ERU Water Connection Permits upon compliance with the requirements listed in Paragraph 3.2 of this Revised Agreement. The District may approve such transfer only upon receipt of payment for all FRICO Option Fees associated with the transferred rights. In lieu of payment for all FRICO Option Fees associated with the transferred rights, the District may, in its sole discretion, accept other reasonable financial assurances of future payment for those FRICO Option Fees.

b) If the Participant proposes to transfer the right to purchase more than 50 ERU Water Connection Permits, the District may approve such transfer only upon the District's reasonable determination that the proposed transferee is financially solvent such that the transfer to the transferee will not unreasonably jeopardize the District's ability to continue to obtain Plan B Project water for the remaining participants within the Payment Group to which the transferred Participation Amount belongs. Additionally, the District may impose reasonable terms and conditions on the transfer, including, but not limited to, reasonable financial assurances of the transferee's ability to make future payments under this Revised Agreement.

c) The District's approval of any transfer of a portion of Participant's contractual interest under this Revised Agreement shall not modify Participant's obligation to make annual Installment and Option Payments as required in paragraph 2.6(c) hereof, except as

described below. Participant shall continue to make annual Installment and Option Payments as contained in Schedule 2, subject to any credit Participant may receive for payments made by Participant or by Participant's assigns under this Revised Agreement. The District shall provide ERU Water Connection Permits to Participant's approved assigns in accordance with the District's obligation under this Revised Agreement to provide ERU Water Connection Permits to Participant. Participant's approved assigns shall not, however, succeed to any of Participant's contractual interest under this Revised Agreement, nor shall Participant's assigns become participants of the Plan B Project, except as provided in subsections (c)(1) and (c)(2), below. Participant's assigns shall have no rights from or obligations directly to the District; Participant's assigns shall have rights and obligations pursuant only to their agreements with Participant.

(1) Where Participant transfers any portion of its contractual interest in the Plan B Project to another participant or a participant's related entity, however, Participant shall no longer be obligated to make annual Installment and Option Payments associated with the transferred interest, so long as the participant-assignee assumes such obligation in the transfer document. Where the participant-assignee assumes such obligation, the District shall issue Participant and the participant-assignee each a revised Schedule 2 reflecting the transfer and resulting new payment obligations.

(A) The participant-assignee's assumption of the obligation to make annual Installment and Option Payments associated with the transferred interest shall be in accordance with Participant's payment obligation, including, but not limited to, the Payment Schedule described in paragraph 2.6(d) of this Revised Agreement.

(B) The participant-assignee's assumption of the obligation to make annual Installment and Option Payments associated with the transferred interest shall merge the transferred interest into the participant-assignee's obligation under its Revised Plan B Project Participant Water Resources Agreement, except that the Payment Schedule described in paragraph 2.6(d) of the Revised Plan B Project Participant Water Resources Agreement under which the District originally granted rights to the transferred participation amount will remain unchanged, and therefore participant-assignee's failure to make an annual Installment Payment or Option Payment associated with the transferred amount shall constitute a payment default under paragraph 2.8 of its Revised Plan B Project Participant Water Resources Agreement.

(2) Where Participant transfers its entire contractual interest under this Revised Agreement, the transferee shall become a participant of the Plan B Project. Participant's transferee shall succeed to this Revised Agreement in its entirety, with no modifications, and shall obtain rights directly from and have obligations directly to the District, subject to the District's ability to impose reasonable terms as described in subparagraph (b), above.

6.2 Executory Interest. Participant's rights under this Revised Agreement are contract rights and depend on and are contingent upon the complete and full performance by Participant of all of its obligations hereunder. Notwithstanding anything herein to the contrary, the District

may re-allocate Participant's rights hereunder if there is an event requiring a Reallocation of Participation Amounts as described hereunder.

6.3 Commitment to Re-negotiate with FRICO. The Parties hereby confirm their intent to attempt to work on the potential renegotiation of the District's acquisition of this water supply from FRICO. The District will appoint a representative to lead a committee of participants of the Plan B Project to draft a proposal to FRICO, Burlington, and Henrylyn to amend some of the terms regarding the District's acquisition of Plan B Project water resources. The District shall establish such committee no later than May 15, 2007. The committee shall prepare such proposal for presentation to FRICO, Burlington, and Henrylyn no later than August 1, 2007. The Parties affirm that this Revised Agreement is controlling absent any modifications in accordance with paragraph 6.9 of this Revised Agreement.

6.4 Encumbrances. Where Participant voluntarily pledges its contract interests in this Revised Agreement as security for a loan, it shall notify the District of such pledge and encumbrance. The notice shall issue jointly from Participant and the lender holding the encumbered interest and shall confirm that the lender, its successors and assigns, will further promptly notify the District of any alleged default by Participant on its obligation to such lender.

a) Upon receipt of any such notice of default or event of default, the District will discontinue issuance of ERU Water Connection Permits to Participant or its successors, assigns, and transferees (including lender and its designee) until it receives further notice from such lender or a court of competent jurisdiction that Participant's obligation is no longer in default and any performance and monetary defaults of Participant or any successor under this Revised Agreement have been satisfied in full.

b) Any voluntary or involuntary transfer to a lender or any third party as a result of a default under such loan secured by an interest in this Revised Agreement shall be subject to the consent of the District, which consent shall not be unreasonably withheld.

c) A lender's notice to the District of Participant's alleged default or event of default shall not modify Participant's obligation to make annual payments under paragraph 2.6(d) of this Revised Agreement or the District's ability to conduct a Reallocation of Participant Amounts under paragraph 1.15 of this Revised Agreement in the event of a Payment Default as described in paragraph 2.8 of this Revised Agreement.

6.5 Notices. Whenever any notice, demand, or request is required or provided for under this Revised Agreement, such notice, demand, or request shall be provided in writing to the following addresses or such other addresses as may be designated by a party by notice. Notice shall be deemed received when personally delivered, or three days after having been deposited in a U. S. Postal Service depository to be sent by registered or certified mail, return receipt requested, with all required postage prepaid, or one business day after having been sent by overnight courier. Notice may be concurrently sent via email, but will not be deemed received

until personally delivered or three days after having been deposited in a U.S. Postal Service depository:

To Participant:	Dunes Investment Partners, LLC Jim Marshall, Manager 7108 – M.S. Alton Way Englewood, Colorado 80112 Email: jimmarshall@bcxdevelopment.com
To the District:	General Manager South Adams County Water and Sanitation District 6595 East 70th Avenue Commerce City, Colorado 80037-0597 Email: PlanBProject@sacwsd.org
Copy to:	Timothy J. Beaton, Esq. Moses, Wittemyer, Harrison and Woodruff, P.C. P.O. Box 1440 1002 Walnut, Suite 300 Boulder, Colorado 80306 Email: tbeaton@mwhw.com

Participant shall promptly notify the District at the above-listed addresses of any changes to the address to which the District may send any notices pertaining to Participant's interest under this Revised Agreement.

6. 6 Time is of the Essence. Time is of the essence with respect to each and every aspect of this Revised Agreement, and strict compliance with all time requirements is at the heart of this Revised Agreement and shall be strictly enforced.

6. 7 Authority. The individuals executing this Revised Agreement on behalf of their respective entities are authorized by the entities to execute this Revised Agreement on behalf of their respective entities.

6. 8 Default. The failure of a party to this Revised Agreement after closing to perform or observe of any of the covenants, terms, or conditions of this Revised Agreement other than Participant's obligation to annually notify the District of its commitment to timely make requirement payments or Participant's obligation to make Annual Installment or Option Payments shall, after reasonable notice and the opportunity to cure, be an event of default. It is expressly understood and agreed that the failure of Participant to make an Option Payment or Annual Installment Payment described herein shall not be considered an event of default with respect to this paragraph 6.8, provided, however, that following the failure to make an Option Payment or Installment Payment required under paragraph 2.7 of this Revised Agreement,

Participant will not retain any future rights to exercise the option to participate in the Plan B Project pursuant to paragraph 2.8 of this Revised Agreement.

a) Any default resulting in a threat to public health, safety, or welfare shall be cured immediately by the defaulting party. As to any other default, a party who claims that another party has failed to perform as required by this Revised Agreement shall provide written notice to the other party setting forth the specific failure complained of and shall provide that party a minimum of thirty (30) days within which to cure or within which to agree with the complaining party on a plan to cure the default, except that where an emergency circumstance exists which requires injunctive or other immediate relief, a party may commence a suit prior to the running of the cure period. If the defaulting party does not cure within the time allowed, it shall be deemed to constitute an Event of Default.

b) Upon the occurrence of an Event of Default, the non-defaulting party will have the right to enforce its rights under this Revised Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this Revised Agreement. If the District is the non-defaulting party, it may suspend the defaulting Participant's right to obtain further ERU Water Connection Permits until satisfactory cure of the Event of Default. Except as otherwise provided for herein, all rights and remedies of the Parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy.

c) The failure of a party to insist, on one or more occasions, upon the strict observation of any of the terms of this Revised Agreement shall not be construed as a waiver or relinquishment in any future occasion of any of the terms of this Revised Agreement.

6.9 Entire Agreement; Modifications. The making, execution and delivery of this Revised Agreement by the parties has been induced by no representations, statements, warranties or agreements other than those expressed in this Revised Agreement. This Revised Agreement embodies the entire understanding of the parties as to the subject matter hereof and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to its subject matter unless expressly referred to in this Revised Agreement. Modification of this Revised Agreement by the parties may be made only by a writing signed by the party or parties to be bound by the modification.

6.10 Recording. This Revised Agreement shall be recorded at the office of the Adams County Clerk and Recorder at or following the Closing.

6.11 Estoppel and Waiver. No term or condition of this Revised Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Revised Agreement, except by a signed written instrument of the party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated in its terms. Each such waiver shall operate only as to the specific term

or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.

6.12 Assignment and Delegation. Participant had the ability to assign the Original Agreement prior to Closing subject to the District's consent, which consent could not be unreasonably withheld, though the District could condition its consent upon reasonable terms to be assumed by any assignee. Any assignee was required to assume in writing all obligations imposed upon Participant pursuant to the Original Agreement. Participant may still assign all or part of its contractual right to allocation of ERU Potable Water Credits and its contractual right to obtain ERU Irrigation Rights Credits to successors-in-interest as to the properties depicted on Exhibit A, subject to the terms of this Revised Agreement, including Paragraph 6.1; the ERU Water Credits allocated in the District's financial records in Participant's favor also shall be assignable to other lands as exchanged under paragraph 3.3.

6.13 Survival. The rights and obligations of the parties hereunder shall remain fully enforceable until such time as any and all terms and conditions of this Revised Agreement are completely fulfilled.

6.14 Construction. The headings of sections and subsections in this Revised Agreement are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

6.15 Counterparts. This Revised Agreement may be executed in two or several counterparts and all counterparts so executed shall constitute one agreement binding on all of the parties, notwithstanding that all the parties are not signatories to the original or the same counterpart.

6.16 Severability. The invalidity or unenforceability of any of the provisions of this Revised Agreement shall not affect any other provision of this Revised Agreement which shall thereafter be construed in all respects as if such invalid or unenforceable provision were omitted.

6.17 Controlling Law and Venue. This Revised Agreement shall be governed under and controlled pursuant to the laws of the State of Colorado, and the venue for any disputes hereunder shall be in the District Court, Adams County, State of Colorado.

6.18 No Third Party Benefit. This Revised Agreement is solely for the benefit of the parties to this Revised Agreement, and the Parties do not intend for there to be any third party beneficiary associated with this Revised Agreement. Nothing in this Revised Agreement expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity other than the parties, any right, remedy or claim under or by reason of this Revised Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Agreement contained by and on behalf of the parties shall be for the sole and exclusive benefit of the parties.

6. 19 Effective Date of Agreement. This Revised Agreement shall be effective on the last date it is signed by the Parties.

PARTICIPANT,
DUNES INVESTMENT PARTNERS. LLC.
a Colorado limited liability company

By: _____ Date: July 12, 2007
Jim Marshall. Manager

SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT. a Colorado Special District by and through its WATER AND SEWER ENTERPRISE

By: _____ Date: 7-26-07
Mike Benallo. President

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 12th day of July, 2007 by Jim Marshall, Manager, Dunes Investment Partners, LLC. a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: 8/31/09

_____
Notary Public

NOTARY PUBLIC STATE OF COLORADO

STATE OF COLORADO)
)ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this 26th day of July 2007, by Mike Benallo as President of South Adams County Water and Sanitation District, a Colorado special district, acting by and through its Water and Sewer Enterprise.

WITNESS my hand and official seal.

My commission expires: 1/31/2011

Notary Public

ASSIGNMENT AND BILL OF SALE
(Plan B Project ERU Water Credits and ERU Water Connections)

THIS ASSIGNMENT AND BILL OF SALE ("Assignment") is made the 1ST day of MAY, 2009, by Dunes Investment Partners, a Colorado limited liability company, whose address is 7109-M S. ALTON WAY ENGLEWOOD, CO 80112 ("Assignor"), in favor of P&S Investments, a Colorado limited liability company, whose address is 7109-M S. ALTON WAY ENGLEWOOD, CO 80112 ("Assignee").

RECITALS:

A. Assignor is a party to that certain Revised Plan B Project Participant Water Resources Agreement dated July 26, 2007 ("Plan B Project Agreement") between Assignor, and the South Adams County Water and Sanitation District ("District") wherein Assignor was given the opportunity to receive certain ERU Water Credits and to purchase ERU Water Connections to be used in connection with certain lands within the District as depicted on Exhibit A to the Plan B Project Agreement. Assignor's lands depicted on Exhibit A to the Plan B Project Agreement are hereinafter referred to as "the Property".

B. The Plan B Project Agreement allocates to the Assignor the right to receive one hundred thirty-six (136) ERU Water Credits and to purchase corresponding ERU Water Connections, which right is available to Assignor under the terms of the Plan B Project Agreement (the "Plan B Project Rights").

Based on payments Assignor has made to the District in accordance with the Plan B Project Agreement, Assignor has received forty-five and thirty-three hundredths (45.33) Optioned FRICO ERU Water Credits recorded in the District's financial records. In addition to the above-described rights, Assignor has received sixty-three and forty-four hundredths (63.44) Option Fee Credits, which have been recorded in the District's financial records.

C. Assignor desires to assign all its right, title, and interest in and to the credits recorded in the District's financial records to Assignee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms that are used herein but not defined herein shall have the meaning ascribed to such terms in the Plan B Project Agreement, which is incorporated herein by this reference.

2. **Assignment.** Assignor hereby grants, bargains, sells and conveys to Assignee all of its right, title, and interest in and to the following (collectively, "Transferred Participation Amount"):

> Forty-five and thirty-three hundredths (45.33) FRICO ERU Water Credits recorded in Assignor's favor in the District's financial records and the right to purchase corresponding ERU Water Connections, which right is available under the terms of the Plan B Project Agreement.
>
> Sixty-three and forty-four hundredths (63.44) Option Fee Credits recorded in Assignor's favor in the District's financial records pursuant to the terms of the Plan B Project Agreement.

Assignee acknowledges and agrees that it shall be required to pay any normal and customary tap fees, connection charges and any and all other fees or payments payable to the District with respect to the purchase of ERU Water Connections in the same manner as is normally charged by the District relating to such ERU Water Connections, including, but not limited to, the FRICO Option Fee. Assignee hereby assumes and agrees to perform and observe all covenants, conditions, provisions and obligations

contained in the Plan B Project Agreement related to the Transferred Participation Amount, including, but not limited to, payment of additional fees described in paragraph 3.2 of the Plan B Project Agreement.

3. **Restrictions on Use of Transferred Participation Amount.** Assignee holds the Transferred Participation Amount for the benefit of and use by Assignor on the Property. Assignor agrees that Assignee may nonetheless assign all or any portion of the Transferred Participation Amount to other individuals or entities in accordance with the terms regarding transfer set forth in the Plan B Project Agreement without Assignor's prior consent. The parties acknowledge that assignments of all or any portion of the Transferred Participation Amount for use on lands other than the Property shall require execution and recording of a covenant against the Property for the benefit of the District and its successors and assigns serving as notice that such transferred ERUs are no longer available for use on the Property.

4. **Provisions Relating to Allocations by the District.** Under the terms of the Plan B Project Agreement and the Resolution of the Board of Directors of South Adams County Water and Sanitation District Regarding Allocation of ERUs to FRICO Participants adopted August 28, 2001 ("FRICO Resolution"), under certain circumstances, the District will allocate ERU Water Connections among Plan B Project participants ("Tap Allocations"). In particular, the District has the right to impose Tap Allocations among Plan B Project participants if (i) utilization of new ERU Water Connections within the District has exceeded an average of 1,800 ERU Water Connections per year between January 1, 2002 and the date on which the anticipated regional wastewater treatment plant becomes operational, or (ii) utilization of new ERU Water Connections in the District in any one year has exceeded or will exceed 2,266 ERU Water Connections. The District's issuance of ERU Water Connections, which are the subject of this Assignment, is subject to: (a) the terms of the FRICO Resolution; and (b) the terms and conditions of the Plan B Project Agreement.

5. **Reservation.** This Assignment shall be limited to a transfer of the Plan B Project rights described in Section 2 of this Assignment.

6. **Consent of the District.** The District's consent to this Assignment, which will not be granted without receipt of payment for the District's transfer fee, and entry of this Assignment on the District's books is required before this Assignment is effective.

7. **No Modifications.** Nothing in this Assignment shall be deemed to modify any of the terms and conditions of the Plan B Project Agreement or the FRICO Resolution.

IN WITNESS WHEREOF, the Parties have executed this Assignment on the day and year first above written.

DUNES INVESTMENT PARTNERS, LLC:

By: _____
James Marshall, Member

P&S INVESTMENTS, LLC:

By: _____
James Marshall, Member

SOUTH ADAMS COUNTY
WATER & SANITATION DISTRICT

June 29, 2009

James Marshall
7108-M South Alton Way
Englewood, Colorado 80112

Re: **Assignment and Bill of Sale (Plan B Project ERU Water Credits and ERU Water Connections) between Dunes Investment Partners, LLC and P&S Investments, LLC dated May 1, 2009**

Dear Jim:

South Adams County Water and Sanitation District ("S. Adams") hereby consents to the assignment and sale of Plan B Project credits from Dunes Investment Partners, LLC ("Dunes") to P&S Investments, LLC ("P&S") ("Transferred Credits"). S. Adams notes that the Transferred Credits were recorded in favor of Dunes pursuant to the Revised Plan B Project Participant Water Resources Agreement dated July 26, 2007 between Dunes and S. Adams ("Plan B Agreement"). The Transferred Credits are as follows:

> Forty-five and thirty-three hundredths (45.33) FRICO ERU Water Credits recorded in Assignor's favor in the District's financial records and the right to purchase corresponding ERU Water Connections, and
>
> Sixty-three and forty-four hundredths (63.44) Option Fee Credits recorded in Assignor's favor in the District's financial records.

Through the above-described assignment, Dunes and P&S acknowledge the possibility of a reduction of the amount of taps available each year in the event that thresholds of demand are exceeded within S. Adams as a whole. Dunes and P&S acknowledge that, by their acceptance of this consent letter, they hereby agree to release S. Adams from, and waive any and all claims, losses or causes of action that may result from S. Adams' consent to the Assignment and Bill of Sale. Dunes and P&S further acknowledge that, by their acceptance of this consent letter, they also agree to defend, indemnify and hold S. Adams harmless from and against any and all claims, losses or causes of action that may result from S. Adams' consent to this Assignment and Bill of Sale.

According to the terms of the Assignment, P&S holds the Transferred Credits for the benefit of and use by Dunes on its property depicted on Exhibit A to the Plan B Agreement. S.

Adams' consent to the Assignment is therefore consistent with the terms of the Resolution of Board of Directors of South Adams County Water and Sanitation District Regarding Assignments and Transfers of Interests in Water Connection Allocations and Water Resources Participation Agreements because the property with which any available ERU Water Credits are to be utilized is: (1) annexed into Commerce City; (2) included within the District's boundaries; (3) located within the DRCOG UGB; and (4) part of the property depicted in Exhibit A to the Plan B Agreement.

Sincerely yours,

SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT

Jim Jones, District Manager

cc: Marjorie L. Sant, Esq.
Douglas D. Scott, Esq.

EXHIBIT 3 - ERU PURCHASE SCHEDULE

Year	Minimum Option ERU's to be purchased by Catellus annually	Exercise Notice Deadline	Annual Purchase Deadline
2016	50	October 31, 2016	December 15, 2016
2017	50	October 31, 2017	December 15, 2017
2018	50	October 31, 2018	December 15, 2018
2019	50	October 31, 2019	December 15, 2019
TOTAL	**200**		

EXHIBIT 4

ASSIGNMENT AND BILL OF SALE
(FRICO ERU Water Credits, Option Credits and ERU Water Connections)

THIS ASSIGNMENT AND BILL OF SALE ("Assignment") is made the ____ day of _____, 2015, by City of Commerce City, a Colorado municipality, whose address is 7887 E. 60th Avenue, Commerce City, CO 80022 ("Assignor") in favor of Catellus CC Note, LLC, a Delaware limited liability company whose address is _____.

RECITALS:

A. Assignor has purchased certain ERU Water Credits and Option Fee Credits (collectively "FRICO ERU Credits") pursuant to that certain Revised Plan B Project Participant Water Resources Agreement effective December 12, 2007 ("Revised Water Resources Agreement") between the South Adams County Water and Sanitation District ("District") and Craig Ranch Golf Course, LLC and Las Vegas Gaming Investments, LLC (collectively "Craig Ranch"). The FRICO ERU Credits provide the opportunity to purchase ERU Water Connections to be used in connection with certain lands within the District as described in Exhibit A to the Revised Water Resources Agreement, in accordance with the terms of the Revised Water Resources Agreement.

B. On or about _____, 2015 Assignor and Assignee entered into a Purchase and Sale Contract ("Purchase Agreement"), relating to the purchase of FRICO ERU Credits.

C. Assignee is the owner of the property described in Exhibit A attached hereto ("Property"). The Property is generally located within the lands described in Exhibit A to the Revised Water Resource Agreement. At the time of acquiring the Property, Assignee anticipated that it would acquire interests in FRICO ERU Water Credits available under various Revised Plan B Project Participant Water Resources Agreements that the District has entered into with several landowners within the District for the provision of water supplies to the Property.

D. The Property has been annexed into the City of Commerce City, has been included within the boundaries of the District by Order of the Adams County District Court, and is within the Denver Regional Council of Governments' urban growth boundaries.

E. Assignor desires to assign its right, title, interest, in and to _____ ERU Water Credits and corresponding _____ Option Fee Credits available under the Revised Water Resources Agreement, already received under that Agreement for use on the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms that are used herein but not defined herein shall have the meaning ascribed to such terms in the Water Resource Agreement and Revised Water Resources Agreement, which are incorporated herein by this reference.

2. **Assignment**. Assignor hereby grants, bargains, sells and conveys to Assignee all of its right, title and interest in and to the following (collectively, "Transferred Participation Amount"):

> _____ ERU Water Credits recorded in Assignor's favor in the District's financial records and the right to purchase, at Assignee's sole cost and expense, corresponding ERU Water Connections, which right is available under the terms of the Revised Water Resources Agreement.
>
> _____ Option Fee Credits recorded in Assignor's favor in the District's financial records pursuant to the terms of the Revised Water Resources Agreement.

Assignor warrants that it has not made any prior conveyance of any of the Transferred Participation Amount and further warrants that the Transferred Participation Amount is free and clear of all liens and encumbrances, which warranties shall survive the assignment herein.

Assignee acknowledges and agrees that it shall be required to pay any normal and customary tap fees, connection charges and any and all other fees or payments payable to the District with respect to the purchase of ERU Water Connections in the same manner as is normally charged by the District relating to such ERU Water Connections.

3. **Provisions Relating to Allocations by the District**. Under the terms of the Revised Water Resources Agreement and the Resolution of the Board of Directors of South Adams County Water and Sanitation District Regarding Allocation of ERUs to FRICO Participants adopted August 28, 2001 ("FRICO Resolution"), under certain circumstances, the District will allocate ERU Water Connections among Plan B Project participants ("Tap Allocations"). In particular, the District has the right to impose Tap Allocations among Plan B Project participants if (i) utilization of new ERU Water Connections within the District has exceeded an average of 1,800 ERU Water Connections per year between January 1, 2002 and the date on which the anticipated regional wastewater treatment plant becomes operational, or (ii) utilization of new ERU Water Connections in the District in any one year has exceeded or will exceed 2,266 ERU Water Connections. The District's issuance of ERU Water Connections, which are the subject of this Assignment, is subject to: (a) the terms of the FRICO Resolution; and (b) the terms and conditions of the Revised Water Resources Agreement.

4. **Reservation**. This Assignment shall be limited to a transfer of the FRICO ERU Water Credits described in Section 2 of this Assignment.

5. **Consent of the District**. The District's consent to this Assignment, which will not be granted without receipt of payment for the District's transfer fee, and entry of this Assignment on the District's books is required before this Assignment is effective.

6. **No Modifications.** Nothing in this Assignment shall be deemed to modify any of the terms and conditions of the Revised Water Resources Agreement or the FRICO Resolution.

IN WITNESS WHEREOF, the Parties have executed this Assignment on the day and year first above written.

ASSIGNOR:
CITY OF COMMERCE CITY

By: _____
Name:_____
Title: _____

ASSIGNEE:
CATELLUS CC NOTE LLC

By:_____
Name: _____
Title: _____

EXHIBIT 5

ASSIGNMENT AND BILL OF SALE
(FRICO ERU Water Credits, Option Credits and ERU Water Connections)

THIS ASSIGNMENT AND BILL OF SALE ("Assignment") is made the ____ day of _____, 2015, by City of Commerce City, a Colorado municipality, whose address is 7887 E. 60th Avenue, Commerce City, CO 80022 ("Assignor") in favor of Catellus CC Note, LLC, a Delaware limited liability company whose address is _____.

RECITALS:

A. Assignor has purchased certain ERU Water Credits and Option Fee Credits (collectively "FRICO ERU Credits") pursuant to that certain Revised Plan B Project Participant Water Resources Agreement effective July 26, 2007 ("Revised Water Resources Agreement") between the South Adams County Water and Sanitation District ("District") and Dunes Investment Partners, LLC. The FRICO ERU Credits provide the opportunity to purchase ERU Water Connections to be used in connection with certain lands within the District as described in Exhibit A to the Revised Water Resources Agreement, in accordance with the terms of the Revised Water Resources Agreement.

B. On or about _____, 2015 Assignor and Assignee entered into a Purchase and Sale Contract ("Purchase Agreement"), relating to the purchase of FRICO ERU Credits.

C. Assignee is the owner of the property described in Exhibit A attached hereto ("Property"). The Property is generally located within the lands described in Exhibit A to the Revised Water Resource Agreement. At the time of acquiring the Property, Assignee anticipated that it would acquire interests in FRICO ERU Water Credits available under various Revised Plan B Project Participant Water Resources Agreements that the District has entered into with several landowners within the District for the provision of water supplies to the Property.

D. The Property has been annexed into the City of Commerce City, has been included within the boundaries of the District by Order of the Adams County District Court, and is within the Denver Regional Council of Governments' urban growth boundaries.

E. Assignor desires to assign its right, title, interest, in and to _____ ERU Water Credits and corresponding _____ Option Fee Credits available under the Revised Water Resources Agreement, already received under that Agreement for use on the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms that are used herein but not defined herein shall have the meaning ascribed to such terms in the Water Resource Agreement and Revised Water Resources Agreement, which are incorporated herein by this reference.

2. **Assignment**. Assignor hereby grants, bargains, sells and conveys to Assignee all of its right, title and interest in and to the following (collectively, "Transferred Participation Amount"):

> _____ ERU Water Credits recorded in Assignor's favor in the District's financial records and the right to purchase, at Assignee's sole cost and expense, corresponding ERU Water Connections, which right is available under the terms of the Revised Water Resources Agreement.
>
> _____ Option Fee Credits recorded in Assignor's favor in the District's financial records pursuant to the terms of the Revised Water Resources Agreement.

Assignor warrants that it has not made any prior conveyance of any of the Transferred Participation Amount and further warrants that the Transferred Participation Amount is free and clear of all liens and encumbrances, which warranties shall survive the assignment herein.

Assignee acknowledges and agrees that it shall be required to pay any normal and customary tap fees, connection charges and any and all other fees or payments payable to the District with respect to the purchase of ERU Water Connections in the same manner as is normally charged by the District relating to such ERU Water Connections.

3. **Provisions Relating to Allocations by the District**. Under the terms of the Revised Water Resources Agreement and the Resolution of the Board of Directors of South Adams County Water and Sanitation District Regarding Allocation of ERUs to FRICO Participants adopted August 28, 2001 ("FRICO Resolution"), under certain circumstances, the District will allocate ERU Water Connections among Plan B Project participants ("Tap Allocations"). In particular, the District has the right to impose Tap Allocations among Plan B Project participants if (i) utilization of new ERU Water Connections within the District has exceeded an average of 1,800 ERU Water Connections per year between January 1, 2002 and the date on which the anticipated regional wastewater treatment plant becomes operational, or (ii) utilization of new ERU Water Connections in the District in any one year has exceeded or will exceed 2,266 ERU Water Connections. The District's issuance of ERU Water Connections, which are the subject of this Assignment, is subject to: (a) the terms of the FRICO Resolution; and (b) the terms and conditions of the Revised Water Resources Agreement.

4. **Reservation**. This Assignment shall be limited to a transfer of the FRICO ERU Water Credits described in Section 2 of this Assignment.

5. **Consent of the District**. The District's consent to this Assignment, which will not be granted without receipt of payment for the District's transfer fee, and entry of this Assignment on the District's books is required before this Assignment is effective.

6. **No Modifications.** Nothing in this Assignment shall be deemed to modify any of the terms and conditions of the Revised Water Resources Agreement or the FRICO Resolution.

IN WITNESS WHEREOF, the Parties have executed this Assignment on the day and year first above written.

ASSIGNOR:
CITY OF COMMERCE CITY

By: _____
Name:_____
Title: _____

ASSIGNEE:
CATELLUS CC NOTE LLC

By:_____
Name: _____
Title: _____

EXHIBIT C TO PURCHASE AND SALE AGREEMENT
(Turnberry Parcel O)

Reimbursement Fee Agreement & Building Permit Restriction
(Catellus CC Note, LLC)

REIMBURSEMENT FEE AGREEMENT & BUILDING PERMIT RESTRICTION

THIS REIMBURSEMENT FEE AGREEMENT & BUILDING PERMIT RESTRICTION ("**Agreement**") is made and entered into effective as of the date of execution by the City ("**Effective Date**") by and between the CITY OF COMMERCE CITY, a Colorado home rule municipality ("**City**"), the COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT, a Colorado public improvement district ("**NIGID**"), and CATELLUS CC NOTE, LLC, a Delaware limited liability company ("**Owner**").

WHEREAS, the Owner owns certain real property located in the City of Commerce City, County of Adams, State of Colorado**,** and more specifically described as Parcels H1, H2, K, L1, L2, M1, M2, N, P1, P2, Q, R, S and T on the Turnberry Overall Illustrative map attached hereto as **Exhibit A** and described in **Exhibit B** ("**Property**") that is currently planned to be subdivided into 885 undeveloped lots generally as proposed in Exhibit C (individually, "**Lot**," and collectively, "**Lots**");

WHEREAS, as successor and assign of BN Leasing Corporation under the Development Agreement dated November 15, 1999 ("**Development Agreement**"), Owner is responsible for a portion of the cost of certain public improvements on 104th Avenue constructed by the City through the NIGID ("**104th Ave. Improvements**");

WHEREAS, the Owner desires, and the City and the NIGID desire to permit the Owner, to satisfy this obligation by permitting the City to collect payment on a per Lot basis as a condition to the issuance of a building permit for any Lot.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. Reimbursement. The Owner acknowledges and agrees that the Owner is obligated to pay the City the amount of $649,412.81 ("**Reimbursement Amount**") to satisfy the Owner's obligation under the Development Agreement relating to the City's design and construction of the 104th Avenue Improvements.

a. Building Permit Fee. The Owner will pay, and the City and the NIGID will accept, the Reimbursement Amount on a per Lot basis at the time of issuance of a building permit for each Lot at the fixed rate of $844.49 per Lot ("**Building Permit Fee**"). Accordingly, the parties anticipate that the Reimbursement Amount will be paid in full after issuance of a building permit for 769 of Owner's Lots. Regardless of the total number of Lots, once the cumulative collected Building Permit Fees equal the Reimbursement Amount, no further Building Permit Fees will be collected by the City at the time of any future building permit issuance for any remaining Lot. The City will collect the Building Permit Fee and may institute such policies as are reasonably necessary to collect the Building Permit Fee. This paragraph shall not limit the obligation of any developer to pay, or the City to collect, a building permit fee as provided by law.

b. Building Permit Restriction. Until such time as the Reimbursement Amount has been paid in full, the City will not issue, and the Owner will not be entitled to receive, a building permit for any Lot or otherwise in connection with the Property until the Building Permit Fee has been paid to the City for that Lot.

c. Lot Densities. The lot densities for each parcel shown on Exhibit A are estimates and shall not be construed to limit the application the Building Permit Fee by parcel or to any Lot if the number of Building Permit Fees collected meets or exceeds the density shown for any particular parcel.

d. Modification of Lots. If any parcel identified on Exhibit A is platted to contain fewer than the number of Lots estimated on Exhibit A, the parties shall amend this Agreement to reflect such a change if the Reimbursement Amount has not been satisfied. Owner shall not be entitled to any development approval for such a parcel until an appropriate amendment has been agreed to and recorded.

e. Lien. This Agreement is a lien in favor of the City and the NIGID on the Property in the amount of the Reimbursement Amount and each Lot in the amount of the Building Permit Fee until that amount is paid to the City. The City will execute and provide, but shall not be obligated to record, a partial release of the lien represented by this Agreement with respect to any Lot upon payment of the respective Building Permit Fee. Upon payment in full of the entire Reimbursement Amount, the City will execute and record one full release of the lien represented by this Agreement for the entire Property.

2. Binding Effect; Covenant Running with the Land. This Agreement shall be binding on the parties and their respective successors and assigns, without regard to the method or manner of succession or assignment, and shall be deemed and constitute a covenant running with the land until the Reimbursement Amount has been paid in full. The Building Permit Fee shall apply to each Lot separately and individually until the Reimbursement Amount has been paid in full.

3. Warranty. The Owner warrants to the City and the NIGID that it is: (a) the record owner of the Property and each Lot and (b) authorized to execute this Agreement and encumber the Property and each Lot as set forth in this Agreement. Each individual executing this Agreement covenants and warrants that he or she is fully authorized to execute this Agreement on behalf of the party he or she represents.

4. Recordation. Any party may cause this Agreement to be recorded in the real estate records of the Clerk and Recorder for Adams County, Colorado. The failure to record this Agreement shall not affect the validity of the Agreement or the Building Permit Fee.

5. Incorporation. Exhibits A, B, and C to this Agreement and the recitals to this Agreement are incorporated by reference.

6. Notices. Written notices required under this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

To the City or the NIGID:	To Owner:
James Hayes	Catellus CC Note, LLC
Deputy City Manager	Attn: C. William Hosler
City of Commerce City	66 Franklin Street, Suite 200

7887 East 60th Avenue
Commerce City, CO 80022

Oakland, CA 94607

Electronic copy to:

Jim Marshall
jimmarshall@bcxdevelopment.com

John Heronimus
JHeronimus@DuffordBrown.com

Nothing in this Agreement shall be construed to restrict the transmission of routine communications between the parties.

7. Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of Colorado without regard to its conflicts of laws provisions. For all claims arising out of or related to this Agreement, each party consents to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. Each party waives any exception to jurisdiction because of residence, including any right of removal to federal court based on diversity of citizenship.

8. No Waiver. The failure of the City to take timely action with respect to any breach of any term, covenant or condition hereof shall not be deemed to be a waiver of such performance by the Owner, or a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

9. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City, the NIGID, and the Owner, and nothing contained in this Agreement shall give or allow any such claim to right of action by any other third person on such Agreement. The parties expressly intend that no person other than the City, the NIGID, or the Owner receiving services or benefits under this Agreement shall be deemed a beneficiary of this Agreement.

10. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. Notwithstanding the foregoing, the parties acknowledge and agree that Owner's payment obligations in this Agreement are expressly subject to the Owner's right of off-set contained in that certain Public Improvement & Reimbursement Agreement entered into between Owner and the City contemporaneously with this Agreement.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

12. Severability. If this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of this Agreement, the terms of this Agreement are severable, and should any term or provision of this Agreement be declared invalid or become

inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision of this Agreement.

13. Rules of Construction. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement will be construed or resolved in favor of or against the City, the NIGID, or the Owner on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

[The remainder of this page intentionally left blank. Signature page(s) follow(s).]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE CITY,
a Colorado home rule municipality

By:_____ ATTEST:_____
Name: Sean Ford, Laura Bauer, MMC, City Clerk
Title: Mayor

APPROVED AS TO FORM:_____
Robert Gehler, City Attorney

STATE OF COLORADO)
)
COUNTY OF ADAMS)

The foregoing Reimbursement Fee Agreement & Building Permit Restriction was acknowledged before me this ____ day of _____, 2015, by Sean Ford, Mayor of City of Commerce City.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

CITY OF COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT,
a Colorado public improvement district

By:_____ ATTEST:_____
Name: Sean Ford, Laura Bauer, Secretary
Title: Chairperson

APPROVED AS TO FORM: _____
Robert Gehler, General Counsel

STATE OF COLORADO)
)
COUNTY OF ADAMS)

The foregoing Reimbursement Fee Agreement & Building Permit Restriction was acknowledged before me this ____ day of _____, 2015, by Sean Ford, Chairperson of City of Commerce City Northern Infrastructure General Improvement District.

Witness my hand and official seal.
My commission expires:_____.

CATELLUS CC NOTE, LLC,
a Delaware limited liability company

By:_____
Name: Tom Marshall,
Title: Executive Vice President

STATE OF _____)
)
COUNTY OF _____)

The foregoing Reimbursement Fee Agreement & Building Permit Restriction was acknowledged before me this ____ day of _____, 2015, by Tom Marshall, Executive Vice President of Catellus CC Note, LLC.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

EXHIBIT A TO REIMBURSEMENT FEE AGREEMENT
& BUILDING PERMIT RESTRICTION
(Catellus CC Note, LLC)

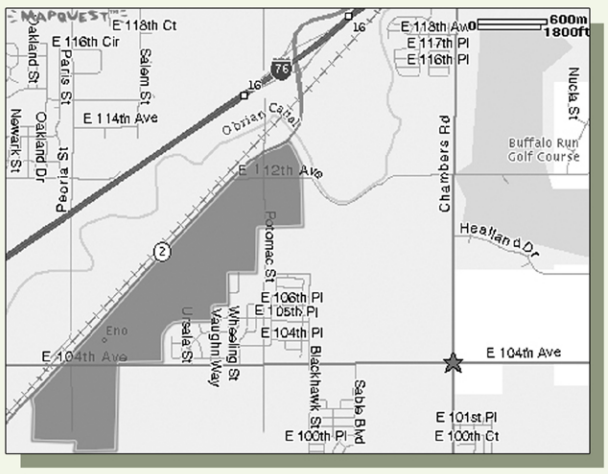
Turnberry Overall Illustrative Map

TURNBERRY

OVERALL ILLUSTRATIVE

SEPTEMBER 10, 2004

VICINITY MAP



* LOT SIZE TO BE DETERMINED AS PART OF THE P.U.D. PERMIT PROCESS.

104th Avenue
INVESTMENT PARTNERS, LLC

7108-M South Alton Way
Englewood, CO 80112
303.793.9991

NORRIS DULLEA

Planning
Landscape Architecture

710 West Colfax Avenue
Denver, Colorado 80204
Fax: 303.892.1186
Phone: 303.892.1166
www.norrisdullea.com

CVL CONSULTANTS

7901 E. Belleview Ave.
Suite 150
Englewood, CO 80111
720.482.9526

EXHIBIT B TO REIMBURSEMENT FEE AGREEMENT
& BUILDING PERMIT RESTRICTION
(Catellus CC Note, LLC)

Parcel Descriptions

EXHIBIT C TO REIMBURSEMENT FEE AGREEMENT
& BUILDING PERMIT RESTRICTION
(Catellus CC Note, LLC)

Proposed Parcel Lot Count

EXHIBIT D TO PURCHASE AND SALE AGREEMENT
(Turnberry Parcel O)

Public Improvement & Reimbursement Agreement

PUBLIC IMPROVEMENT & REIMBURSEMENT AGREEMENT

THIS PUBLIC IMPROVEMENT & REIMBURSEMENT AGREEMENT ("**Agreement**") is made and entered into effective as of the date of execution by the City ("**Effective Date**") by and between the CITY OF COMMERCE CITY, a Colorado home rule municipality ("**City**"), and CATELLUS CC NOTE, LLC, a Delaware limited liability company ("**Catellus**").

WHEREAS, Catellus and the City are parties to a Purchase and Sale Agreement ("**Purchase and Sale Agreement**"), by which Catellus agreed to sell, and the City agreed to purchase, certain property owned by Catellus ("**Parcel O**") in consideration for the payment of a purchase price and other promises;

WHEREAS, Catellus is the owner of other property within the City that is part of a contiguous land development project ("**Turnberry Development**");

WHEREAS, as part of the consideration for the Purchase and Sale Agreement, the City has agreed to design and construct certain public improvements, including roadway improvements and regional storm water drainage improvements, that would benefit Catellus and be reasonably attributable to the special impacts that will be generated by the Turnberry Development; and

WHEREAS, as part of the consideration for the Purchase and Sale Agreement, Catellus has agreed to design and construct certain public improvements consisting of a water line to serve Parcel O.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and in consideration of the mutual covenants and agreements in the Purchase and Sale Agreement, the parties agree as follows:

I. WATER LINE IMPROVEMENTS

1.1. Design & Construction. Catellus, at its own expense, will design and construct, or cause to be designed and constructed, a potable water line ("**Service Line**") from the point of the existing line to the southern right-of-way of 112th Avenue and Potomac St., as shown in **Exhibit A**, sufficient to provide service to Parcel O, in accordance with the requirements and master plan of South Adams County Water and Sanitation District ("**SACWSD**"). Catellus will control the manner, scope, and timing of design and construction of the Service Line in its sole discretion. Catellus will make commercially reasonable efforts to obtain a permit for the construction of the Service Line from SACWSD by October 1, 2015, begin construction on the Service Line by February 1, 2016, and obtain acceptance of the Service Lines by SACWSD by no later than April 1, 2016.

II. 112TH AVENUE IMPROVEMENTS

2.1. Design & Construction. The City, at its own expense, will design and construct, or cause to be designed and constructed, public roadway infrastructure improvements, including landscape improvements, relating to the construction of 112th Avenue from Highway 2 to the eastern boundary of the Turnberry Development (including the construction of intersections at Highway 2 and Potomac Street) ("**112th Ave. Improvements**"). The City shall control the manner and timing of design and construction of the 112th Ave. Improvements in its sole

discretion, provided the City will make commercially reasonable efforts to begin construction of the 112th Ave. Improvements by December 31, 2016 and complete construction of the 112th Ave. Improvements by June 1, 2017.

2.2. Traffic Impact Fees. Nothing in this Agreement shall excuse any person, including Catellus or any property owner within the Turnberry Development, from the obligation to pay traffic impact fees pursuant to the applicable provisions of the City's Land Development Code or any applicable development agreement.

III. REGIONAL STORM WATER IMPROVEMENTS

3.1. Design & Construction of Off-Site Improvements. The City will design and construct, or cause to be designed and constructed, regional storm water infrastructure improvements under Highway 2 at 104th Avenue and all other improvements designated as off-site improvements ("**Off-Site Improvements**") on **Exhibit B**. The City shall control the manner and timing of design and construction of the Off-Site Improvements in its sole discretion, provided the City will make commercially reasonable efforts to begin construction of the Off-Site Improvements by December 31, 2016, and complete construction of the Off-Site Improvements by June 1, 2017.

3.2. Design & Construction of On-Site Improvements. Catellus will design and construct, or cause to be designed and constructed, all storm water infrastructure improvements designated as on-site improvements ("**On-Site Improvements**") on **Exhibit B**. Catellus shall control the manner and timing of design and construction of the On-Site Improvements in its sole discretion, provided Catellus shall design and construct all On-Site Improvements in accordance with all applicable laws, regulations, and standards, including the Commerce City Revised Municipal Code, the City's Storm Drainage Design and Technical Manual, and the City's Engineering Construction Standards and Specifications. Nothing in this paragraph shall restrict the application of any law or regulation or the application of any development approval process.

3.3. Drainage Impact Fees. Nothing in this Agreement shall excuse any person, including Catellus or any property owner within the Turnberry Development, from the obligation to pay drainage impact fees pursuant to the applicable provisions of the City's Land Development Code or any applicable development agreement.

IV. REMEDIES

4.1. City Remedies. The City shall have the following specific remedies for Catellus's breach of the Catellus obligations set forth in Article I:

a. At any time Catellus does not meet any deadline identified in Article I, the City may immediately take control of such construction and Catellus shall be responsible for reimbursing the City for all reasonable costs and expenses actually incurred by the City to complete design and construction of the Service Line in accordance with the scope of work approved by Catellus no later than thirty (30) days after the date of a written demand for payment from the City. Catellus will grant the City any access and construction easements necessary for the City to

complete this work. This remedy shall be referred to as the "**City Self-Help Remedy**".

b. Catellus, the City, and the Commerce City Northern Infrastructure General Improvement District ("NIGID") are parties to a "Option Agreement for Purchase of ERUs" executed contemporaneously with this Agreement ("**ERU Agreement**"). In addition to the City's Self-Help Remedy, if Catellus fails to construct and obtain acceptance of the Service Line by SACWSD by April 1, 2016, or if the City exercises the City Self-Help Remedy, the right of Catellus to purchase ERUs pursuant to the ERU Agreement shall be tolled until such time as (1) Catellus obtains final acceptance of the Service Line by SACWSD, or (2) in the event the City exercises the City's Self-Help Remedy, until such time as Catellus has fully reimbursed the City.

4.2. Catellus Remedies. Catellus shall have the following specific remedies for the City's breach of the City's obligations set forth in Articles II and III:

a. In the event the City fails to complete construction of the 112th Ave. Improvements and the Off-Site Improvements by June 1, 2017, Catellus can immediately take control of completing design and construction of (i) that portion of the 112th Ave. Improvements from Highway 2 to Potomac Street, and/or (ii) the Off-Site Improvements, and the City shall be responsible for reimbursing Catellus for all reasonable costs and expenses actually incurred by Catellus to complete such construction no later than thirty (30) days after the date of a written demand for payment from Catellus. The City will grant Catellus any access and construction easements necessary for Catellus to complete this work. This remedy shall be referred to as the "**Catellus Self-Help Remedy**".

b. In the event Catellus exercises the Catellus Self-Help Remedy, Catellus shall perform any construction in accordance with applicable City design standards, laws, regulations, and standards, obtain any necessary permits and plan approvals, and shall not permit any lien to be recorded against any City property. Before exercising the Catellus Self-Help Remedy, Catellus shall agree to provide the City with a commercially reasonable warranty for the completed work and to dedicate any completed improvements to the City.

c. Notwithstanding anything herein to the contrary, no exercise by Catellus of the Catellus Self-Help Remedy shall relieve the City of its obligation to complete the 112th Ave. Improvements from Potomac Street to the eastern boundary of the Turnberry Development.

d. In addition, if Catellus exercises the Catellus Self-Help Remedy, Catellus may, at its option and in its sole discretion, off-set any reimbursement amount to be paid to the City or the Commerce City Northern Infrastructure General Improvement District pursuant to that certain "Reimbursement Fee Agreement & Building Permit Restriction" executed contemporaneously with this Agreement.

e. In addition to the Catellus Self-Help Remedy, in the event the City fails to complete construction of the 112th Ave. Improvements by June 1, 2017, the purchase price for any ERUs not yet acquired by Catellus pursuant to the ERU Agreement shall be reduced to the amount of $7,500 per ERU.

V. MISCELLANEOUS PROVISIONS

5.1. Notices. Written notices required under this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

To Buyer or the NIGID:

James Hayes
Deputy City Manager
City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022

To Seller:

Catellus CC Note, LLC
Attn: C. William Hosler
66 Franklin Street, Suite 200
Oakland, CA 94607

Electronic copy to:

Jim Marshall
jimmarshall@bcxdevelopment.com

John Heronimus
JHeronimus@DuffordBrown.com

Nothing in this Agreement shall be construed to restrict the transmission of routine communications between the parties.

5.2. Incorporation. Exhibit A and Exhibit B are attached to and incorporated in this Agreement by reference.

5.3. Appropriation. All obligations of the City under this Agreement are subject to the prior appropriation and deposit or encumbrance of funds expressly made through the City's legally required budgeting, authorization, and appropriation process. Catellus acknowledges that the City does not through this Agreement irrevocably pledge present cash reserved for payments in future years, and that this Agreement is not intended to create a multiple fiscal year direct or indirect debt or obligation of the City.

5.4. Government Immunity. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, CRS § 24-10-101 *et seq*.

5.5. Binding Effect. This Agreement shall be binding on the parties and their respective successors and assigns, without regard to the method or manner of succession or assignment.

5.6. Warranty. Each individual executing this Agreement covenants and warrants that he or she is fully authorized to execute this Agreement on behalf of the party he or she represents.

5.7. Governing Law; Jurisdiction and Venue; Recovery of Costs. This Agreement shall be governed by the laws of the State of Colorado without regard to its conflicts of laws provisions. For all claims arising out of or related to this Agreement, each party consents to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. Each party waives any exception to jurisdiction because of residence, including any right of removal to federal court based on diversity of citizenship. If legal action is brought to resolve any dispute among the parties related to this Agreement, the prevailing party in such action shall be entitled to recover court costs and reasonable attorney fees from the non-prevailing party.

5.8. No Waiver. The waiver of any breach of a term, provision or requirement of this Agreement, including the failure to insist on strict compliance or to enforce any right or remedy, shall not be construed or deemed as a waiver of: any subsequent breach of such term, provision or requirement or of any other term, provision or requirement; any right to insist on strict compliance with any term, provision or requirement; or any right to enforce any right or remedy with respect to that breach or any other prior, contemporaneous, or subsequent breach.

5.9. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and Catellus, and nothing contained in this Agreement shall give or allow any such claim to right of action by any other third person on such Agreement. The parties expressly intend that no person other than the City or Catellus receiving services or benefits under this Agreement shall be deemed a beneficiary of this Agreement. Notwithstanding the foregoing, the NIGID may invoke the conditions of this Agreement as a defense to any claim arising from the ERU Agreement.

5.10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

5.11. Severability. If this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of this Agreement, the terms of this Agreement are severable, and should any term or provision of this Agreement be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision of this Agreement.

5.12. Rules of Construction. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement will be construed or resolved in favor of or against the City or Catellus on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

5.13. Entire Agreement; Modification. This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and, except as expressly provided, may not be modified or amended except by validly executed written agreement of the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

5.14. Force Majeure.

a. "Force Majeure" means events or circumstances beyond the reasonable control of a Party, including, without limitation: acts of God; unusually severe weather conditions; strikes or other labor difficulties; war or acts of terrorism; riots; change of law imposing regulatory burden or prohibition upon either Party; withdrawal of required governmental authorizations or permits; accident; fire; damage to or breakdown of necessary facilities or transportation delays or accidents.

b. Neither Party shall be deemed to be in breach of this Agreement solely to the extent that such Party's delay or failure in the performance of its obligations hereunder (other than the obligation to pay money) is due to an event of Force Majeure.

c. The Party claiming an event of Force Majeure shall (i) give the other Party reasonably prompt written notice describing the particulars of the occurrence; (ii) suspend performance for no greater scope and no longer duration than is required by the event of Force Majeure; (iii) use its reasonable commercial efforts to remedy its inability to perform; and (iv) when able to resume performance of its obligations under this Agreement, give the other Party written notice to that effect.

[The remainder of this page intentionally left blank. Signature page(s) follow(s).]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE CITY,
a Colorado home rule municipality

By:_____ ATTEST:_____
Name: Brian McBroom, Laura Bauer, MMC, City Clerk
Title: City Manager
Date: _____

APPROVED AS TO FORM:_____
Robert Gehler, City Attorney

CATELLUS CC NOTE, LLC,
a Delaware limited liability company

By:_____
Name: Tom Marshall,
Title: Executive Vice President

EXHIBIT A TO PUBLIC IMPROVEMENT & REIMBURSEMENT AGREEMENT

Service Line Description

Potable

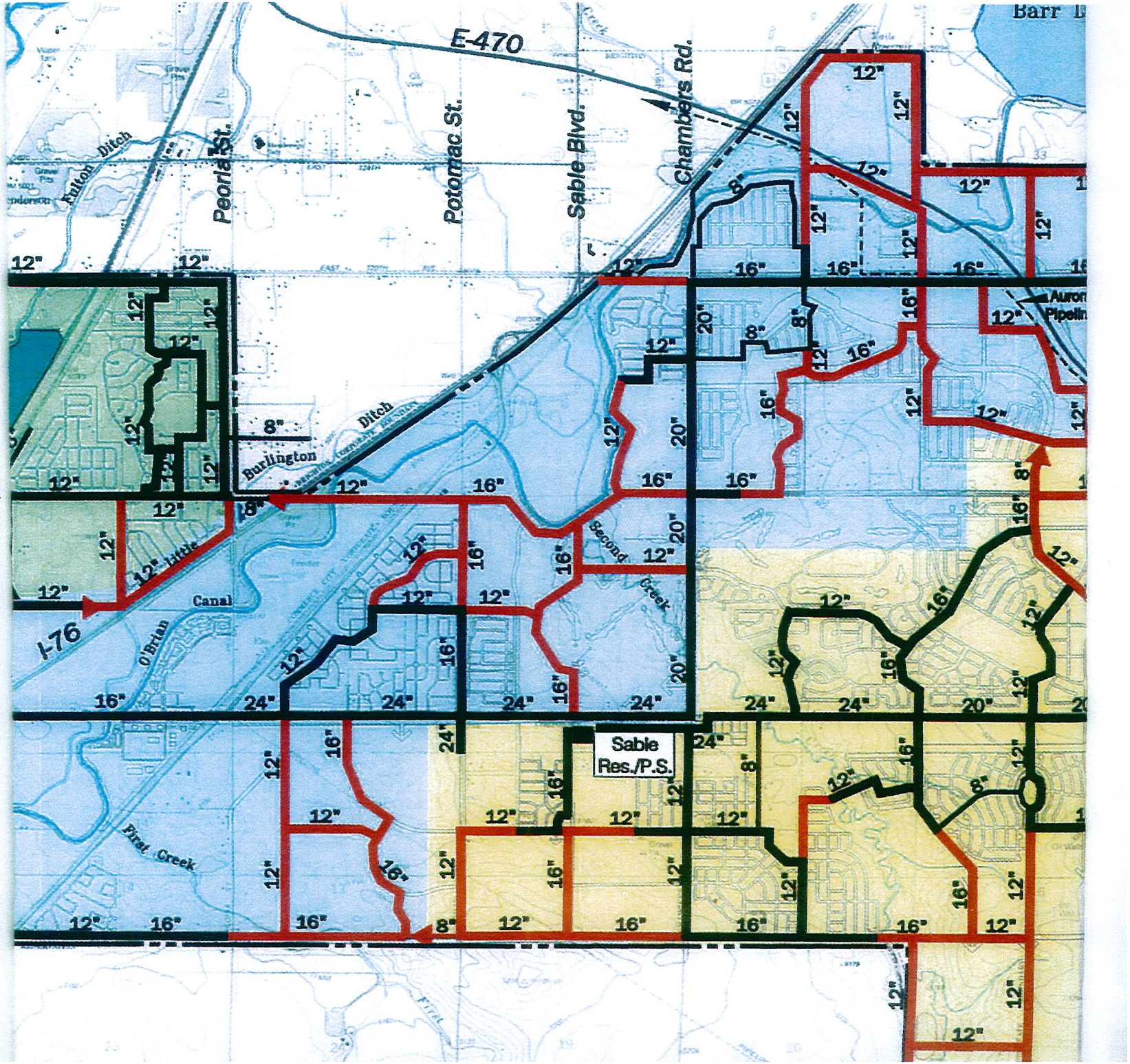

E-470
Peoria St.
Potomac St.
Sable Blvd.
Chambers Rd.
Fulton Ditch
Burlington Ditch
Second Creek
Little Dry Creek
O'Brian Canal
First Creek
I-76
E 112th AVE
E 104th AVE
Sable Res./P.S.

EXHIBIT B TO PUBLIC IMPROVEMENT & REIMBURSEMENT AGREEMENT

Regional Storm Water Infrastructure Improvements Maps

OFFSITE DRAINAGE IMPROVEMENTS

ON-SITE DRAINAGE IMPROVEMENTS

100 50 0 100 200

SCALE: 1" = 100'

DATE: 6-5-15

PARCEL P,Q,R,S & T
DRAINAGE IMPROVEMENTS

CONSULTANTS OF COLORADO, INC.
CIVIL ENGINEERING · LAND SURVEYING · LAND PLANNING

7901 E. Belleview Avenue
Suite 150
Englewood, CO 80111
Tel: (720) 482-9526
Fax: (720) 482-9546

N:\Projects\30130402 Turnberry\DWG\Engineering\Reference Files\Exhibits\Turnberry Parcels S_T_P_R_Q Drainage Improvements.dwg

OFFSITE DRAINAGE IMPROVEMENTS

ON-SITE DRAINAGE IMPROVEMENTS

100 50 0 100 200

SCALE: 1" = 100'

HWY 2

E. 112TH AVE

POTOMAC ST.

PARCEL J & H
DRAINAGE IMPROVEMENTS

DATE: 6-5-15

CONSULTANTS OF COLORADO, INC.
CIVIL ENGINEERING · LAND SURVEYING · LAND PLANNING

7901 E. Belleview Avenue
Suite 150
Englewood, CO 80111
Tel: (720) 482-9526
Fax: (720) 482-9546

EXHIBIT E TO PURCHASE AND SALE AGREEMENT
(Turnberry Parcel O)

Reimbursement Fee Agreement & Building Permit Restriction
(BCX Development, LLC)

REIMBURSEMENT FEE AGREEMENT & BUILDING PERMIT RESTRICTION

THIS REIMBURSEMENT FEE AGREEMENT & BUILDING PERMIT RESTRICTION ("**Agreement**") is made and entered into effective as of the date of execution by the City ("**Effective Date**") by and between the CITY OF COMMERCE CITY, a Colorado home rule municipality ("**City**"), the COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT, a Colorado public improvement district ("**NIGID**"), and BCX DEVELOPMENT LLC, a Colorado limited liability company ("**Owner**").

WHEREAS, the Owner owns certain real property located in the City of Commerce City, County of Adams, State of Colorado**,** and more specifically described as Parcels C and J on the Turnberry Overall Illustrative map attached hereto as **Exhibit A** and described in **Exhibit B** ("**Property**") that is currently planned to be subdivided into 231 undeveloped lots generally as proposed in Exhibit C (individually, "**Lot**," and collectively, "**Lots**");

WHEREAS, as successor and assign of BN Leasing Corporation under the Development Agreement dated November 15, 1999 ("**Development Agreement**"), Owner is responsible for a portion of the cost of certain public improvements on 104th Avenue constructed by the City through the NIGID ("**104th Ave. Improvements**");

WHEREAS, the Owner desires, and the City and the NIGID desire to permit the Owner, to satisfy this obligation by permitting the City to collect payment on a per Lot basis as a condition to the issuance of a building permit for any Lot.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. Reimbursement. The Owner acknowledges and agrees that the Owner is obligated to pay the City the amount of $195,077.19 ("**Reimbursement Amount**") to satisfy the Owner's obligation under the Development Agreement relating to the City's design and construction of the 104th Avenue Improvements.

a. Building Permit Fee. The Owner will pay, and the City and the NIGID will accept, the Reimbursement Amount on a per Lot basis at the time of issuance of a building permit for each Lot at the fixed rate of $844.49 per Lot ("**Building Permit Fee**"). Accordingly, the parties anticipate that the Reimbursement Amount will be paid in full after issuance of a building permit for 231 of Owner's Lots. Regardless of the total number of Lots, once the cumulative collected Building Permit Fees equal the Reimbursement Amount, no further Building Permit Fees will be collected by the City at the time of any future building permit issuance for any remaining Lot. The City will collect the Building Permit Fee and may institute such policies as are reasonably necessary to collect the Building Permit Fee. This paragraph shall not limit the obligation of any developer to pay, or the City to collect, a building permit fee as provided by law.

b. Building Permit Restriction. Until such time as the Reimbursement Amount has been paid in full, the City will not issue, and the Owner will not be entitled to receive, a building permit for any Lot or otherwise in connection with the Property until the Building Permit Fee has been paid to the City for that Lot.

c. Lot Densities. The lot densities for each parcel shown on Exhibit A are estimates and shall not be construed to limit the application the Building Permit Fee by parcel or to any Lot if the number of Building Permit Fees collected meets or exceeds the density shown for any particular parcel.

d. Modification of Lots. If any parcel identified on Exhibit A is platted to contain fewer than the number of Lots estimated on Exhibit A, the parties shall amend this Agreement to reflect such a change if the Reimbursement Amount has not been satisfied. Owner shall not be entitled to any development approval for such a parcel until an appropriate amendment has been agreed to and recorded.

e. Lien. This Agreement is a lien in favor of the City and the NIGID on the Property in the amount of the Reimbursement Amount and each Lot in the amount of the Building Permit Fee until that amount is paid to the City. The City will execute and provide, but shall not be obligated to record, a partial release of the lien represented by this Agreement with respect to any Lot upon payment of the respective Building Permit Fee. Upon payment in full of the entire Reimbursement Amount, the City will execute and record one full release of the lien represented by this Agreement for the entire Property.

2. Binding Effect; Covenant Running with the Land. This Agreement shall be binding on the parties and their respective successors and assigns, without regard to the method or manner of succession or assignment, and shall be deemed and constitute a covenant running with the land until the Reimbursement Amount has been paid in full. The Building Permit Fee shall apply to each Lot separately and individually until the Reimbursement Amount has been paid in full.

3. Warranty. The Owner warrants to the City and the NIGID that it is: (a) the record owner of the Property and each Lot and (b) authorized to execute this Agreement and encumber the Property and each Lot as set forth in this Agreement. Each individual executing this Agreement covenants and warrants that he or she is fully authorized to execute this Agreement on behalf of the party he or she represents.

4. Recordation. Any party may cause this Agreement to be recorded in the real estate records of the Clerk and Recorder for Adams County, Colorado. The failure to record this Agreement shall not affect the validity of the Agreement or the Building Permit Fee.

5. Incorporation. Exhibits A, B, and C to this Agreement and the recitals to this Agreement are incorporated by reference.

6. Notices. Written notices required under this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

To the City or the NIGID:	To Owner:
James Hayes Deputy City Manager City of Commerce City	BCX Development LLC Attn: Jim Marshall _____

7887 East 60th Avenue
Commerce City, CO 80022

Electronic copy to:

C. William Hosler
bhosler@catellus.com

John Heronimus
JHeronimus@DuffordBrown.com

Nothing in this Agreement shall be construed to restrict the transmission of routine communications between the parties.

7. Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of Colorado without regard to its conflicts of laws provisions. For all claims arising out of or related to this Agreement, each party consents to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. Each party waives any exception to jurisdiction because of residence, including any right of removal to federal court based on diversity of citizenship.

8. No Waiver. The failure of the City to take timely action with respect to any breach of any term, covenant or condition hereof shall not be deemed to be a waiver of such performance by the Owner, or a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

9. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City, the NIGID, and the Owner, and nothing contained in this Agreement shall give or allow any such claim to right of action by any other third person on such Agreement. The parties expressly intend that no person other than the City, the NIGID, or the Owner receiving services or benefits under this Agreement shall be deemed a beneficiary of this Agreement.

10. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

12. Severability. If this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of this Agreement, the terms of this Agreement are severable, and should any term or provision of this Agreement be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision of this Agreement.

13. Rules of Construction. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement will be construed or resolved in favor of or against the City, the NIGID, or the Owner on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

[The remainder of this page intentionally left blank. Signature page(s) follow(s).]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE CITY,
a Colorado home rule municipality

By:_____ ATTEST:_____
Name:Sean Ford, Laura Bauer, MMC, City Clerk
Title: Mayor

APPROVED AS TO FORM:_____
Robert Gehler, City Attorney

STATE OF COLORADO)
)
COUNTY OF ADAMS)

The foregoing Reimbursement Fee Agreement & Building Permit Restriction was acknowledged before me this ____ day of _____, 2015, by Sean Ford, Mayor of City of Commerce City.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

CITY OF COMMERCE CITY NORTHERN INFRASTRUCTURE GENERAL IMPROVEMENT DISTRICT,
a Colorado public improvement district

By:_____ ATTEST:_____
Name: Sean Ford, Laura Bauer, Secretary
Title: Chairperson

APPROVED AS TO FORM: _____
Robert Gehler, General Counsel

STATE OF COLORADO)
)
COUNTY OF ADAMS)

The foregoing Reimbursement Fee Agreement & Building Permit Restriction was acknowledged before me this ____ day of _____, 2015, by Sean Ford, Chairperson of the City of Commerce City Northern Infrastructure General Improvement District.

Witness my hand and official seal.
My commission expires:_____.

BCX DEVELOPMENT LLC
a Colorado limited liability company

By:_____
Name: Jim Marshall,
Title: _____

STATE OF _____)
)
COUNTY OF _____)

The foregoing Reimbursement Fee Agreement & Building Permit Restriction was acknowledged before me this ____ day of _____, 2015, by Jim Marshall, _____ of BCX Development LLC.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

EXHIBIT A TO REIMBURSEMENT FEE AGREEMENT
& BUILDING PERMIT RESTRICTION
(BCX Development, LLC)

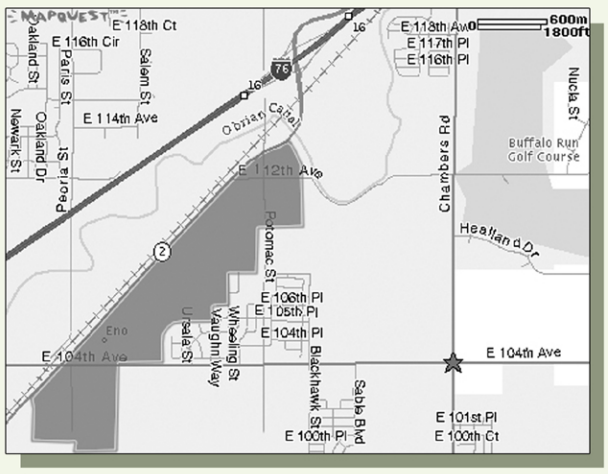
Turnberry Overall Illustrative Map

TURNBERRY

OVERALL ILLUSTRATIVE

SEPTEMBER 10, 2004

VICINITY MAP



* LOT SIZE TO BE DETERMINED AS PART OF THE P.U.D. PERMIT PROCESS.

104th Avenue
INVESTMENT PARTNERS, LLC

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EXHIBIT B TO REIMBURSEMENT FEE AGREEMENT
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(BCX Development, LLC)

Parcel Descriptions

EXHIBIT C TO REIMBURSEMENT FEE AGREEMENT
& BUILDING PERMIT RESTRICTION
(BCX Development, LLC)

Proposed Parcel Lot Count