BOARD OF TRUSTEES
July 21, 2026
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Work Session Agenda

The Zoom information below is for online viewing and listening only.

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Webinar ID: 848 7116 2393
Passcode: 726078

A. ITEMS

1. The VITA H2O Project
   Presentation: Meagan Smith, Deputy Public Works Director; Brent Waller, FrontRange H2O

2. Water Distribution Master Plan
   - Presentation: Nathan Ewert, Deputy Public Works Director

3. Stormwater Master Plan Project Prioritization
   - Nathan Ewert, Deputy Public Works Director

4. Boxelder Basin Regional Stormwater Authority Update
   - Presentation: Bob Gowing, Public Works Director

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Board of Trustees Meeting

Date: July 21, 2026
Subject: The VITA H2O Project
Presentation: Meagan Smith, Deputy Public Works Director; Brent Waller, FrontRange H2O

BACKGROUND / DISCUSSION

The purpose of this Work Session is to introduce the Board of Trustees to the VITA H2O Project, a prospective long-term water supply project being developed by FrontRange H2O, and to discuss how the project may fit within Wellington's broader long-term water supply strategy. This item is informational only, and no formal action is requested.

Wellington's recent water resources planning has emphasized the need to diversify the Town's water supply portfolio, improve long-term cost predictability, reduce reliance on any single water source, and identify additional supplies to support future growth. The Town's potable water supply currently relies primarily on water delivered through a 1983 Agreement with the North Poudre Irrigation Company (NPIC), supplemented by limited production from the Town's Wilson Wells and water from Town-owned NPIC shares. The May 19, 2026 Source Water Overview presentation to the Board summarized the Town's existing raw water sources, recent water resources planning, NPIC negotiation status, and near-term policy implementation steps recommended through the Water Source Development Plan (WSDP).

The Wilson Wells provide an important supplemental groundwater source but are limited in practice by treatment capacity, maintenance downtime, water quality discharge requirements, and distribution system constraints. Although the wells are augmented for up to 400 acre-feet (AF) per year, approximately 25 AF/year are currently used for irrigation, leaving approximately 375 AF potentially available for potable production. Actual production has historically been below that amount due to operational and infrastructure limitations.

The Town's largest source of raw water remains NPIC-delivered water through Reservoir #3. Under the 1983 Agreement, Wellington has access to up to 2,000 AF of supply consisting of Stock Water, Additional Water, and Option Water. Portions of that supply are priced through a market-based formula tied to NPIC share values and interest rates, which has resulted in significant cost increases in recent years. Staff has previously advised the Board that the existing cost trajectory is financially unsustainable and has been actively negotiating with NPIC toward a more predictable long-term structure.

The Water Source Development Plan was developed while the Town's NPIC renegotiation efforts were ongoing. As a result, the WSDP analysis and implementation strategy evolved as the likely structure of a future NPIC agreement became clearer. The original WSDP planning baseline assumed approximately 1,500 AF/year from an updated NPIC agreement and up to 375 AF/year from the Wilson Wells, for a total baseline supply of approximately 1,875 AF/year. Under that baseline, the WSDP projected a most probable future demand of approximately 2,666 AF by 2054 and identified a planning supply gap of approximately 794 AF by the end of the planning period. For near-term planning purposes, the Town established an initial target acquisition volume of approximately 750 AF.

As negotiations with NPIC progressed, it became apparent that any renegotiated structure for the Town's contract water supply would likely include a defined term rather than continuing indefinitely under the existing

1983 Agreement framework. The current renegotiation framework is focused on replacing the market-based Additional and Option Water structure with a 40-year Contract Water agreement, along with a companion Storage & Carriage Operations Agreement to establish operational rules for moving, storing, and managing Town-owned NPIC share water and future foreign water supplies through NPIC facilities.

This shift changed the Town's long-term planning context. While a 40-year agreement will provide near and mid-term cost predictability, it also means a large portion of the original 1983 Agreement supply will no longer be treated as a permanent component of the Town's water portfolio. As a result, the WSDP implementation strategy evolved from simply closing an estimated 750 AF growth-related supply gap to identifying a longer-term acquisition target of approximately 1,200 AF to reduce and ultimately replace reliance on NPIC contract water over time.

This distinction is important for the Board's discussion of VITA. The Town is not evaluating additional water supply solely because of projected growth-related demand. The Town is also evaluating additional supply because the long-term nature of its largest existing water source is changing. A termed NPIC agreement would remain a critical part of Wellington's portfolio for decades, but it would also create a defined planning horizon and a need to more directly replace a substantial portion of the original 1983 Agreement supply over time.

The WSDP recommended a balanced long-term strategy that combines acquisition or development of a diversified water source, such as non-tributary groundwater, with continued acquisition of NPIC shares through dedication and/or cash-in-lieu. This approach is intended to improve supply reliability, increase cost predictability, support future growth, reduce reliance on contract water, and strengthen the Town long-term water portfolio.

In November 2025, the Board adopted Resolution No. 48-2025, committing to diversify and secure the Town's long-term water supply. The resolution recognizes the importance of pursuing alternative water supplies to supplement existing sources, reducing reliance on any single supply, evaluating opportunities involving confined aquifer projects and other innovative water development initiatives, and collaborating with regional partners and private developers to secure sustainable water supplies.

The VITA H2O project (Vita H2O Project | Sustainable Water Innovation) has been identified as a potential opportunity that may align with the Town's adopted policy direction and WSDP implementation strategy. FrontRange H2O will provide a project specific presentation addressing the project's water source, hydrogeologic work, water rights, development status, regional participation structure, and potential project economics. The presentation is expected to address three high-level themes:

- The Water Exists – including the confined aquifer resource, hydrogeologic investigations, sustainable supply evaluations, water quality considerations, and groundwater management approach.
- The Project is Real – including decreed water rights, additional water rights advancing through court, project team qualifications, infrastructure planning, permitting considerations, and early regional participation.
- Strategic Opportunity for Wellington – including how VITA could support long-term water security, supply diversification, regional partnership, potential scalable participation options, potential future Aquifer Storage and Recovery (ASR) opportunities, and the Town's broader water portfolio strategy.

From Wellington's perspective, this Work Session is intended to frame VITA as a potential implementation opportunity rather than a decision item. The project is not being presented as a replacement for ongoing NPIC negotiations, nor is staff requesting authorization to enter into any agreement at this time. Instead, the discussion is intended to help the Board understand whether VITA warrants continued evaluation as part of the Town's long-term strategy to diversify supply, improve cost predictability, and reduce reliance on NPIC contract water over time.

Staff anticipates that Board discussion may focus on the following:

- Whether VITA should continue to be evaluated as a potential long-term water supply diversification opportunity.
- Understanding how VITA fits within the Town's long-term water supply planning framework, including the distinction between:
  - the WSDP's initial approximately 750 AF supply gap planning target; and
  - the longer-term approximately 1,200 AF acquisition strategy associated with reducing and ultimately replacing reliance on NPIC contract water over time.
- Understanding how a potential VITA participation scenario could contribute to supply diversification, long-term water security, regional partnership, and future portfolio flexibility.
- Identifying the types of additional information the Board would need before considering any future commitment.

STAFF RECOMMENDATION

No Board action is requested at this Work Session.

ATTACHMENTS

1. DRAFT FRH2O - VITA Project - Wellington BOT Work Session 7.21.26

- HQ in Loveland
- Project Team is all based in CO
- 10 years from launch to Wet Water
- A Part of the Solution
- Flatten the Curve
- Conjunctive Use, Extend, Reuse, Store

TOWN OF WELLINGTON

Board of Trustees Work Session
July 21, 2026

www.vitah2oproject.com

https://fclwd.com/vitah2o/

THE VITA H2O PROJECT

FrontRangeH2O
Securing Tomorrow's Water, Today™

The Vita H2O Project™ All Colorado Team

Links to Websites:

[Vita H2O Project | Sustainable Water Innovation]

[Northern Colorado Infrastructure General Contractors - Connell Resources]

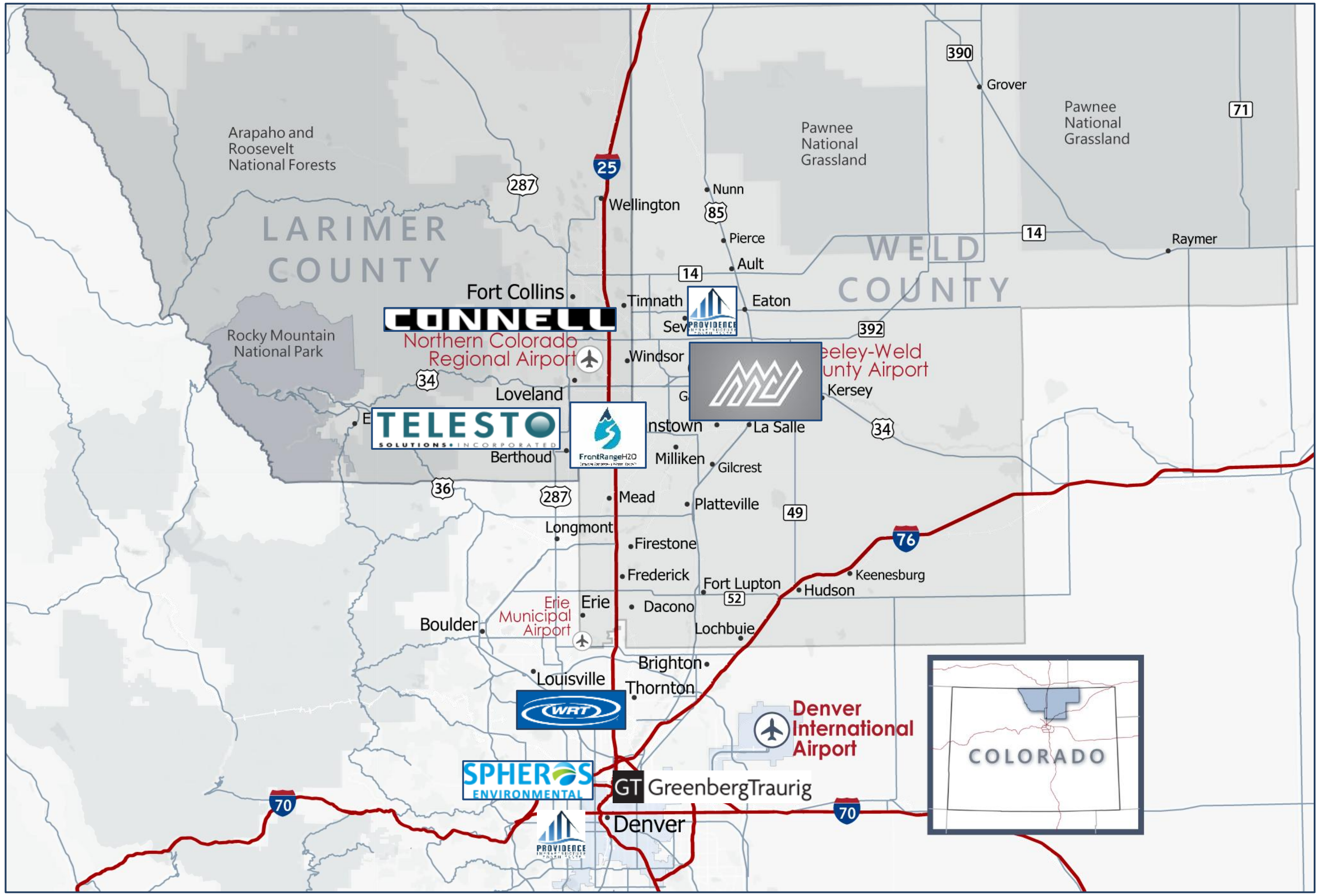
[Moltz Construction | Water and Wastewater Treatment Facility Specialists]

[Telesto Solutions]

[Home - Spheros Environmental]

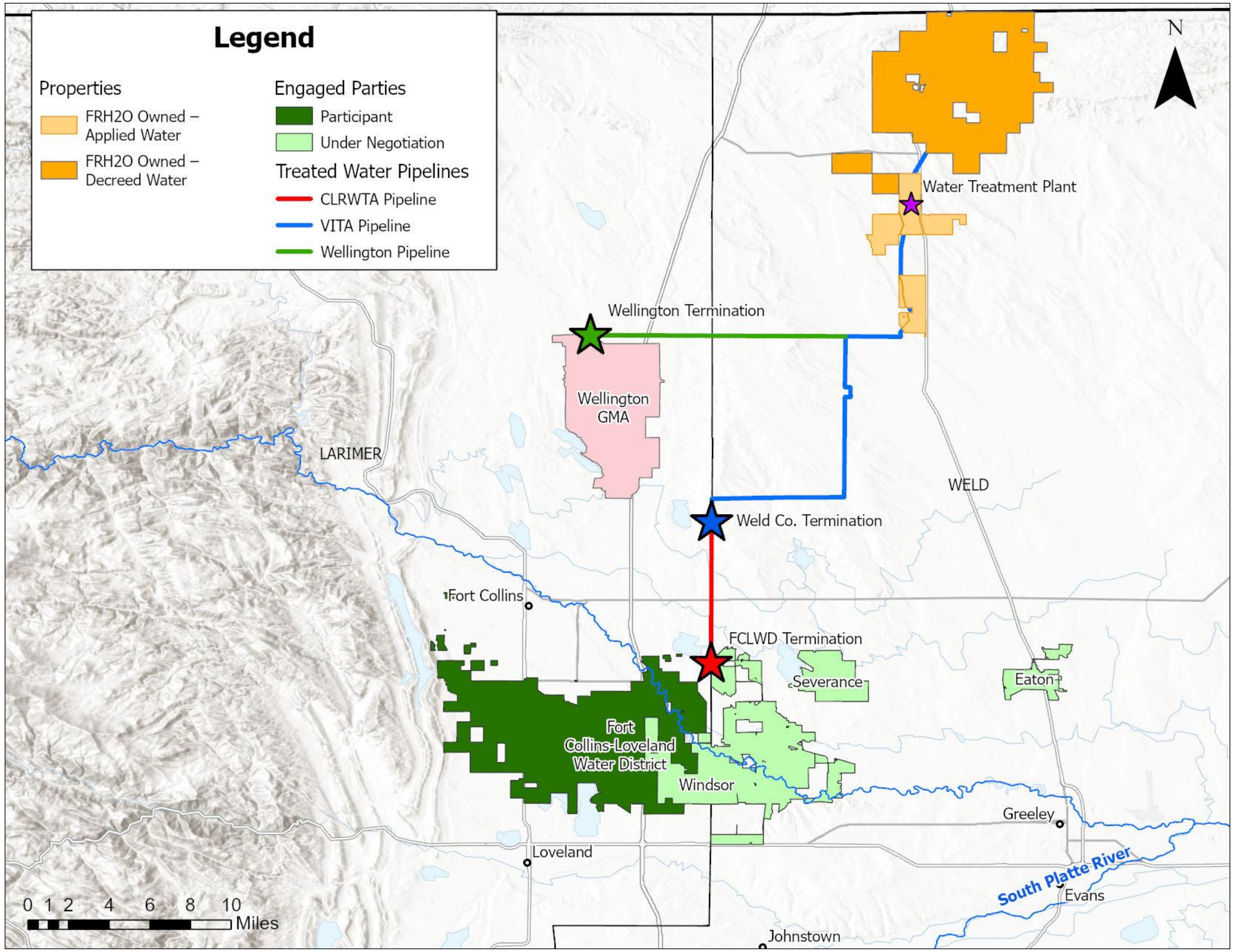
[Greenberg Traurig, LLP | Greenberg Traurig LLP]

[Ion Exchange – Clean Water. Clean Earth. That's Our Promise®]



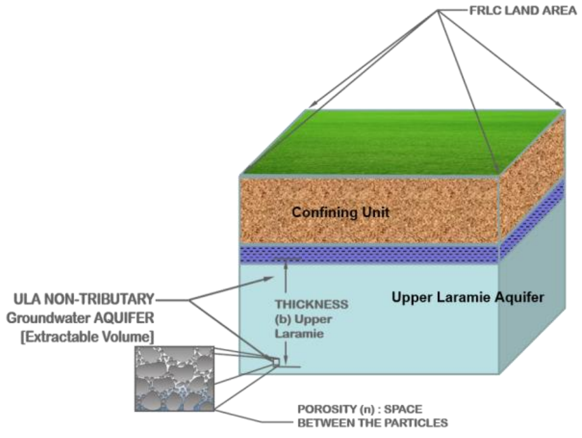
The Vita H2O Project™

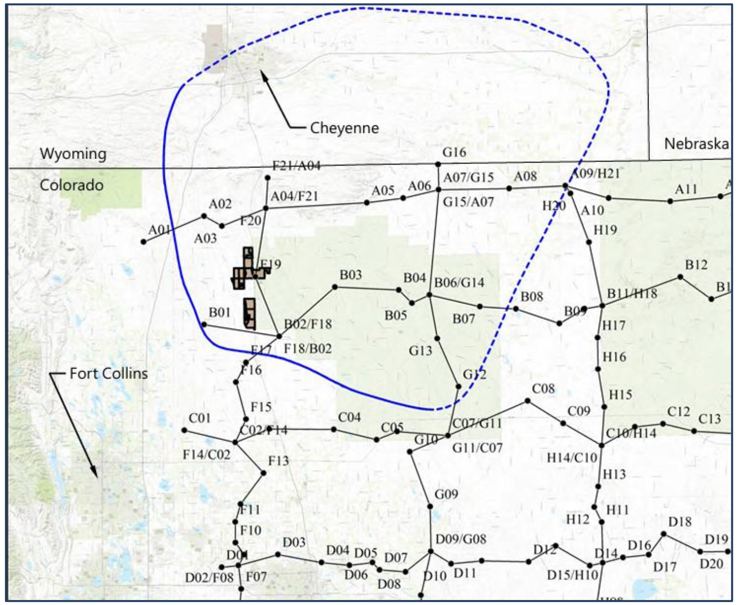
1. Decreed Non-tributary groundwater, treatment, reuse and storage
2. Water source is the Upper Laramie Aquifer (ULA)
3. **23,766 AFY** (19,466 is fully decreed/4,300 AFY under pending CO Water Court application)
4. **~31,000** surface acres
5. First Delivery **Q1-2029 to FCLWD for 2,600 AFY** and others engaged
6. **100-year** Operating Agreement
7. Phase 1 Delivery 6MGD or 5,000 afy treated to EPA Drinking water standards and delivered to terminus meter.
8. ROW Easements Purchased (more to come)
9. NOT a "Buy and Dry" Supply

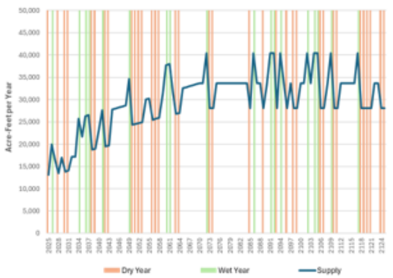


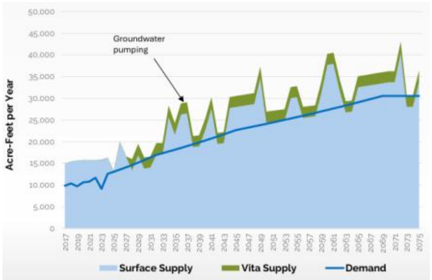
About the ULA

1. Unaffected by drought and hydrologic variability
2. Consistent, high-quality water protected from surface contaminants
3. Conjunctive Use: NT and Surface combo provides operational flexibility/reliability and firming
4. Water is stored in aquifer until needed
5. Extend, Reuse, Recharge for Recovery: 100-year decree, managed to 400 year ++
6. Fully consumable water supplies provides reuse opportunities









Extend

- Withdraw only when insufficient surface supply, OR
- Expand supply of groundwater

Reuse

- Reuse wholly consumable effluent provided by VITA

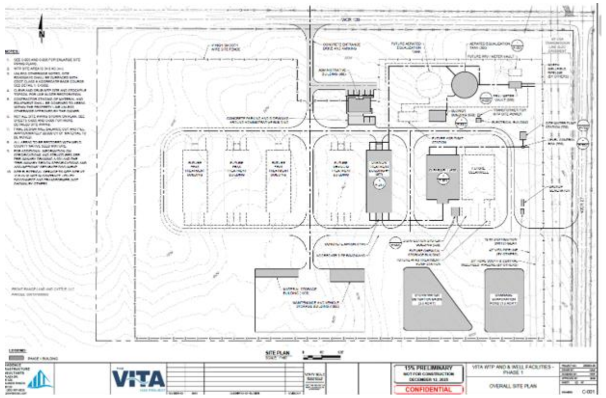
Recharge

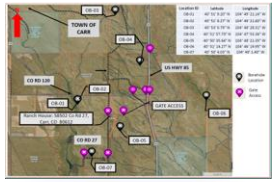
- Operate ASR with annual surplus supplies
- Potentially recharge effluent

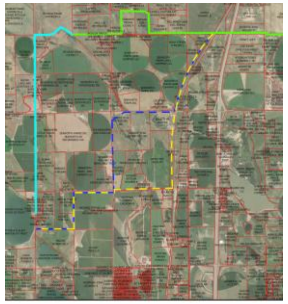
Project Design Highlights

1. Wells average TD of ~800' with production rates up to 1,000 gpm (management plan in 400s)
2. Wells designed for future ASR-As planned
3. Main trunkline will be 42" HDPE with 24MGD capacity (gravity fed, low psi and bi-directional)
4. Wellington line sized at 12" for 1,200 AFY @ 270 days
5. WTP *Phase 1*-6MGD capacity with expansion design to 24MGD. Contract Awarded Q1-29'.
6. Primary Treatment is Ion Exchange with Disinfection for conveyance (1.7 BGD treated everyday with WRT technology)
7. Construction Status

- 95%+ design completion on pipeline
- Pipeline construction started June 2025
- 65% design complete on WTP







Q & A

TOWN OF WELLINGTON

Board of Trustees Work Session
July 21, 2026

FrontRangeH2O
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THE VITA H2O PROJECT

Board of Trustees Meeting

Date: July 21, 2026
Subject: Water Distribution Master Plan

- **Presentation: Nathan Ewert, Deputy Public Works Director**

BACKGROUND / DISCUSSION

As Wellington continues to experience steady population growth and development pressures, particularly within the northern portions of the Town's Growth Management Area, it is critical that the Town proactively plan for the future of its water infrastructure. To support this effort, the Town partnered with Advanced Engineering and Environmental Services (AE2S) to complete a comprehensive Water Distribution System Master Plan that evaluates the current system, identifies future needs, and establishes a long-term strategy for maintaining reliable water service as the community grows.

The Master Plan assessed the existing water distribution system, developed and calibrated an updated hydraulic model, analyzed both 5-year and 20-year growth projections, evaluated future pressure zone configurations, and identified infrastructure improvements needed to support future development while maintaining adequate service pressures, fire protection capabilities, and operational reliability.

The study found that Wellington's existing water distribution system is performing well and provides a strong foundation for future growth. Current treatment capacity, storage facilities, transmission infrastructure, and pressure zones are generally adequate to meet existing demands and maintain acceptable system performance. While only a few localized deficiencies were identified, primarily in higher-elevation areas, the overall system is capable of supporting near-term development through planned extensions and looping of existing water mains without requiring major new storage or pumping facilities.

Looking further ahead, the analysis determined that long-term growth, particularly in the higher-elevation northern growth areas, will require additional infrastructure investments to maintain service standards. The Town's current pressure zone configuration will not be sufficient to reliably serve these future areas while maintaining desired operating pressures and fire flow requirements. To address these challenges, the Master Plan recommends the creation of two new northern pressure zones supported by a new Owl Canyon Pump Station. As development occurs, these improvements would ultimately be supplemented by a new one-million-gallon water storage tank to improve system resiliency, emergency storage capacity, fire protection, and operational flexibility.

The study also evaluated integration of the proposed VITA H2O supplemental water supply system, which is expected to enhance long-term water supply reliability and aligns well with the recommended northern pressure zone strategy. In addition, the Master Plan recommends continued replacement of aging water infrastructure, future transmission main upgrades, periodic hydraulic model updates, and phased expansion of the distribution system to match growth.

Overall, the Master Plan concludes that Wellington is well-positioned to support future development, provided that infrastructure improvements are implemented in a phased and strategic manner. The recommended capital improvements, estimated at approximately $32.5 million in near-term investments and $58.2 million in long-term investments, provide a roadmap for maintaining reliable water service, adequate fire protection, operational flexibility, and long-term system resiliency as Wellington continues to grow.

STAFF RECOMMENDATION

No Board action is requested at this Work Session.

ATTACHMENTS

1. BOT_Draft Masterplan PPT_07142026

TOWN OF WELLINGTON
Distribution System Master Plan

- Presented by: Nathan Ewert P.E. – Project Manager / Deputy Director of Public Works

TOWN OF WELLINGTON

Distribution System Master Plan History

January 14, 2025 – Request for Proposal (RFP) was published

- 8 proposal received, Interviews were held
- AE2S was the selected Consultant

March 26, 2025 – Town Board approved contract with AE2S for $123,888.00

July 21, 2025 – Draft Master Plan Presentation

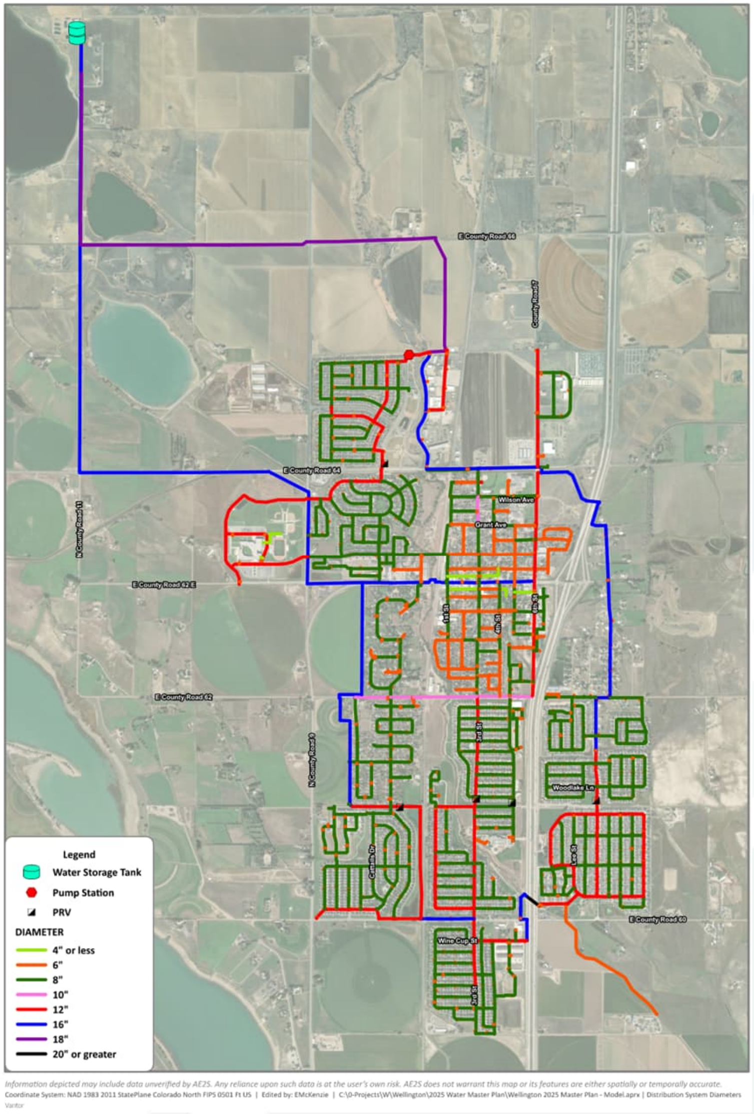
Future – Master Plan Adoption

TOWN OF WELLINGTON

Town of Wellington - Distribution System

Key Components

- Distribution System starts at the outlets of the Storage Tanks
- Transmission Mains into Town (16” AC & 18” PVC)
- Three Pressure Zones:
  - o Buffalo Creek (Booster Pump station for pressure boost and PRV for isolation)
  - o Main Zone (from North side to Ronald Reagan)
  - o South Zone (Ronald Reagan to CR58)
  - o Pressure zones separated by 5 Pressure Reducing Valve (PRVs)
- Distribution System (~ 71 miles of pipe)
  - o Pipe Size range from 4 inch to 16 inch
  - o Material is
    - 77% PVC
    - 18% AC
    - 5% Unknown



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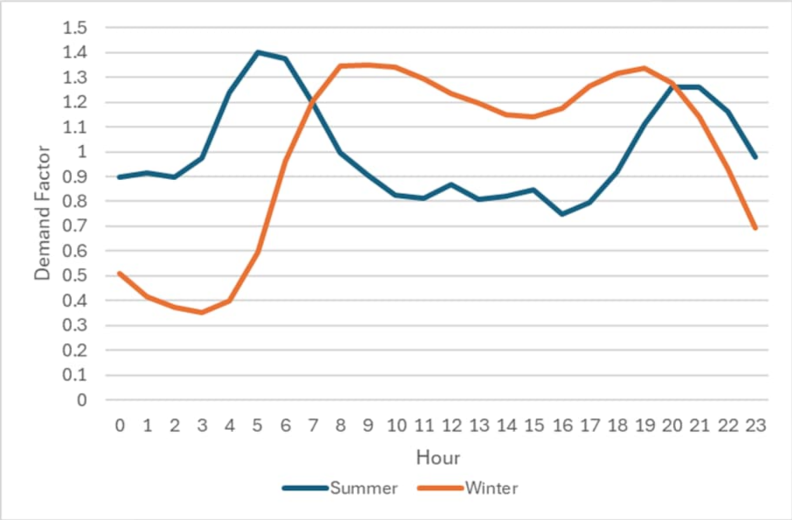
Project Scope

Water Model Update and Calibration

- Water Model Update and Calibration
  - Model was originally created in 2020 with limited funds and existing GIS data sets
    - Upgrade to newest modeling software version
  - Demand Allocation
    - Updated Demand Allocation using Owner provided usage data and production data
    - Developed Updated Diurnal Curve from demand data
      - Creation of Winter (low), Average, and Summer (maximum) patterns
  - Add in new Developments/infrastructure between 2020 and 2025

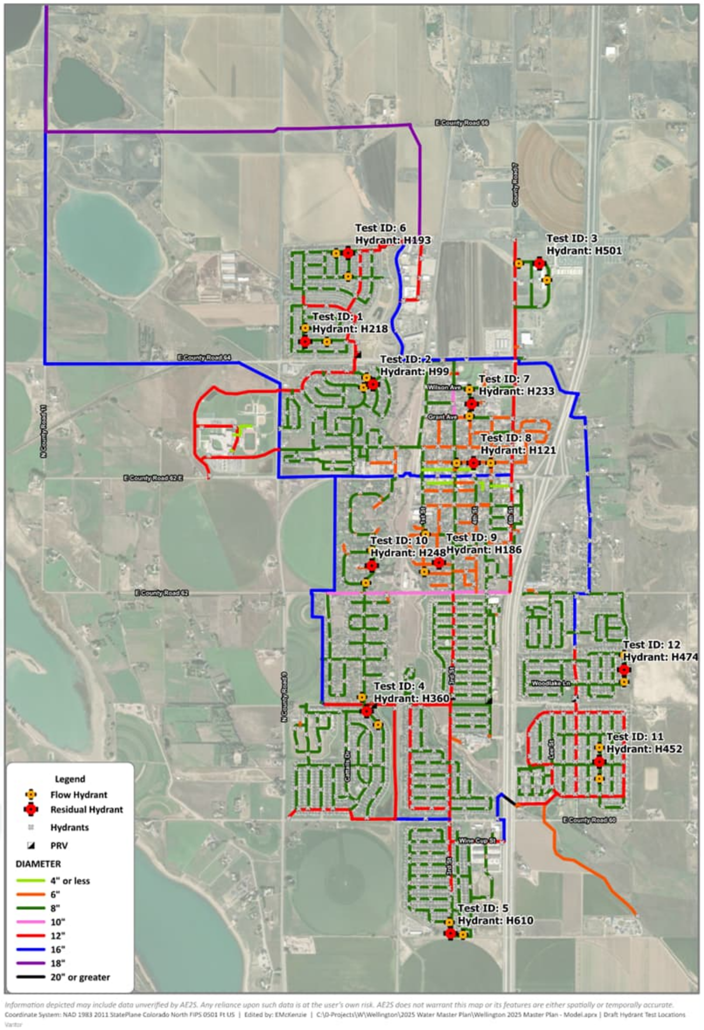


Winter and Summer Diurnal Patters

Project Scope

Water Model Update and Calibration

- Model Calibration
  - Calibrated the model based on a series of Hydrant Flow tests throughout Town
- Model Scenarios
  - Maximum Day
  - Minimum Day
  - Avg Day
  - 2030 Growth Scenario, 2045 Growth Scenario
- Valve Survey
  - Used GPS equipment to locate valves in areas of Town where existing data was missing or inaccurate



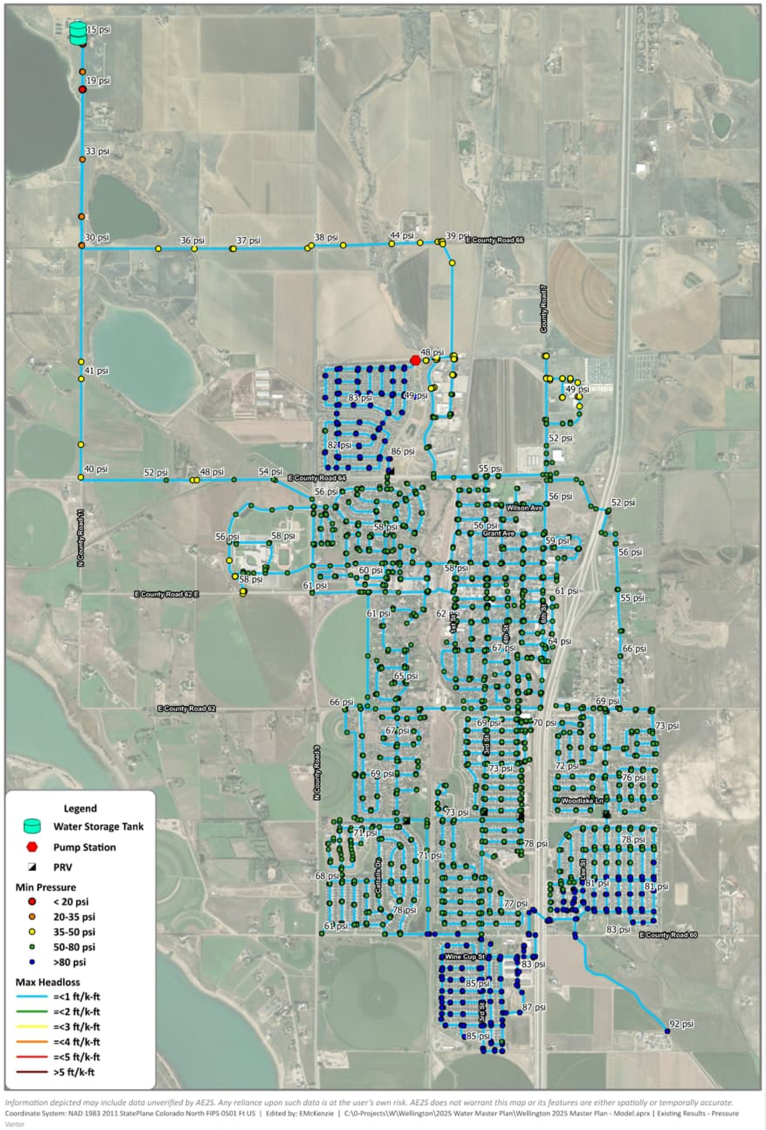
Hydrant flow testing locations

TOWN OF WELLINGTON

Project Scope

Water System Planning

- Existing Conditions Analysis
  - Review material, age, break history
  - Review performance of existing system looking for areas where improvements are needed.
    - Key indicators used – velocity (headloss), fire flow availability, water age
- Future Conditions
- Risk Assessment
- Implementation Plan
  - CIP Projects and planning level costs
- Draft Master Plan Report



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Model Results / Existing Conditions Analysis Findings

- Model Results
  - Pressures
    - Lower pressure than desired at the northern boundary of the current service area – during peak demand scenarios.
      - Area remained well above the required minimum 20psi threshold but at or below the 50psi that is preferred.
    - South Zone can experience pressures around 90psi which is above the preferred 80psi
      - Most homes in the south zone have PRVs installed on the incoming water service to lower pressures
  - Transmission Capacity
    - “No major transmission deficiencies were identified under existing demand conditions. Existing transmission limitations are associated with hydraulic grade constraints related to the future growth elevations.”
  - Fire Flow
    - Overall, the Town’s existing water system provides strong fire flow performance across most of the service area.
      - WRF – is the one exception to this due to the 6-inch dead end transmission main supplying the plant.

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Model Results / Existing Conditions Analysis Findings

- **Operational Findings:**
  - **Buffalo Creek Booster Station**
    - Provides adequate service but has operational limitations:
      - Operates independently, outside of SCADA (remote) control or visibility
      - Lacks VFDs (Pumps are on or off), no fine motor control based on demand
      - Northern growth will eliminate the need for the Buffalo Creek pressure zone and booster station
  - **South Zone at Sage Meadows**
    - Inconsistent configuration and/or valving is causing the Main zone to bleed across to the South Zone.
      - Closing valves or installing a new PRV can remedy this issue.

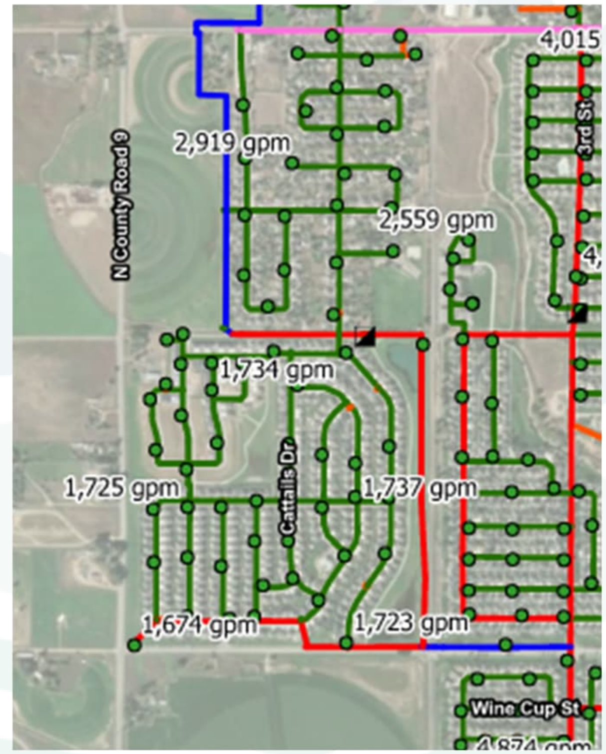


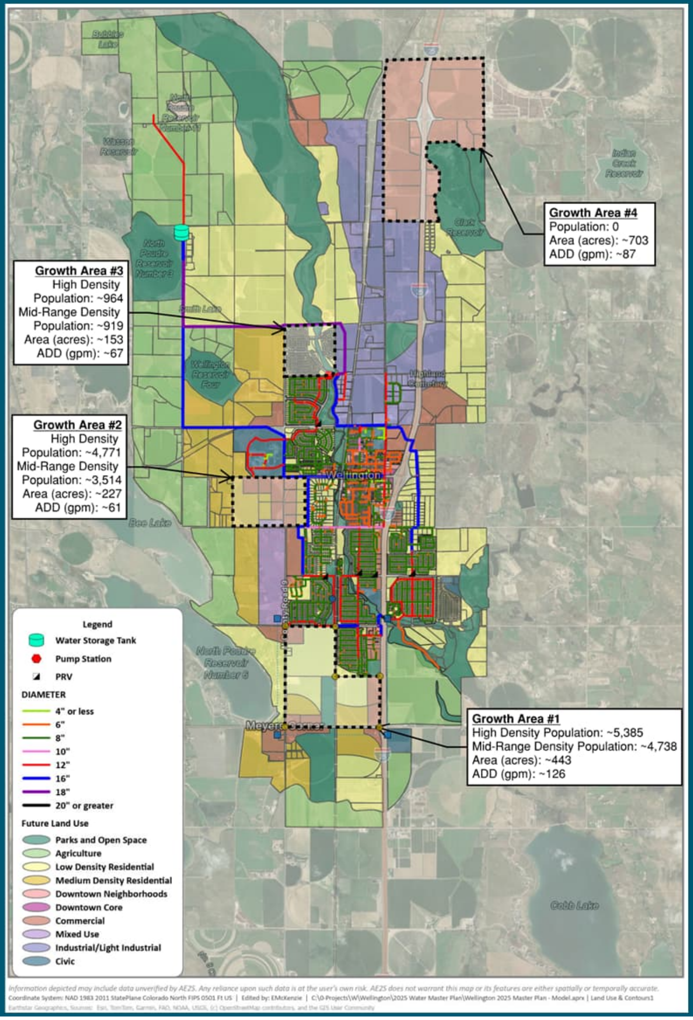
Figure: Sage Meadows PRV

TOWN OF WELLINGTON

Future Growth and System Expansion – 2030 & 2045 Scenarios

- Future growth modeled based on the Future Land Use Map in conjunction with demand projections from the 2024 West Water Demand Analysis.
  - o Landuse classifications were mapped to a water use classification of either, Single Family Residential, MF Residential, or Commercial.

- 2030 Scenarios (5-Year Projection)
  - o Growth Area #1
- 2045 Scenarios (20-Year Projection)
  - o Growth Area #2
  - o Growth Area #3
  - o Growth Area #4



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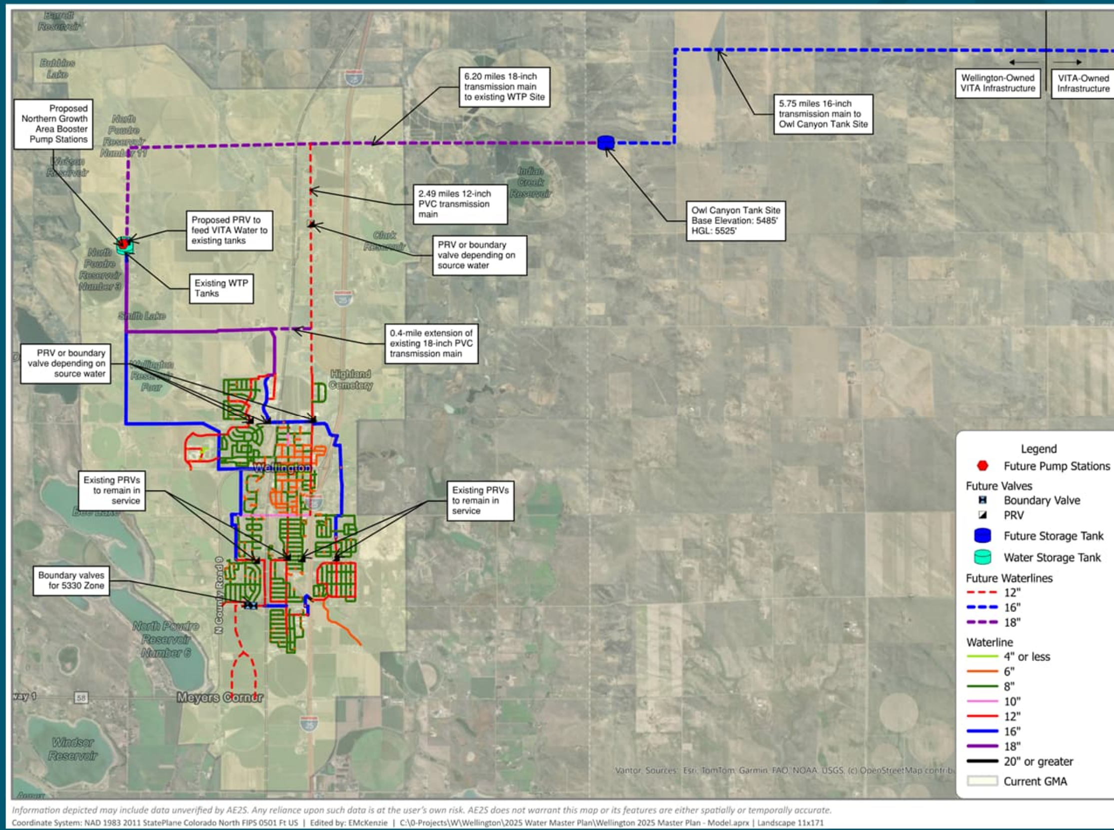
Alternative Water Supply

- VITA H20 Project
  - o Transmission Main through northern growth area.
  - o Supply to feed directly to the WTP initially
  - o Future infrastructure includes:
    - 1MG Ground Tank @ ~5485ft
    - Master meter
    - Chlorine Booster
    - Various PRV to create new pressure zones at 5410 and 5525



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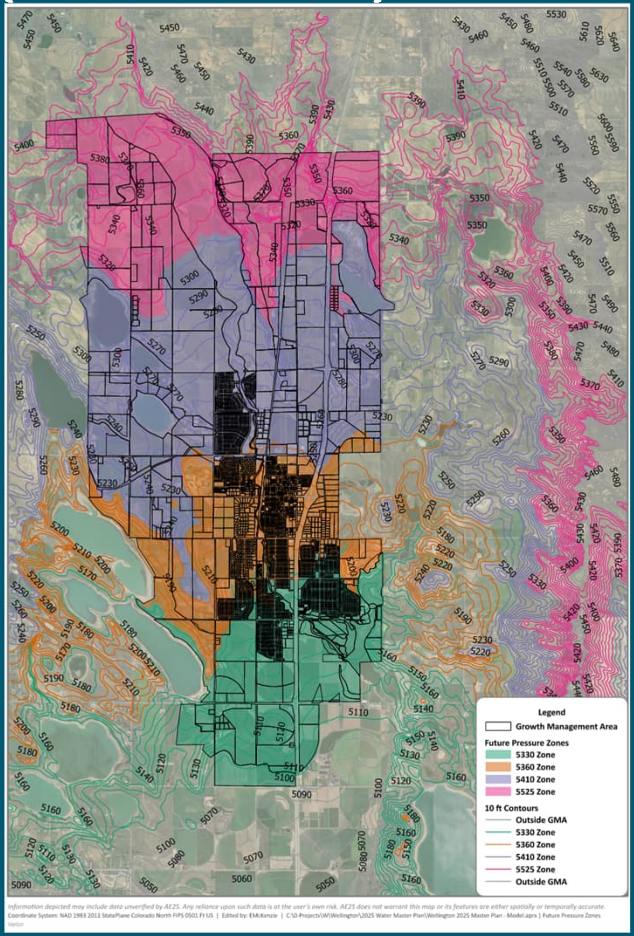
Recommendations for Future System Expansion (2045 Scenario)

- Identifying Owl Canyon/CR70 (north GMA) as a potential high growth area:
  - o Add higher pressure zones (5410 & 5525 HGL)

- How to serve higher Hydraulic Grades?
- Findings:
  1. New Transmission mains and New Pump Station at the existing Treatment Plant, sized for daily demand with high service pumps to provide fire flow.
  2. Vita Project and related infrastructure:
     1. New 1million gallon (MG) concrete ground storage tank (GST)
        1. Tank would replace the existing 1MG tank as it is expected to need to be decommissioned in the 20yr planning horizon.

  - Pump station would be used during the VITA H20 supply down time (approximately 60 days per year).



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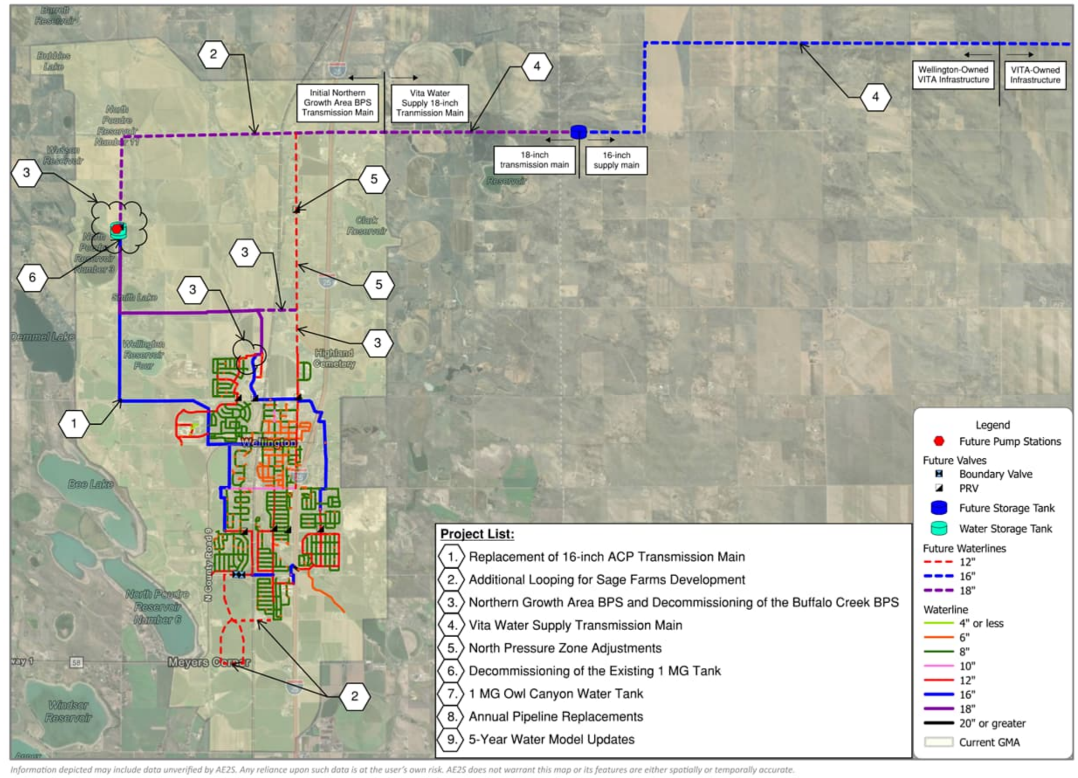
Recommended Capital Projects

- Near Term (5 – 10 year horizon):
  - o Plan for replacement of the existing 16-inch AC Transmission Main
  - o Replacement of existing AC distribution Mains (~1% per year)
  - o New PRV at Sage Meadows
  - o Additional Sage Farm Looping (Under Union Pacific Railroad Tracks)

- 10-20 year Planning Horizon:
  - o Northern Growth Area Booster Pump station & Decommission Buffalo Creek Pump Station
  - o VITA H20 Water Supply Transmission Main
  - o North Pressure Zone PRVs
  - o Continued replacement of existing AC distribution Mains (~1% per year)
  - o Decommission 1MG Tank
  - o New 1MG GST



Capital Project Planning Level Costs

- Near Term (5 – 10 year horizon):
  - Plan for replacement of the existing 16-inch AC Transmission Main
  - Replacement of existing AC distribution Mains (~1% per year)
  - New PRV at Sage Meadows – this cost is not included in the Master Plan and will be determined by Town Engineering as part of the 2027 budget process.

*Development/Growth driven projects

** Assumed 3% annual inflation

Project Name	Cost (2026 Dollars)	Cost (Inflated)**
16-inch AC Transmission Line Replacement	$11,023,940	$12,407,530
*Additional Looping for Sage Farms	$1,353,520	$1,523,390
Annual Pipeline Replacement Project	$1,762,500	$2,043,220
Water Model Update	$40,000	$46,380
*WTP 18-inch North Transmission Main	$11,171,000	$12,950,390
*Northern Growth Area Pump Station	$7,137,320	$8,274,100
Near-Term CIP Total (2026 Dollars) =	$32,488,410	

Questions or Comments/Feedback?

Presented by: Nathan Ewert P.E. – Project Manager / Deputy Director of Public Works

TOWN OF WELLINGTON

TOWN OF WELLINGTON

Board of Trustees Meeting

Date: **July 21, 2026**
Subject: **Stormwater Master Plan Project Prioritization**

- **Nathan Ewert, Deputy Public Works Director**

BACKGROUND / DISCUSSION

Following completion of the existing conditions assessment and identification of flood-prone areas throughout the Town, the Stormwater Master Plan evaluated a range of potential mitigation strategies intended to reduce flood risks, improve drainage system performance, and enable effective coordination with future development within both the Town limits and Growth Management Area. The Alternatives Analysis provides the framework for prioritizing future stormwater capital improvements and establishes a long-term strategy for addressing identified drainage deficiencies.

The primary objective of the Alternatives Analysis was to identify practical and cost-effective solutions that would improve stormwater conveyance, reduce flooding impacts to homes and businesses, and bring the Town's drainage infrastructure into compliance with current stormwater design criteria. Particular emphasis was placed on reducing flood risks to insurable structures.

Throughout the evaluation process, Town staff worked closely with the project team to establish design criteria, review potential mitigation strategies, and identify constraints associated with each alternative. In general, proposed improvements were planned to remain within existing public rights-of-way, minimizing impacts to private property and reducing implementation complexity and expense. One notable exception is the Sveta Lane area, where an easement or limited property acquisition may be necessary to construct a new stormwater outfall to Coal Creek.

Several categories of improvements were evaluated to determine their effectiveness in reducing flood hazards. These included upgrades to storm drain infrastructure to convey the Town's target design storm events, additional flood protection measures for larger storm events, separation of stormwater base flows from irrigation canals, and implementation of Low Impact Development (LID) practices that reduce stormwater runoff volumes at their source. Each alternative was analyzed to understand both its hydraulic performance and its ability to reduce flooding throughout the watershed.

Advanced hydraulic modeling tools were used to evaluate the effectiveness of each alternative. The analysis assessed how proposed improvements would impact stormwater flows, drainage system capacity, and areas of potential flooding. This modeling allowed the project team to identify which improvement strategies provide the greatest reduction in flood risk and where future investments would deliver the most benefit to the community.

In addition to evaluating performance, the Master Plan also developed planning-level cost estimates for each alternative. Cost estimates included not only construction costs, but also other project-related expenses such as engineering, utility coordination, traffic control, construction administration, permitting, and contingencies. This approach provides the Town with a realistic understanding of the total investment required to implement each mitigation strategy and supports informed decision-making regarding project prioritization and capital planning.

It is hoped that this project prioritization discussion will help provide a framework for more informed future financial planning for stormwater CIP projects through the next 5 years and beyond. As a starting point, Town staff will present the recommended projects and phasing strategies within the Master Plan and then adjust those based on continued discussion and direction from the Board.

STAFF RECOMMENDATION

No Board action is requested at this Work Session.

ATTACHMENTS

1. BOT SWMP Prioritization_07142026

Stormwater Masterplan Project Prioritization

Presented by: Nathan Ewert P.E. – Project Manager / Deputy Director of Public Works

TOWN OF WELLINGTON

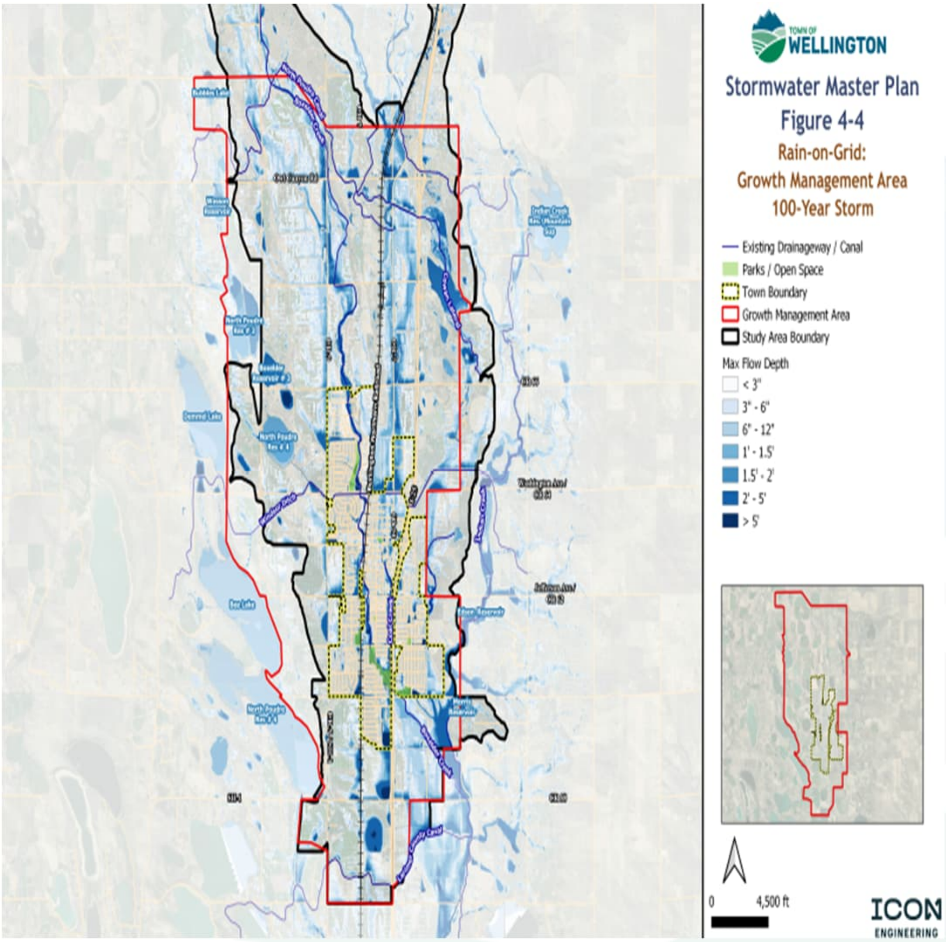
Stormwater Masterplan Project

History:

- Project was started in 2021 and completed in 2023 by Icon Engineering.
- Partially funded through a Flood Mitigation Assistance (FMA) Grant for $112,500 and then the Town's portion was $46,293.30.

Project Scope:

- Develop a Hydrologic model to support the planning and hydraulic design of stormwater infrastructure within the GMA.
- Develop infrastructure projects to address existing stormwater issues and future growth and development related issues.



TOWN OF WELLINGTON

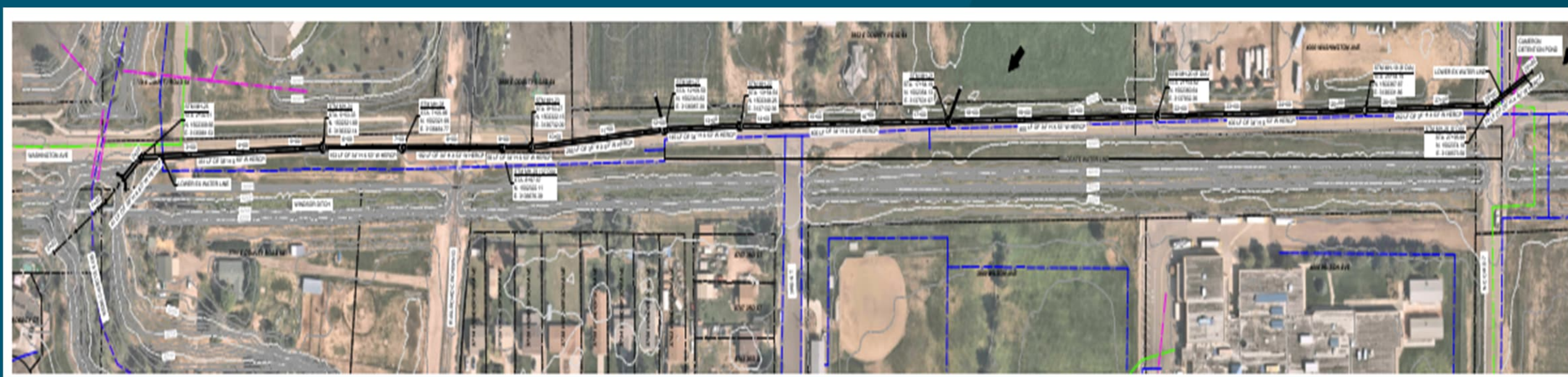
Master Plan Alternatives

- An alternatives analysis was completed to identify potential solutions for collecting and moving stormwater from areas where drainage issues were identified during the study.
  - These solutions/alternatives are called outfalls. An outfall is a system of pipes, storm drains, or channels that carries stormwater from one location to a natural drainage feature, such as Boxelder Creek or Coal Creek.
- Alternatives can be put in two broad categories:
  - Old Town Alternatives –located within existing development, typically in the Old Town area.
  - GMA Alternatives: Located within undeveloped areas of the Growth Management Area (GMA). The final design and construction of these improvements will occur as future development and growth take place.

TOWN OF WELLINGTON

PROJECTS

- **Washington Avenue Outfall:**
  - Large Box Culvert upstream of the Windsor Ditch
    - Conveys runoff from Bonfire Subdivision and future Development North of Washington Ave.
    - Provide conveyance of Coal Creek flows over to Boxelder Creek rather than through Old Town.
    - Cost $$$$
    - Partially Development Driven



TOWN OF WELLINGTON

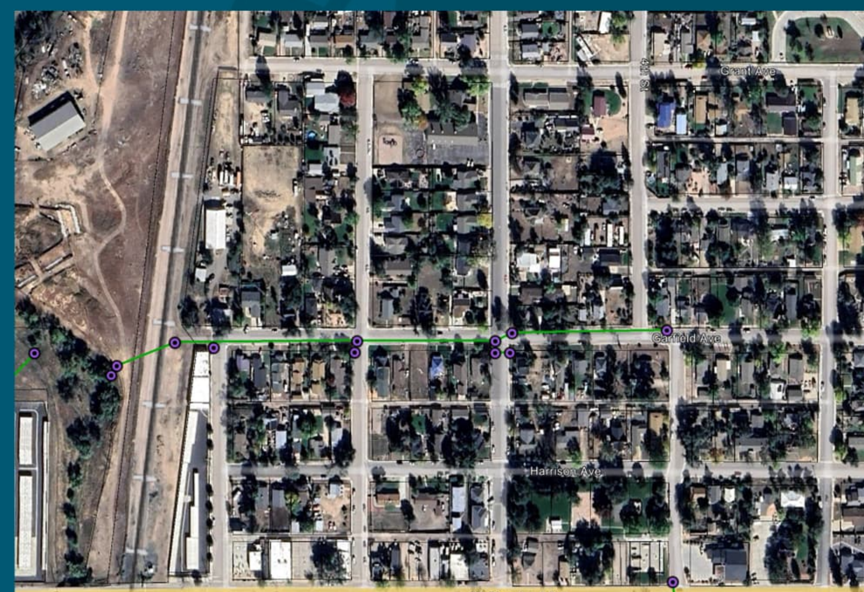
PROJECTS

- **Boxelder Business Park Outfall**
  - Intercepts Coal Creek flows north of Town and provides conveyance to Boxelder Creek
    - Potentially Development driven project
    - Works in conjunction with downstream projects – Garfield Ave, Cleveland Ave etc.
    - Cost $$$$

TOWN OF WELLINGTON

PROJECTS

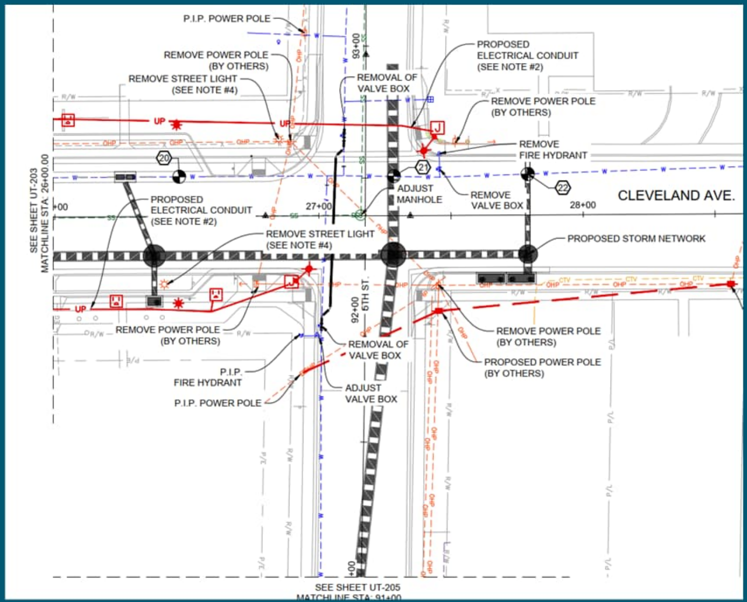
- **Garfield Ave Outfall**
  - Install additional inlets along Garfield Ave Storm Drain to take advantage of capacity within the existing storm drain
    - Provides improved conveyance in Old Town utilizing existing infrastructure
    - Works in conjunction with new Cleveland Ave. Storm Drain system
    - Cost $

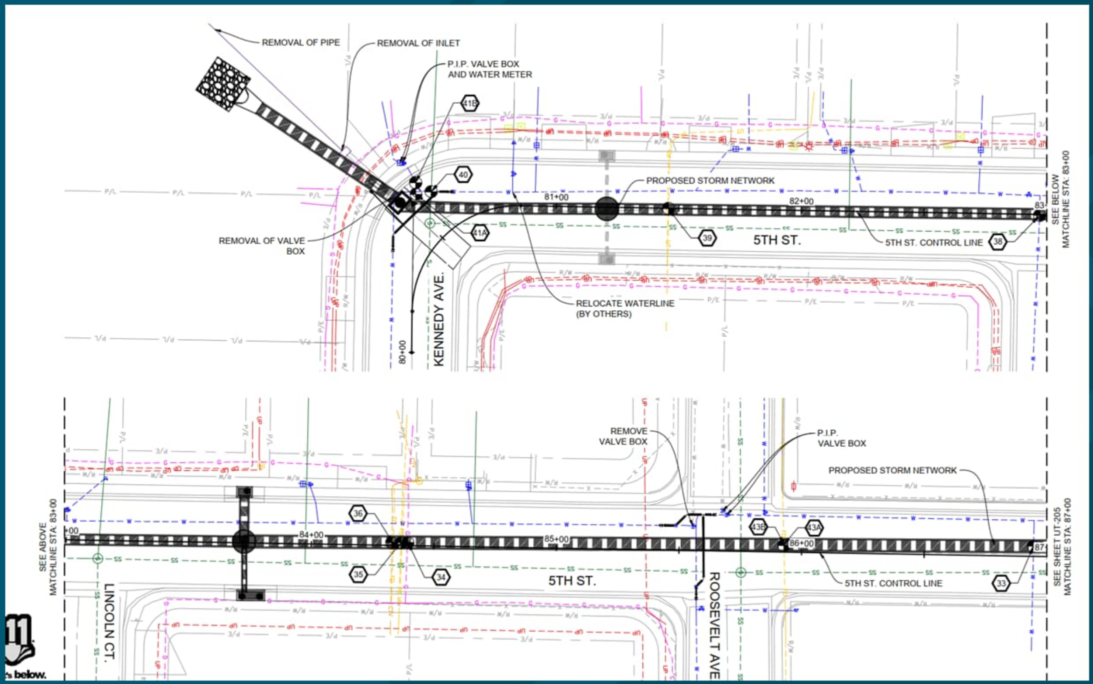


TOWN OF WELLINGTON

PROJECTS

- **Cleveland Ave Outfall & 5th Street Outfall**
  - o Already under construction
    - Provides conveyance of minor storm events along and through Cleveland Ave
    - 5th Street route was selected during design
    - Cost $$$

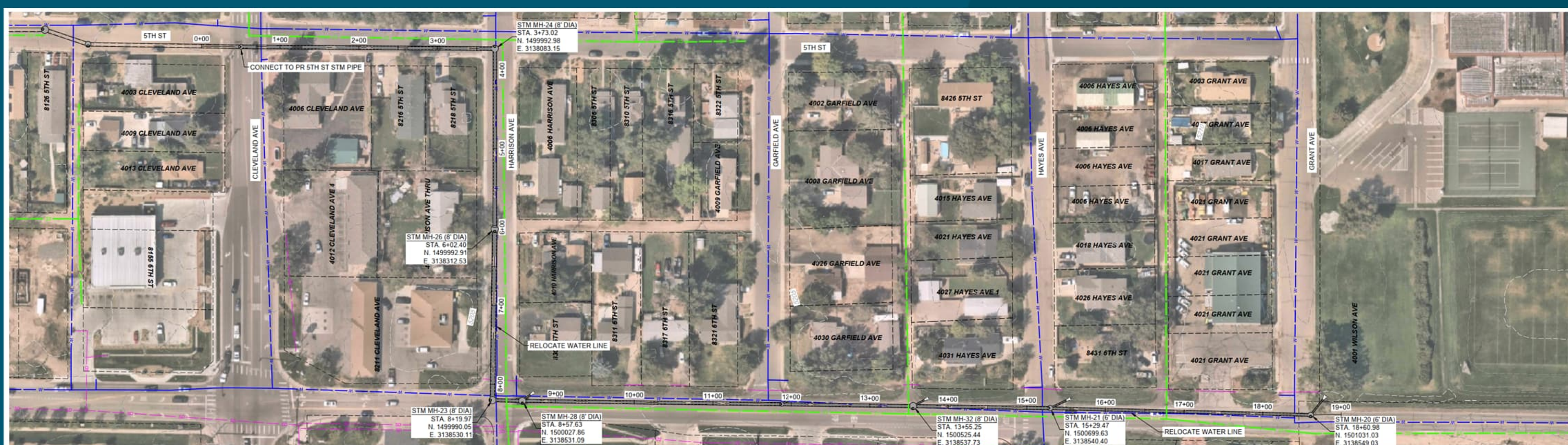




TOWN OF WELLINGTON

PROJECTS

- **6th Street Outfall**
  - o Collects runoff from northeast Old Town – along 6th street and specifically the Thimmig/Wellington Community Church Property.
    - ▪ Provides future outfall for redevelopment of empty properties
    - ▪ Connects to 5th Street Outfall
    - ▪ 5th Street Outfall designed (and will be constructed) in anticipation of 6th Street Outfall
    - ▪ Cost $$$



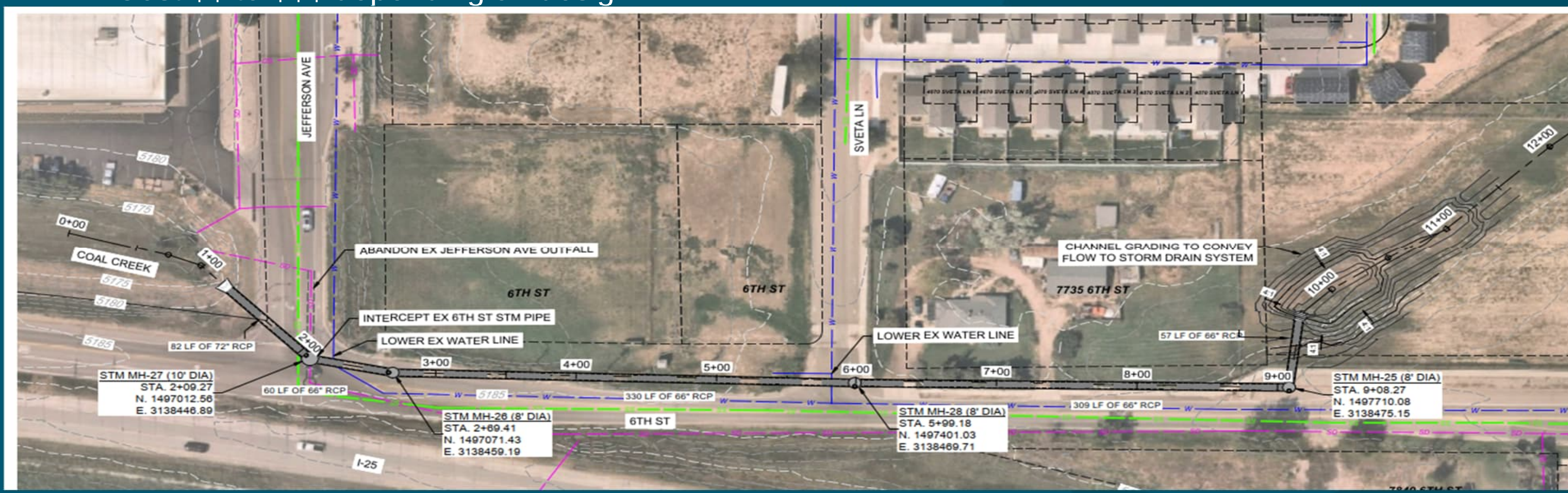
PROJECTS

- **Mae Ct Outfall**
  - o Collects runoff from southwest area of Old Town, provides conveyance to Boxelder Creek
    - Small Diameter pipe (18" provide protection during minor events)
    - Cost $

TOWN OF WELLINGTON

PROJECTS

- **Sveta Lane Outfall**
  - o Provides minor conveyance of flows along Coal Creek where it currently ends at 6th Street and Jefferson.
    - Alternative 2 version provides conveyance for the 10-year event
    - Changing this design to address 100-year flows can remove adjacent properties from the floodplain removing roadblocks to Commercial Development
    - Potential to collaborate with a development
    - Cost $$ to $$$ depending on design

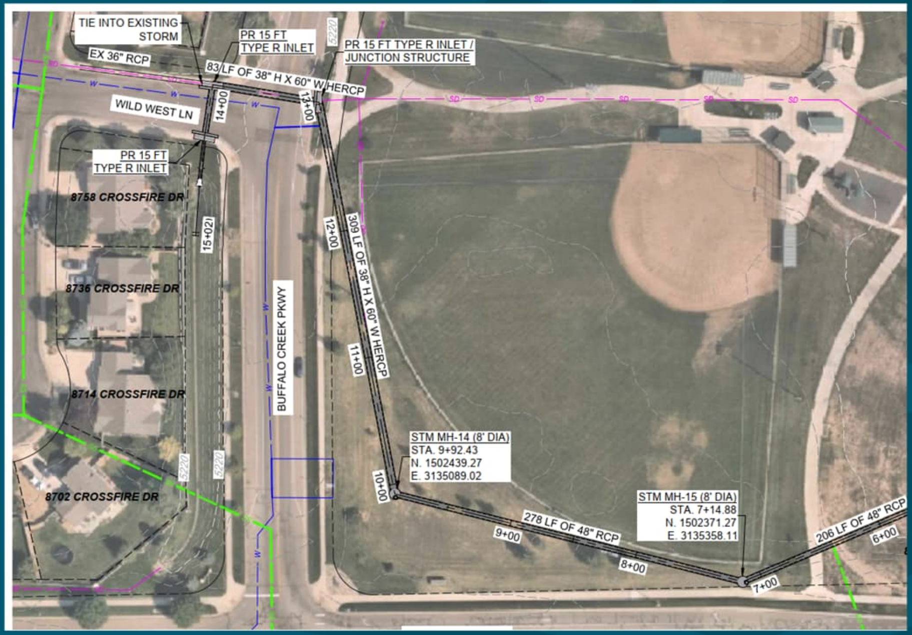


TOWN OF WELLINGTON

PROJECTS

Buffalo Creek – Wellington Community Park

- Addresses minor flooding issues within Buffalo Creek
  - Will not address the issue of portions of Buffalo Creek within the 100-year floodplain
  - Floodplain can most likely only be addressed with a new larger structure along Washington Ave.
  - Cost $

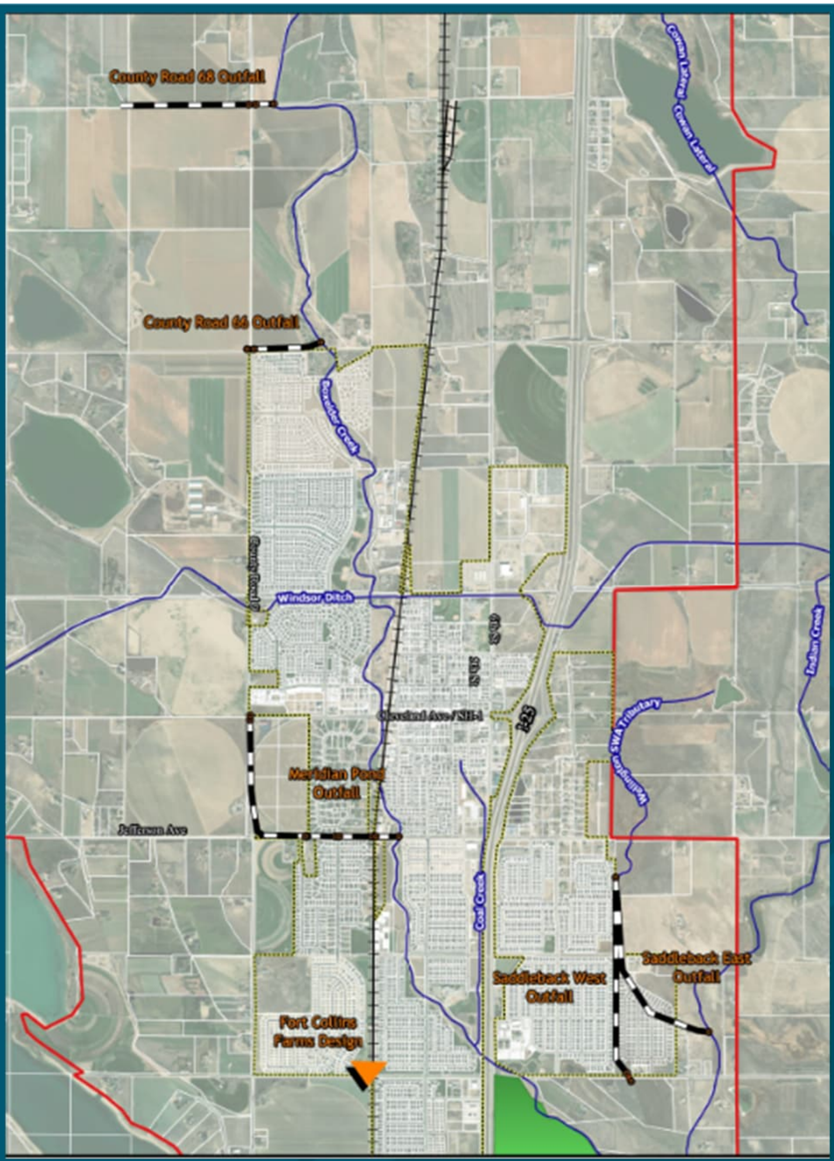


TOWN OF WELLINGTON

PROJECTS

County Road 68 Outfall / County Road 66 Outfall / Saddleback Outfall / Meridian Pond Outfall

- o Development Driven and Constructed Alternatives
  - Approved Saddleback plans already include the outfall through the Development.
  - As Developments occur they will be required to design and construct portions of each project.
  - $$ to $$$ Depending on final design



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Alternative Discussion

- Projects are split into Alternative 1 & 2 / 3 & 4
- For reference:
    - Minor Storm Conveyance = 2-year storm event
    - Flood Mitigation Conveyance = 10-year storm event
    - Floodplains are based on the 100-year storm event
        - (100-year event > 10-year event > 2-year event)

- Alternatives 1 (Minor Event) & 2 (Flood Mitigation)
    - Include the same variations of the Cleveland Ave Design and the 6th Street Design with different design events.
- Similarly Alternative 3 (Minor Event) & 4 (Flood Mitigation)
    - Include the same variations of the Cleveland Ave Design and the 6th Street Design with different design events.

TOWN OF WELLINGTON

Report Recommendation:

- **High Prioritization:**
  - 5th Street Outfall (Under Construction)
  - 6th Street Outfall
  - Sveta Lane Outfall
  - Boxelder Business Park
  - Washington Ave Outfall
  - 3rd Street / Lincoln Outfall
  - Buffalo Creek / Wellington Community Park

- **Medium Prioritization:**
  - Cleveland Ave (Under Construction)

- **Low Prioritization:**
  - Cleveland Ave

Low Prioritization:
- Garfield Ave Outfall / Inlets
- Meridian Pond Outfall
- CR 66 Outfall
- CR 68 Outfall
- East Wellington / Saddleback Outfall

TOWN OF WELLINGTON

Board Discussion / Prioritization

- **Projects**
  - 5th Street Outfall (Under Construction)
  - 6th Street Outfall
  - Sveta Lane Outfall
  - Boxelder Business Park
  - Washington Ave Outfall
  - 3rd Street / Lincoln Outfall
  - Buffalo Creek / Wellington Community Park
  - Cleveland Ave (Under Construction)
  - Garfield Ave Outfall / Inlets
  - Meridian Pond Outfall
  - CR 66 Outfall
  - CR 68 Outfall
  - East Wellington / Saddleback Outfall

TOWN OF WELLINGTON

Thank you!

Town of Wellington Stormwater Master Plan
May 2023 Rev Oct 2023

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303-221-0802
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ICON ENGINEERING

Prepared for:

TOWN OF WELLINGTON

Board of Trustees Meeting

Date: July 21, 2026
Subject: Boxelder Basin Regional Stormwater Authority Update

- **Presentation: Bob Gowing, Public Works Director**

BACKGROUND / DISCUSSION

Brief History of the Boxelder Basin Regional Stromwater Authority

The Boxelder Creek watershed is over 260 square miles in area and extends from Wyoming to the creek's confluence with the Cache La Poudre River in Fort Collins. Within this large watershed there were historically many areas of frequent flooding. This flooding resulted in significant flood damage to residences, businesses, schools, utilities, roads, agriculture and other physical assets, in addition to widespread disruption to the region. Within Wellington, the primary source of that flood damage was Coal Creek, a tributary to Boxelder Creek.

As a result, in the early 2000's several organizations began discussing a holistic solution to the widespread flood issues. Later, the Boxelder Basin Regional Stormwater Authority (BBRSA or the "Authority") was created to provide flood control improvements within the watershed in accordance with the Boxelder Creek Regional Stormwater Masterplan. More information regarding the history of the Authority can be found on their website here: https://www.boxelderauthority.live/faqs

The Authority is governed by a board of 5 Directors representing the following areas, with the Directors serving staggered 3-year terms.

- Town of Wellington
- City of Fort Collins
- Larimer County
- One unaffiliated Director jointly selected by Fort Collins and the County
- One unaffiliated Director jointly selected by Wellington and the County

Significant Past Agreements

There have been several Intergovernmental Agreements and other agreements regarding the Authority and/or its members and entities in the past. For the purposes of this work session, three of those are included as attachments. The other agreements have limited relevance to Wellington but can be provided upon request.

- August 2008 – Wellington's Board of Trustees authorized the execution of the first Intergovernmental Agreement (IGA) between the City of Fort Collins, the Town of Wellington, and Larimer County, collectively known as the "Members". This IGA laid the groundwork for the formation of the Authority and defined how the member entities would work together moving forward.
- January 2011 – The Authority and the North Poudre Irrigation Company (NPIC) entered into an agreement outlining maintenance responsibilities for the Coal Creek Flood Mitigation Project, which included the Inlet Canal and the Clark Reservoir projects.

- December 2017 – The "Sunset" Agreement was executed between Larimer County, Fort Collins, Wellington, and the Timnath TDA to limit additional costs to Wellington for the East Side Detention Facility (ESDF) and related projects. This agreement also addressed obligations and other specifics related to the dissolution of the Authority.

Projects

The planned projects have been completed, or will be completed soon, by the Authority. Those are:

- Coal Creek Flood Mitigation Project – This project, located north of Wellington and south of B-Dam #3, reduces flood hazard within Wellington by diverting floodwaters from Coal Creek to Clark Reservoir, where those flows can be safely detained and released. This has the effect of lowering 100-year flowrates through Wellington, thereby reducing flood hazard in Wellington and points south. This project consists of three primary elements:
    - Inlet Canal Improvements - Widened the canal to safely convey the diverted flows to Clark Reservoir, an NPIC reservoir on the east side of I-25.
    - Clark Reservoir - Dredging and spillway improvements create additional storage volume for detention purposes, allowing flood flows to be discharged safely.

East Side Detention Facility (ESDF) – This project, located just south of Mountain Vista Golf Course, provides detention for floodwaters along Box Elder Creek. This results in a significant reduction of flood risk in areas throughout Larimer County, Fort Collins, and Timnath. Construction is expected to be completed this year.

Current Status of the Authority

Until recently, the Authority's general plan was geared towards a dissolution in 2030, at which time the CWCB loans would be paid off. More recently, there has been much discussion between the Members and the Authority regarding early dissolution of the 2008 IGA, thereby ending the Authority. Wellington's representatives on the Authority Board have consistently supported an early dissolution, which staff also support.

However, past IGAs and agreements call for several conditions which must be met before the Authority can be dissolved. There are additional conditions under CRS 29-1-204 which also must be met. Currently, the legal framework for dissolution is being considered by attorneys from the member organizations. It is expected that this will be discussed with the Board of Trustees in an upcoming executive session.

Concurrent to that effort, the Audit Committee, which consists of staff representatives from the Member organizations, has begun addressing those conditions related to finances, O&M of the projects, disposition of assets, and other conditions as required in previous IGAs and agreements. The Authority has assisted and facilitated those efforts but is not a direct participant in the negotiations, since that responsibility lies with the Members. While some steps have been taken to investigate an early dissolution, this is still in the early stages and there is much work to do.

STAFF RECOMMENDATION

N/A

ATTACHMENTS

1. 2026-07-21 BBRSA Presentation Final

TOWN OF WELLINGTON

2. 2008-08-20 Reso 21-2008 Exhibit A -- Boxelder SW Authority IGA
3. 2011-01-05 Coal Creek Flood Mitigation and Operation Agreement
4. 2017-12-19 Agreement concerning BBRSA Project Improvements

Boxelder Basin Regional Stormwater Authority

Work Session Presentation

July 21, 2026

TOWN OF WELLINGTON

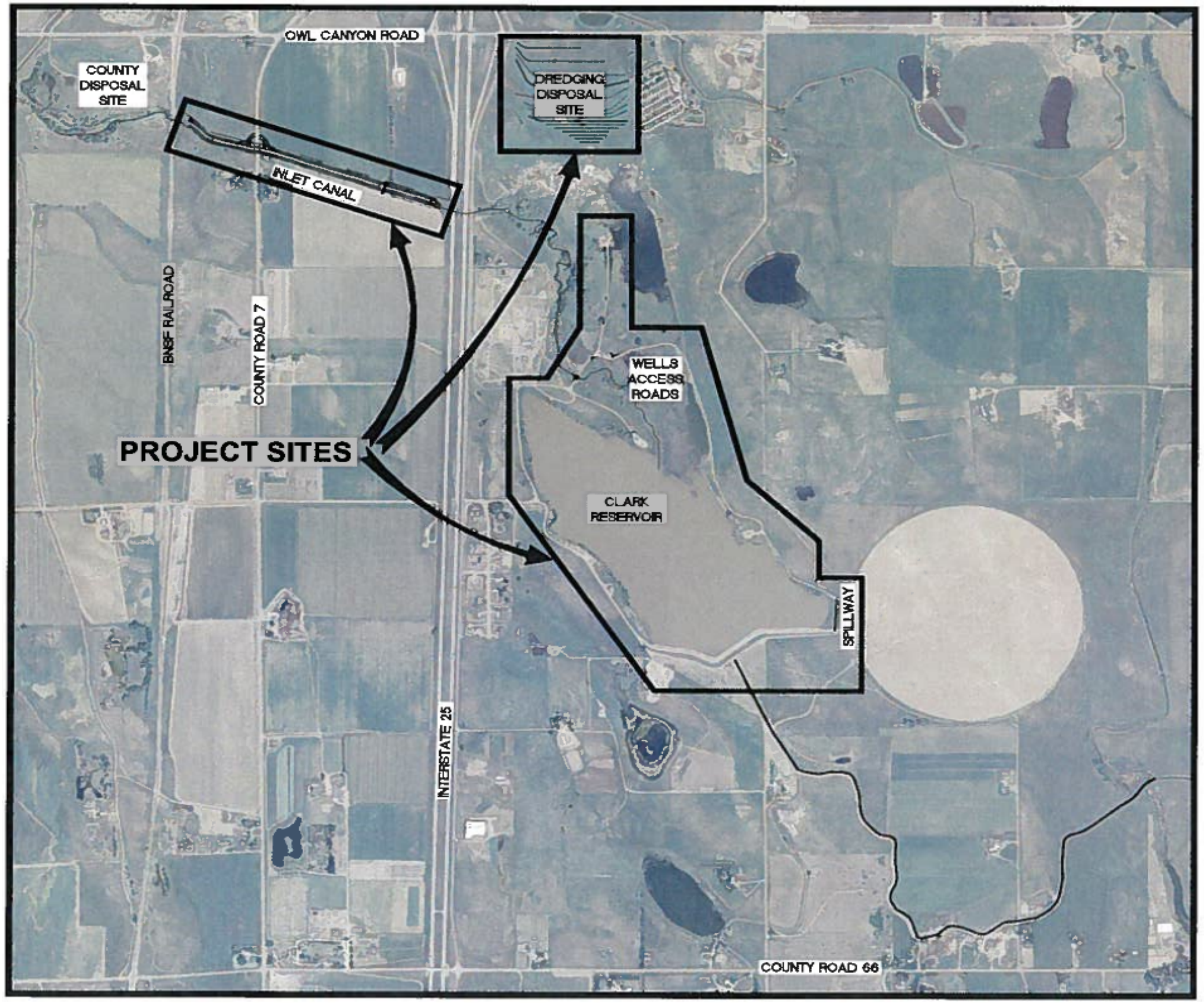
Brief History

The Boxelder Basin Regional Stormwater Authority (BBRSA) was created in 2008 by Larimer County, the City of Fort Collins, and the Town of Wellington for stormwater management and flood control purposes. Existing past relevant IGA's and agreements relevant include:

- August 8, 2008 – Intergovernmental Agreement (IGA) to create the Authority
- January 2011 – Agreement between the Authority and the North Poudre Irrigation Company (NPIC) outlining maintenance responsibilities for the Coal Creek Flood Mitigation Project
- December 2017 – The "Sunset" Agreement was executed between Larimer County, Fort Collins, Wellington, and the Timnath Development Authority (TDA) to limit additional costs to Wellington for the East Side Detention Facility (ESDF) and related projects. This agreement also addressed obligations and other specifics related to dissolution of the Authority:
  - Complete all projects
  - Pay off loans
  - Distribute assets
  - Complete Operations and Maintenance (O&M) agreements
  - Collect funds needed to make equalization payments
  - Other requirements

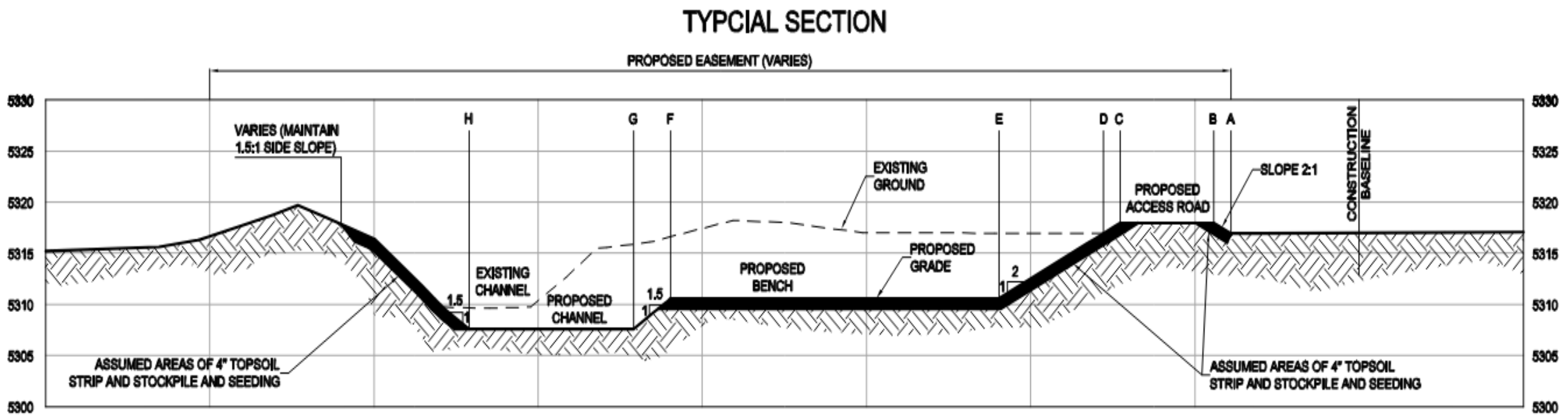
Coal Creek Flood Mitigation Project

- Diverts about 1700 cubic feet per second (CFS) from Coal Creek
- Provides 540 acre-feet of detention storage volume by dredging Clark Reservoir and raising the spillway
- Benefits as related to the 100-year flood event in Wellington:
  - Two local PSD schools removed from the floodplain
  - 200 homes and businesses removed from the floodplain
  - Reduced flood depths and street overtopping throughout town

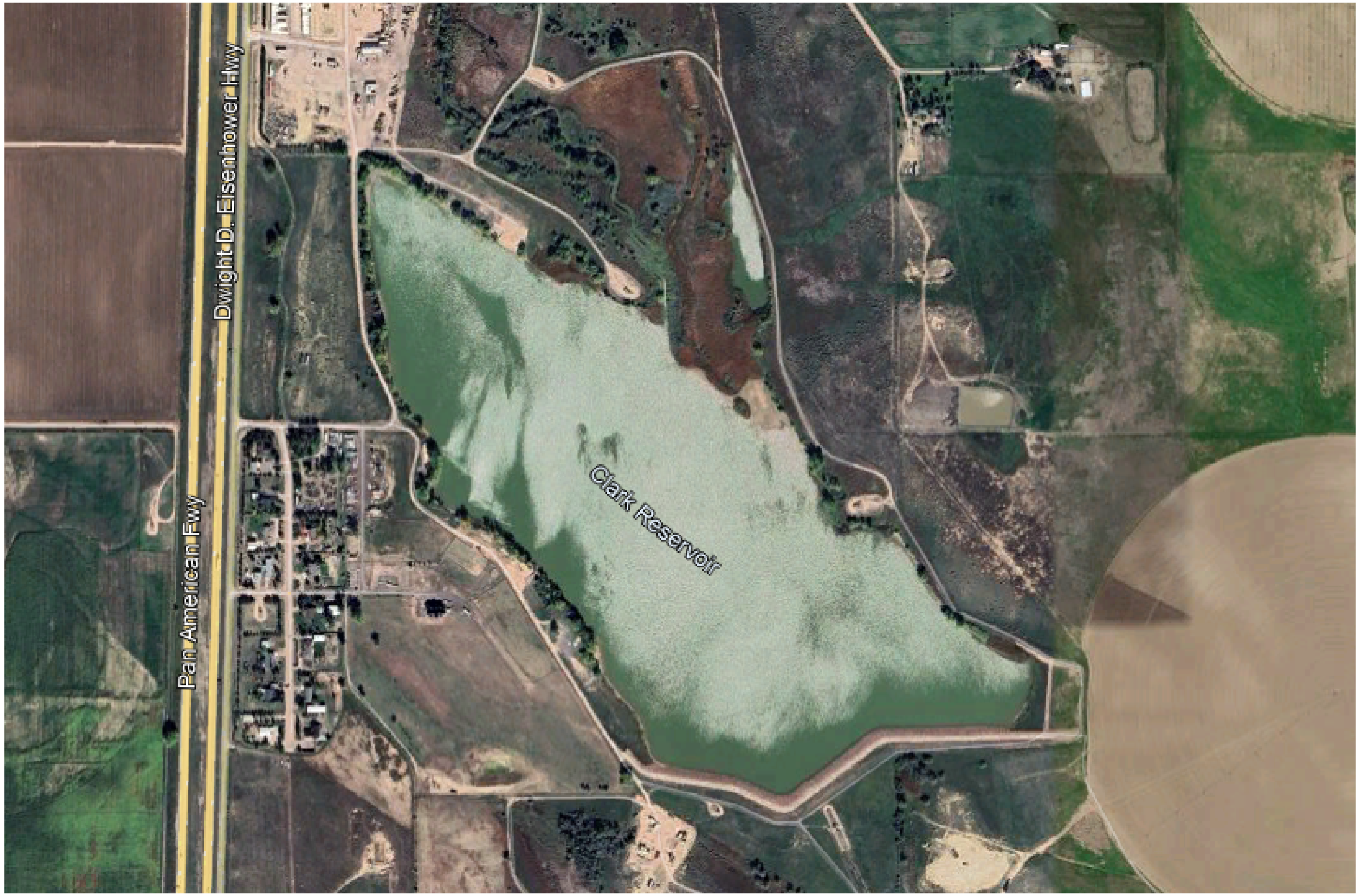


VICINITY MAP
SCALE: 1 = 1000'

Inlet Canal – Plan and Section View



Clark Reservoir



East Side Detention Facility

- Benefits are provided to downstream properties in Larimer County, Timnath, and Fort Collins

Current Status of the Authority

- Currently the Authority anticipates meeting the various financial requirements for dissolution in 2030. The Board of Directors and the Audit Committee agree that an earlier dissolution may be possible and should be investigated
- The member entities have recently begun working through their representatives on the Audit Committee to fully understand the requirements for dissolution, and to create the various O&M plans and agreements needed
  - Wellington Audit Committee members are Public Works Director Bob Gowing, Finance Director Nic Redavid, and Town Administrator Patti Garcia

Questions or Discussion?

INTERGOVERNMENTAL AGREEMENT
FOR STORMWATER COOPERATION
AND MANAGEMENT

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

W I T N E S S E T H:

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

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

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

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

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

WHEREAS, the County is authorized to establish, expand and operate a stormwater utility or stormwater utility enterprise throughout all portions of the Boxelder Basin that are located solely within the boundaries of the County and outside any municipality, pursuant to C.R.S. Section 30-11-1-7(1)(w), Section 30-20-401, et seq., and Section 37-45.1-101, et seq.; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereto agree as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

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

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

"Authority" means the Boxelder Basin Regional Stormwater Authority.

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

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

"County" means Larimer County, Colorado.

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

"Fiscal Year" means the calendar year.

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

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

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

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

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

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

"State" means the State of Colorado.

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

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

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

"Town" means the Town of Wellington, Colorado.

ARTICLE II

CREATION AND GOVERNANCE OF THE AUTHORITY

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

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

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

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

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

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

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

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

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

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

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

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

Section 2.06. Description of the Boxelder Project. The Boxelder Project may include, without limitation, any Project Improvements described in the Plan. The Members intend and acknowledge that implementation of the Plan will include the design of permanent natural habitat and other natural features as part of the stream stability and erosion control improvements to be constructed, and, to the extent practicable, as part of other improvements to be constructed by the Authority. All improvements of the Authority will be designed so as to minimize the potential for introduction of human-caused pollutants in accordance with the Urban Storm Drainage Criteria Manual Volume III – Best Management Practices, or such other subsequently adopted standard as the Directors may approve. The Members further intend and acknowledge that the enhancement and restoration of native vegetation, wildlife habitat, naturally meandering stream channel topography, and other similar natural features are beneficial for the sustained maintenance of the Boxelder drainage.

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

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

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

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

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

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

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

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

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

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

ARTICLE III

POWERS OF THE AUTHORITY

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

(a) Pursuant to the Plan to develop stormwater systems or facilities or drainage facilities in whole or in part for the benefit of the inhabitants of the contracting Members or others, at the discretion of the Directors, subject to fulfilling any conditions or requirements set forth in this Agreement or in any other contract concerning the Authority;

(b) To make and enter into contracts;

(c) To employ agents and employees;

(d) To acquire, construct, manage, maintain, fund, plan and operate drainage and flood control systems, facilities, works, or improvements, or any interest therein;

(e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property utilized only for the purposes of providing drainage, flood control, or stormwater quality control or for related or accessory purposes;

(f) To condemn property for public use;

(g) To incur debts, liabilities, or obligations, including without limitation by the issuance of bonds, notes and other financial obligations;

(h) To sue and be sued in its own name;

(i) To have and use a corporate seal;

(j) To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the Authority;

(k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purpose;

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

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

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

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

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

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

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

ARTICLE IV

REPRESENTATIONS AND COVENANTS OF MEMBERS

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

(a) It will promptly transfer to the Authority all revenues, fund balances, improvements and responsibilities associated with the County's existing stormwater impact fee in the Service Area, and will transfer to the Authority any amounts representing fees applicable within its jurisdiction to the extent it elects to make payment to the Authority in lieu of the collection of such fees pursuant to Section 5.04;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE V

RATES AND CHARGES; PROJECT PAYMENTS

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

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

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

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

(c) The Authority shall review the Stormwater Service Fee and System Development Fee on a biennial basis, and shall adjust the System Development Fee to reflect the investment in the value of assets of the Authority and depreciation of those assets. Modifications of the permitted average range of Stormwater Service Fee and the System Development Fee parameters may be made by adoption of an amendment to this Agreement.

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

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

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

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

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

ARTICLE VI

FINANCIAL RECORDS AND ACCOUNTING

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

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

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

ARTICLE VII

ADMINISTRATION

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

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

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

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

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

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

ARTICLE VIII

MISCELLANEOUS

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

If to the City:
Utilities Executive Director
City of Fort Collins
P. O. Box 580
Fort Collins, CO 80522

With a copy to:
City Attorney
City Attorney's Office
300 LaPorte Avenue
P. O. Box 580
Fort Collins, CO 80522

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

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

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

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

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

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

Section 8.04. Miscellaneous.

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

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

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

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

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

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

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

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

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

BOARD OF COUNTY COMMISSIONERS,
LARIMER COUNTY, COLORADO

By: ______________________
Chair

ATTEST:

____
Deputy Clerk

APPROVED AS TO FORM:

______________________ 8.14.08
Assistant County Attorney

THE CITY OF FORT COLLINS, COLORADO,
a Municipal Corporation

By: ______________________
Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:

____
Deputy City Attorney

THE TOWN OF WELLINGTON, COLORADO,
a Statutory Municipality

By: ______________________
Mayor

ATTEST:

____
Town Clerk

APPROVED AS TO FORM:

____
Town Attorney

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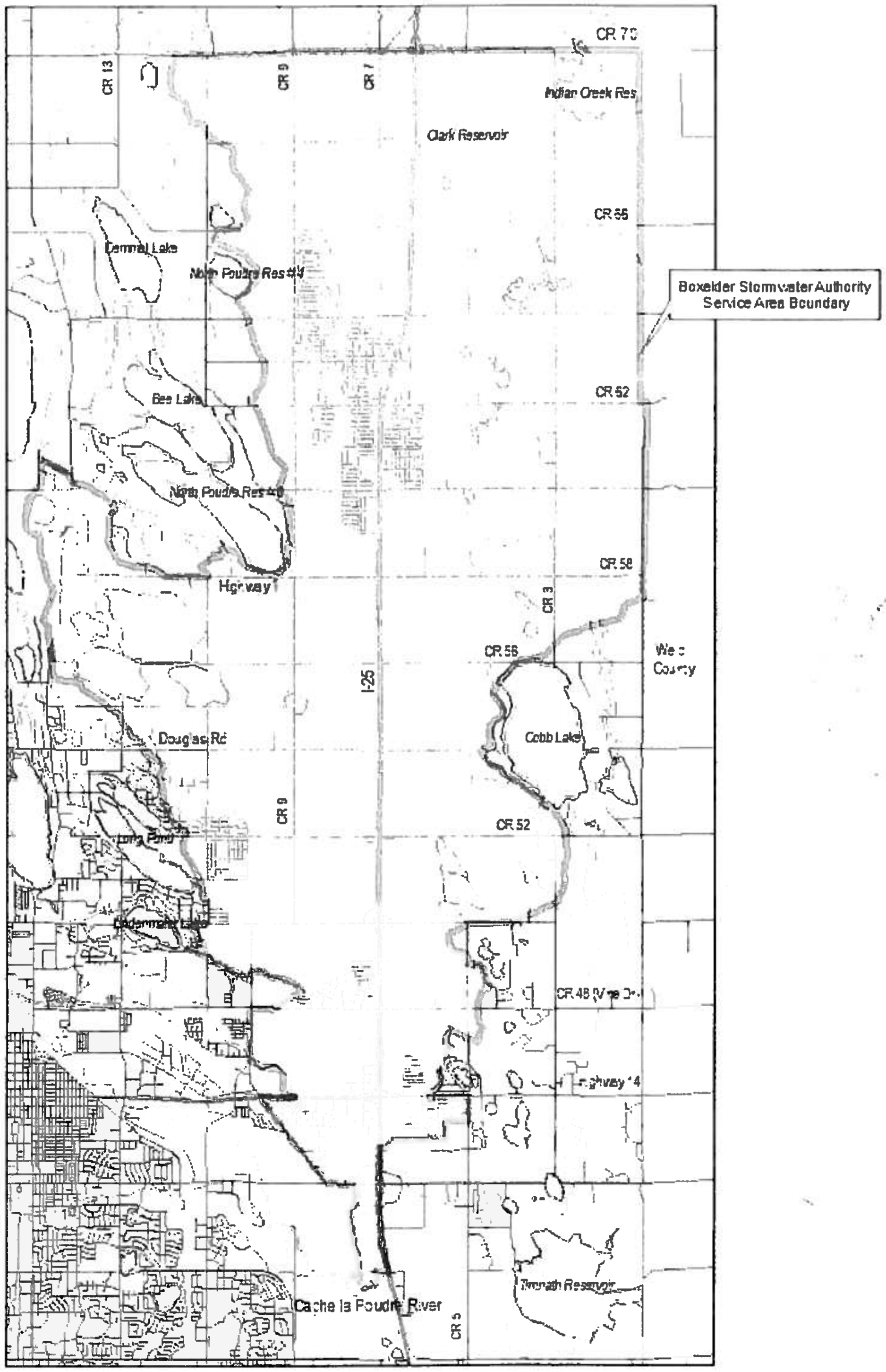
Exhibit A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Indian Creek Res
Clark Reservoir
CR 56
Boxelder Stormwater Authority Service Area Boundary
North Poudre Res #4
Bee Lake
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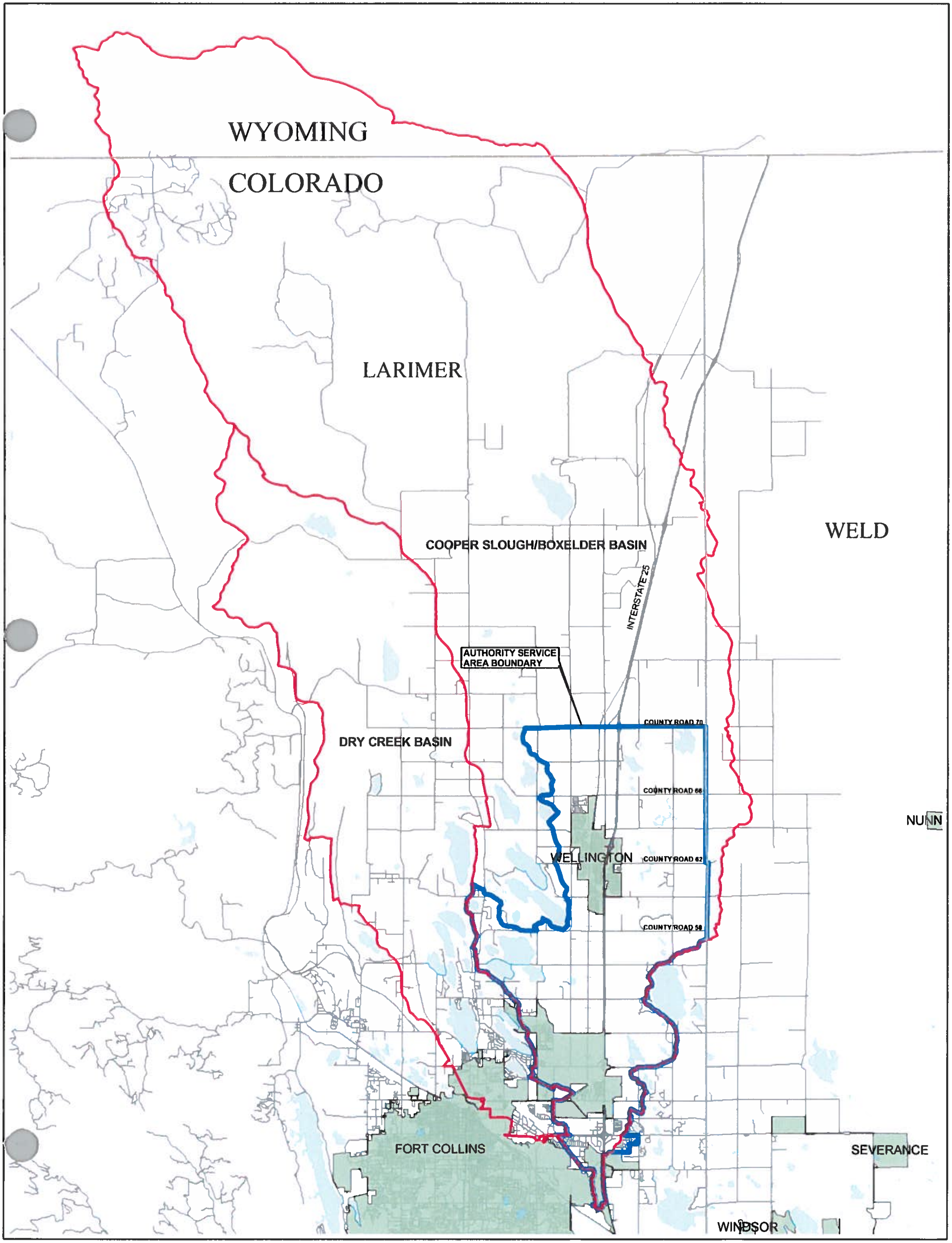
CR 58
CR 3
CR 56
Cobb Lake
I-25
Douglas Rd
CR 9
CR 52
Long Pond
Cache la Poudre River
CR 5

19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LARIMER
WELD
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INTERSTATE 25
AUTHORITY SERVICE AREA BOUNDARY
COUNTY ROAD 70
DRY CREEK BASIN
COUNTY ROAD 66
NUNN
WELLINGTON
COUNTY ROAD 62
COUNTY ROAD 58
FORT COLLINS
SEVERANCE
WINDSOR

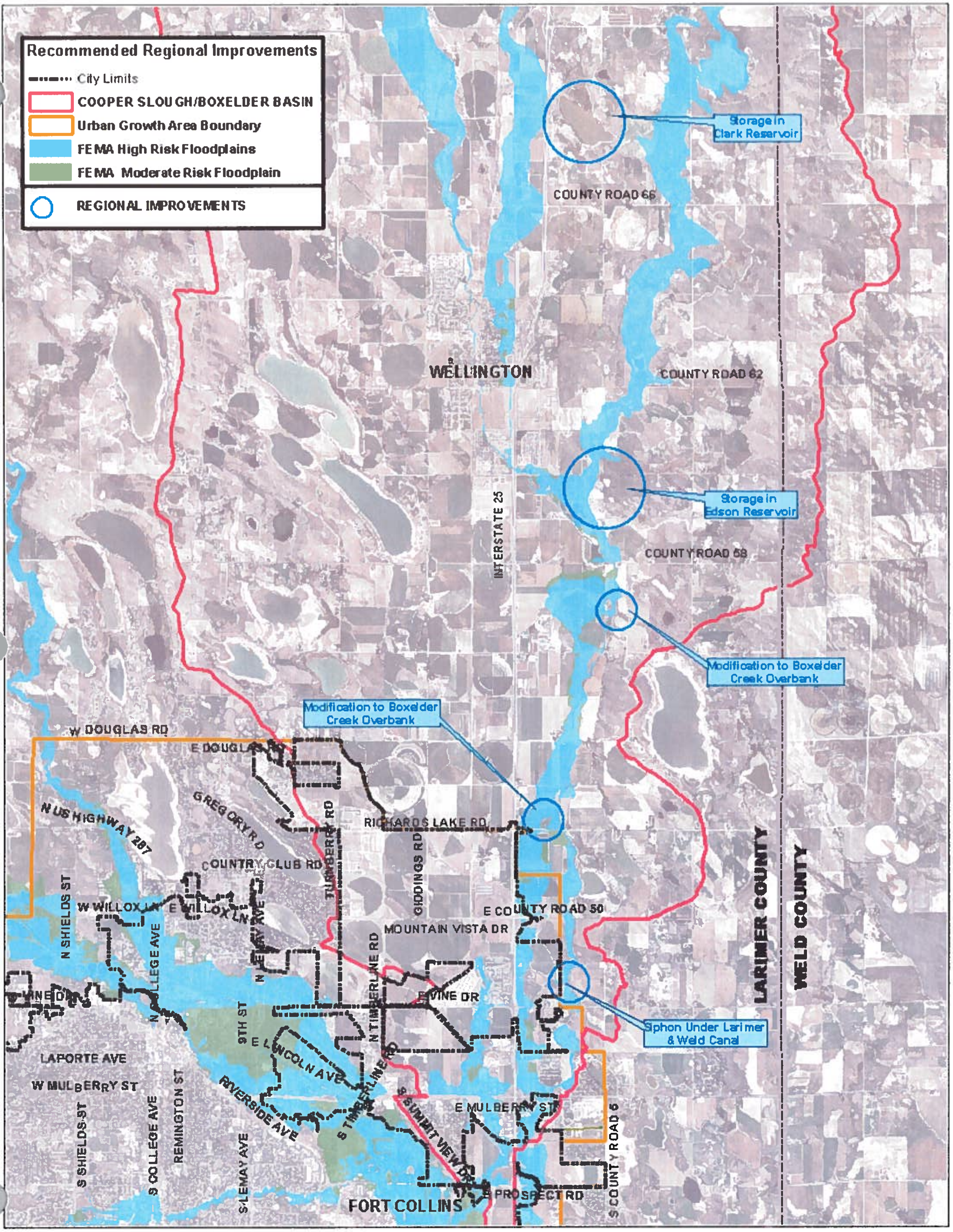

Figure 3: Recommended Solutions

C.R.S. 204, Section 29-204

(1) Any combination of municipalities, special districts, or other political subdivisions of this state that are authorized to own and operate water systems or facilities or drainage facilities may establish, by contract with each other, a separate governmental entity, to be known as a water or drainage authority, to be used by such contracting parties to effect the development of water resources, systems, or facilities or of drainage facilities in whole or in part for the benefit of the inhabitants of such contracting parties or others at the discretion of the board of directors of the water or drainage authority.

(2) Any contract establishing such separate governmental entity shall specify:

(a) The name and purpose of such entity and the functions or services to be provided by such entity;

(b) The establishment and organization of a governing body of the entity, which shall be a board of directors in which all legislative power of the entity is vested, including:

(I) The number of directors, their manner of appointment, their terms of office, their compensation, if any, and the procedure for filling vacancies on the board;

(II) The officers of the entity, the manner of their selection, and their duties;

(III) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the board;

(IV) The duties of the board, which shall include the obligation to comply with the provisions of parts 1, 5, and 6 of this article;

(c) Provisions for the disposition, division, or distribution of any property or assets of the entity;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that such contract may not be rescinded or terminated so long as the entity has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations;

(e) The conditions or requirements to be fulfilled for adding or deleting parties to the contract in the future or for providing water services and drainage facilities to others outside the boundaries of the contracting parties.

(3) The general powers of such entity shall include the following powers:

(a) To develop water resources, systems, or facilities or drainage facilities in whole or in part for the benefit of the inhabitants of the contracting parties or others, at the discretion of the board of directors, subject to fulfilling any conditions or requirements set forth in the contract establishing the entity;

(b) To make and enter into contracts;

(c) To employ agents and employees;

(d) To acquire, construct, manage, maintain, or operate water systems, facilities, works, or improvements, or drainage facilities, or any interest therein;

(e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property utilized only for the purposes of water treatment, distribution, and waste water disposal, or of drainage;

(f) To condemn property for use as rights-of-way only if such property is not owned by any public utility and devoted to such public use pursuant to state authority;

(g) To incur debts, liabilities, or obligations;

(h) To sue and be sued in its own name;

(i) To have and use a corporate seal;

(j) To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the entity;

(k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purpose;

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

(m) To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) To permit other municipalities, special districts, or political subdivisions of this state that are authorized to supply water or to provide drainage facilities to enter the contract at the discretion of the board of directors, subject to fulfilling any and all conditions or requirements of the contract establishing the entity; except that rates need not be uniform between the authority and the contracting parties;

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

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

(4) The separate governmental entity established by such contracting parties shall be a political subdivision and a public corporation of the state, separate from the parties to the contract. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The provisions of articles 10.5 and 47 of title 11, C.R.S., shall apply to moneys of the entity.

(5) The bonds, notes, and other obligations of a water or drainage authority formed under the provisions of this section shall not be the debts, liabilities, or obligations of the original contracting parties or parties that may enter the establishing contract in the future.

(6) The contracting parties may provide in the contract for payment to the separate governmental entity of funds from proprietary revenues for services rendered by the entity, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the entity.

(7) (a) To carry out the purposes for which the separate governmental entity was established, the entity is authorized to issue bonds, notes, or other obligations payable solely from the revenues derived from the function, service, system, or facility or the combined functions, services, systems, or facilities of the entity or from any other available funds of the entity. The terms, conditions, and details of said bonds, notes, and other obligations, the procedures related thereto, and the refunding thereof shall be set forth in the resolution authorizing said bonds, notes, or other obligations and, as nearly as may be practicable, shall be substantially the same as those provided in part 4 of article 35 of title 31, C.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued shall not be so limited and except that said bonds, notes, and other obligations may be sold at public or private sale. Bonds, notes, or other obligations issued under this subsection (7) shall not constitute an indebtedness of the entity or the cooperating or contracting parties within the meaning of any constitutional or statutory limitations or other provision. Each bond, note, or other obligation issued under this subsection (7) shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable solely from the revenues and other available funds of the entity pledged for the payment thereof and that said bond, note, or other obligation does not constitute a debt of the entity or the cooperating or contracting parties within the meaning of any constitutional or statutory limitation or provision. Notwithstanding anything in this section to the contrary, such bonds, notes, and other obligations may be issued to mature at such times not beyond forty years from their respective issue dates, shall bear interest at such rates, and shall be sold at, above, or below the principal amount thereof, all as shall be determined by the board of directors of the entity.

(b) The resolution, trust indenture, or other security agreement under which any bonds, notes, or other obligations are issued shall constitute a contract with the holders thereof, and it may contain such provisions as shall be determined by the board of directors of the entity to be appropriate and necessary in connection with the issuance thereof and to provide security for the payment thereof, including, without limitation, any mortgage or other security interest in any revenues, funds, rights, or properties of the entity. The bonds, notes, and other obligations of the entity and the income therefrom shall be exempt from taxation by this state, except inheritance, estate, and transfer taxes.

(8) A separate governmental entity established by contract, if the contract so provides, shall be the successor to any nonprofit corporation, agency, or other entity theretofore organized by the contracting parties to provide the same function, service, system, or facility, and such separate governmental entity shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

(9) The authority granted pursuant to this section shall in no manner limit the powers of governments to enter into intergovernmental cooperation or contracts or to establish separate legal entities pursuant to the provisions of section 29-1-203 or any other applicable law or otherwise to carry out their powers under applicable statutory or charter provisions, nor shall such authority limit the powers reserved to cities and towns by section 2 of article XI of the state constitution. Nothing in this part 2 constitutes a legislative declaration of preference for water systems or facilities or for drainage facilities owned by separate governmental entities over water systems or facilities or over drainage facilities owned by other or different entities.

Source: L. 77: Entire section added, p. 1389, § 1, effective June 21. **L. 82:** (1) amended, p. 453, § 2, effective March 17. **L. 2001:** (1), (2)(e), (3)(a), (3)(d), (3)(e), (3)(n), (3)(o), (5), and (9) amended, p. 61, § 1, effective August 8.

Editor's note: This section was enacted as § 29-1-203.2 in House Bill 77-1211 but was renumbered on revision in the 1977 replacement volume for ease of location.

ANNOTATION

Law reviews. For article, "Using a Water Authority to Develop And Deliver Water Resources", see 19 Colo. Law. 651 (1990).

COAL CREEK FLOOD MITIGATION

AND OPERATION AGREEMENT

THIS AGREEMENT is made this 5TH day of JANUARY 2011, by and between the Boxelder Basin Regional Stormwater Authority, (the "Authority") and the North Poudre Irrigation Company ("NPIC").

RECITALS

WHEREAS, NPIC has entered into an agreement with Larimer County, Colorado ("the County") for the construction of the Coal Creek Flood Mitigation Project ("the Project") for the improvement of stormwater management within the Boxelder Basin; and

WHEREAS, as part of the Project, improvements will be made to Clark Reservoir and the Clark Reservoir Inlet Canal which are owned and maintained by NPIC ("the Improvements"); and

WHEREAS, the purpose of the Project, is to create and expressly reserve for flood control purposes a storage volume of 540 acre feet in Clark Reservoir, from May 1 through September 30 of each year ("Flood Season"); and

WHEREAS, following the completion of the Improvements and the acceptance of the same by the County and NPIC, maintenance of the Improvements will be the responsibility of the Authority; and

WHEREAS, the parties desire to enter into this Agreement to set forth their respective duties and responsibilities with respect to the maintenance and operation of the Improvements by the Authority;

NOW, THEREFORE, in consideration of the Recitals set forth above, which are incorporated herein by reference and the conditions that are set forth herein, the parties mutually agree as follows:

1. Maintenance. The Authority shall accept maintenance responsibility of the Improvements thirty (30) days after written notice from NPIC that the construction of the Improvements by the County have been completed and accepted by NPIC.

2. Maintenance Responsibility. The Authority shall be responsible for routine maintenance of the Improvements consisting of blading ditch roads two (2) times

per year, mowing noxious weeds, and removing trees every three or four years as necessary. Routine maintenance shall also involve other routine and minor maintenance work of the Improvements. As of the commencement of maintenance, the Authority agrees to contract with NPIC for conducting the routine maintenance on behalf of the Authority. The Authority shall pay NPIC One Thousand Dollars and No Cents ($1,000.00) per calendar year on or before March 1 of each calendar year for conducting the routine maintenance on behalf of the Authority. The fee as provided in this paragraph shall be increased by twenty percent (20%) upon every ten (10) year anniversary of the effective date of this Agreement. Any maintenance in excess of $1,000.00 as a result of a 100 year flood event shall be the responsibility of the Authority.

3. Future Sediment Deposition. The Parties recognize that sediment deposition in Clark Reservoir may continue as it has in the past. The Authority shall be responsible for removal of future sediment deposition. The Authority will conduct a bathymetric survey of the reservoir bottom at intervals to determine if sediment is being deposited. The first such survey shall be conducted in 2022, with additional surveys being taken at 20 year intervals or following a 100 year flood event. If any such survey reveals a ten percent or greater loss of reservoir capacity, the Authority shall, at its expense, remove the sediment to restore the storage capacity established at the time of the original construction of the Improvements, as detailed in Exhibit A attached hereto.

   Authority agrees to consult with and coordinate with North Poudre any sediment removal project. Authority agrees to compensate NPIC for all reasonable costs, expenses and losses incurred by NPIC incidental to the removal project. Such losses shall include but not be limited to the loss of water and usage of Clark Reservoir as shareholders of NPIC rely upon delivery of water from Clark and interference, interruption or reduced yield of water from Clark Reservoir will cause damage to NPIC.

   Additionally, upon the reasonable request of NPIC, the Authority shall conduct surveys of less than twenty (20) year intervals if NPIC has a reasonable basis to believe that reservoir capacity has been decreased by ten percent (10%) or more at less than the stated twenty (20) year interval.

4. Planned Improvements to Clark Reservoir and the Inlet Canal. NPIC may, at some point in the future elect or be required to make improvements to the reservoir service spillway, dam embankment, emergency spillway, and/or the Inlet Canal. Nothing in this Agreement shall prohibit NPIC from making such improvements after reasonable written notice to the Authority, provided that storage capacity established by the Project is not lessened by such improvements.

5. Maintenance of Facilities. Responsibility for maintenance, other than routine maintenance of the following facilities shall be as follows:

Facility	Party Responsible
Dam embankment and service spillway	NPIC
Inlet Channel	Each party maintains the part of the channel which they use. For example, the channel bottom that transmits normal irrigation flows is the responsibility of NPIC and the widened bench in the channel to accommodate storm flows is the responsibility of the Authority.
Emergency Spillway	Equally shared between the Parties.

6. Natural Event. The Parties recognize that a natural event can occur which causes damage to one or more of the Facilities. If such an event should occur, the Parties will work cooperatively to make repairs, with each party being responsible for repair of those elements of the Facilities, as set forth in Paragraph 5 above.

7. Facilities Operations. NPIC shall have exclusive responsibility for operation of Clark Reservoir and the Clark Reservoir Inlet Canal. NPIC agrees to maintain, in perpetuity, reservoir storage capacity as established at completion of construction. The parties agree that NPIC may utilize flood storage capacity above reservoir elevation 5,300.1 USGS 1988 Datum during the winter non-flood season. NPIC agrees to limit its storage to a level at or below reservoir elevation 5,300.1 USGS 1988 Datum from May 1 through September 30 of each year in order to provide the flood storage of 540 acre feet. In the event of a 100 year flood on Coal Creek, the Service Spillway is to be opened to allow release of 90 cfs of water. In the event that the reservoir water surface rises above 5,300.1 feet for any reason during the Flood Season, NPIC will take all actions reasonable and necessary to reduce the Reservoir level to or below 5,300.1 feet, including but not limited to making best efforts to promptly open the Service Spillway to release 90 cfs.

8. Authority Environmental Enhancements. The Intergovernmental Agreement forming the Authority provides that the Authority is required to work with owners and other agencies to consider environmental enhancements of the Facilities. NPIC agrees to allow the Authority to make environmental enhancements to the

Facilities after prior notice and review by NPIC. Such enhancements shall be purely passive and shall not involve public access of any kind. Such enhancements may consist of vegetative plantings and wildlife habitat such as nests for birds. Such enhancements shall not interfere in any way with the normal operation and use of the Clark Reservoir and/or the Clark Reservoir Inlet Canal.

9. Inspection. Authorized Authority personnel shall have the right to enter the Property at any time to make non-emergency inspections by giving five (5) days advance notice to NPIC.

10. Modifications to Agreement. Modifications to this Agreement may be proposed by either party at any time and shall become effective upon written approval by both parties.

11. Authority Responsibility. On behalf of itself, its officers, directors, members, employees, agents, and representatives, the Authority agrees that it will be responsible for its own acts and omissions and the results thereof.

12. NPIC Responsibility. On behalf of itself, its officers, directors, members, employees, agents, and representatives, NPIC agrees that it will be responsible for its own acts and omissions and the results thereof.

13. Colorado Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of the notice requirements, immunities, rights, benefits, defenses, limitations and protections available to the Authority under the Colorado Governmental Immunity Act as currently written or hereafter amended.

14. Construction and Venue. This Agreement shall be interpreted, construed and governed by the laws of Colorado and such laws of the United States as may be applicable. In the event of any litigation over the interpretation or application of any of the terms or provisions of this Agreement, the Parties agree that litigation shall be conducted in the State of Colorado and venue will be in Larimer County.

15. Invalidity. If any provision of this Agreement is held invalid, the other provisions shall not be affected thereby.

16. Term. This Agreement shall remain in effect for an initial term of fifty (50) years and shall automatically renew for subsequent twenty-five (25) year terms unless terminated by mutual agreement of the Authority and NPIC.

17. Independent Entities. In performing any work or assistance under this Agreement, the Authority and NPIC, and their respective agents, employees, and volunteers, are acting as separate entities. Employees and agents of one Party

are not and shall not become or be deemed employees, agents, or independent contractors of the other Party.

18. Effective Date. This Agreement shall be effective on the day of the last signature below.

BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

By: HENRY K. OBERMEYER
President

ATTEST:

Secretary

NORTH POUDRE IRRIGATION COMPANY

BY:
President

ATTEST:

Sharon Seamoth
Secretary

AGREEMENT

CONCERNING BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

PROJECT IMPROVEMENTS

This Agreement ("Agreement") is effective this 19th day of December, 2017 among the Board of County Commissioners of Larimer County ("County"); City of Fort Collins ("City"), Town of Wellington ("Town"), and the Timnath Development Authority of Colorado ("Timnath"). These entities may collectively be referred to as "Parties" or individually as a "Party". The County, City, and Town may collectively be referred to as "Members" or individually as a "Member".

I. RECITALS

A. The County, City, and Town are the founding Members of the Boxelder Basin Regional Stormwater Authority ("Authority"), a separate governmental entity known as a drainage authority established pursuant to C.R.S. Section 29-1-204.2(1), under that certain Intergovernmental Agreement for Stormwater Cooperation and Management dated August 20, 2008 ("Boxelder IGA" or "IGA"), and First Amendment to Intergovernmental Agreement for Stormwater Cooperation and Management dated June 16, 2014 ("First Amendment").

B. The Authority financed, constructed and completed regional stormwater facilities, including those known as the Coal Creek/Clark Reservoir Project ("Clark Reservoir Project"), the Larimer and Weld Canal Crossing Structure ("L&W Crossing Structure"); the County Road 52 Project, and the East Side Detention Facility ("ESDF") (which may be collectively referred to as the "Projects"). The financing for the Clark Reservoir, Larimer and Weld Crossing Structure, and ESDF Projects included three loans to the Authority by the Colorado Water Conservation Board ("CWCB Loans"), which loans remain outstanding. The debt service on the CWCB Loans is referred to as the "CWCB Debt Service."

C. The County Road 52 Project was completed and paid for pursuant to a separate intergovernmental agreement pursuant to which the County owns and operates the improvements, which are integrated into and within the County's right of way for County Road 52; and

D. The L&W Canal Crossing Structure is also complete and is owned and operated by the L&W Canal Company; and

E. The Authority has entered into an Intergovernmental Agreement dated November 15, 2012 with Timnath which provides for Timnath's participation in the construction and financing costs for the ESDF ("Timnath Agreement"); and

F. The Authority has also entered into the Coal Creek Flood Mitigation and Operation Agreement with the North Poudre Irrigation Company ("NPIC") dated January 5, 2011, ("Coal Creek/Clark Reservoir Agreement") to provide funding and performance of the long-term maintenance obligations for the Clark Reservoir Project.

G. Pursuant to the Boxelder IGA and First Amendment, the Authority owns, operates and maintains the ESDF, has long-term maintenance obligations for the Clark Reservoir Project under the Coal Creek/Clark Reservoir Agreement, and assesses fees to properties located within its Service Area and benefitted by the Projects; and

H. Pursuant to the First Amendment, the Authority is to be dissolved no later than June 16, 2034, if certain conditions are met, including completion of the Projects, payment in full of all CWCB Loans and agreement among the Members as to (i) performance of continuing obligations of the Authority, including operation and maintenance responsibilities for the Projects; (ii) reimbursement of matching funds provided by the Members to the Authority for a FEMA Pre-Disaster Mitigation Grant in the amount of one million dollars ($1,000,000); and (iii) disbursement of any revenue remaining in the Authority after termination and winding up of all financial and legal obligations of the Authority (the "Conditions"); and

I. In response to the Projects being completed and to plan for and facilitate the eventual termination of the Authority, the Parties wish to set out in this Agreement the commitments and obligations of the Parties to address existing financial and ownership issues and long-term operation and maintenance of the Project improvements that will, over the remaining period of the CWCB Loans, address the Conditions to dissolve the Authority; and

J. Since no additional improvements are to be constructed by the Authority in its Service Area, it is the intent of the Members to work with Timnath and the Authority to continue collecting development and services fees from fee payers within each Member's jurisdiction in an annual and total amount not less than those fees set by the Authority and sufficient over the remaining period of the CWCB Loans (the "Remaining Loan Repayment Period") to fund (i) the CWCB Debt Service; (ii) a separate designated and restricted account to be held by the Authority for ongoing operation and maintenance of the ESDF in the ultimate amount of one million two hundred thousand dollars ($1,200,000) (the "ESDF O&M Fund"); (iii) a separate designated and restricted account to be held by the Authority for ongoing operation and maintenance of the Clark Reservoir Project in the ultimate amount of one million dollars ($1,000,000) (the "Clark Reservoir O&M Fund"); and (iv) the annual administrative and operating costs of the Authority, such as legal fees, accounting fees, office administration and office supplies, which are estimated not to exceed eighty five thousand dollars ($85,000) per year commencing January 1, 2019, with an estimated annual adjustment for inflation of three percent (3%) per annum commencing on January 1, 2020 (the "Authority Annual Operating Costs") (the CWCB Debt Service, ESDF O&M Fund, Clark Reservoir O&M Fund and Authority Annual Operating Costs may collectively be referred to and the "Authority Continuing Obligations"); and

K. Relating to the construction of the ESDF, the Authority entered into a settlement agreement in Larimer County District Court Case 2014CV31057, *Boxelder Basin Regional Stormwater Authority v. John W. Day Family Partnership* calling for payment of compensation in the total amount of one million six hundred seventy-five thousand dollars ($1,675,000) (the "Day Settlement"), which is also to funded by revenues of the Authority.

II. CONSIDERATION

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration received and accepted, the Parties agree as follows:

III. TERMS

A. Financial Obligations of Boxelder Fee Payers within County

1. The Authority shall continue to collect from fee payers within the County geographical area of the Boxelder Stormwater Basin Service Area service fees, in an amount not less than the service fees as set by the Authority. The County shall continue to collect from fee payers within the County geographical area of the Boxelder Stormwater Basin Service Area development fees, in an amount not less than the fees as set by the Authority.

2. The County feepayers shall ultimately be responsible for the following cumulative equitable share of the Authority Continuing Obligations over the period commencing January 1, 2018 through the termination of the Authority:

a. Twenty-five percent (25%) of the total CWCB Debt Service, including principal and interest, over the Remaining Loan Repayment Period.

b. Twenty-five percent (25%) the Clark Reservoir O&M Fund.

c. Thirty-three percent (33%), of the ESDF O&M Fund.

d. Twenty-five percent (25%) of the Authority Annual Operating Costs.

3. It is the County's intent to contract separately with the Authority to collect service fees and to pay the cost of obtaining such services from the Authority and to self -collect the development fees from fee payers within the County portion of the Service Area and to pay the cost of obtaining such services from the Authority; such costs shall not be included in the Authority Annual Operating Costs.

B. Financial Obligations of Boxelder Fee Payers within City

1. Commencing January 1, 2018 and thereafter, the City elects pursuant to Section 5.04 of the IGA to collect from fee payers within the City geographical area of the Boxelder Stormwater Basin Service Area or otherwise remit to the Authority service and development fees, in an amount not less than the fees as set by the Authority.

2. The City feepayers shall ultimately be responsible for the following cumulative equitable share of the Authority Continuing Obligations over the period commencing January 1, 2018 through the termination of the Authority:

a. Twenty-five percent (25%) of the CWCB Debt Service, including principal and interest, over the Remaining Loan Repayment Period.

b. Twenty-five percent (25%) of the Clark Reservoir O&M Fund.

c. Thirty-three percent (33%) of the ESDF O&M Fund.

d. Twenty-five percent (25%) of the Authority Annual Operating Costs.

3. It is the City's intent to collect and remit development fees and service fees from fee payers within the City portion of the Service Area and to pay the cost of such collection; such costs shall not be included in the Authority Annual Operating Costs.

C. Financial Obligations of Boxelder Fee Payers within Town

1. Commencing January 1, 2018 and thereafter, the Town elects pursuant to section 5.04 of the IGA to collect from fee payers within the Town's geographical area of the Boxelder Stormwater Basin Service Area or otherwise remit to the Authority service and development fees, in an amount not less than the fees as set by the Authority.

2. The Town feepayers shall ultimately be responsible for the following cumulative equitable share of the Authority Continuing Obligations over the period commencing January 1, 2018 through the termination of the Authority:

a. Twenty-five percent (25%) of the CWCB Debt Service, including principal and interest, during the Remaining Loan Repayment Period.

b. Fifty percent (50%) of the Clark Reservoir O&M Fund.

c. Twenty-five percent (25%) of the Authority Annual Operating Costs.

3. It is the Town's intent to collect development fees and service fees from fee payers within the Town portion of the Service Area and to pay the cost of such collection; such costs shall not be included in the Authority Annual Operating Costs.

D. Financial Obligations of Timnath

1. Commencing on January 1, 2018, Timnath shall pay to the Authority the following in consideration of benefits it receives because of the Authority's construction of the ESDF:

a. Funding and reimbursements as specified in the Timnath Agreement, which amounts shall be billed annually and shall be paid until Timnath has paid twenty five percent (25%) of the construction costs and financing costs of the ESDF as defined in the Timnath Agreement.

b. Thirty-three percent (33%) of the ESDF O&M Fund, which amounts shall be billed annually

c. Twenty-five percent (25%) of the Authority Annual Operating Costs, which amounts shall be billed annually.

E. Operation and Maintenance of Clark Reservoir

1. Beginning January 1, 2018 and thereafter, the County agrees to provide general administration of the Coal Creek/Clark Reservoir Agreement at no cost to the Authority, Town, City or Timnath. Such administration includes staff site visits and scheduling/tracking/invoicing.

2. The Authority shall pay for needed maintenance and repairs to the Clark Reservoir Project in an amount not exceeding the funds in the Clark Reservoir O&M Fund. This includes the Authority's obligations under the Coal Creek/Clark Reservoir Agreement. Notwithstanding the foregoing, the Clark Reservoir O&M Fund must be fully funded in the amount of one million dollars ($1M) prior to termination of the Authority, as set forth in Section III.O.1. below.

3. To the extent there are insufficient monies in the Clark Reservoir O&M Fund to pay for needed maintenance and repairs to the Clark Reservoir whether during the remaining existence of the Authority or after its termination, the County shall fund 25%, the City shall fund 25% and the Town shall fund 50% of the cost of the work. This cost participation shall apply to future expenses associated with the Coal Creek/Clark Reservoir Agreement during the Remaining Loan Repayment Period and shall survive and continue after termination of the Authority. The future fiscal obligations for such amounts are contingent upon annual appropriations by the County, City and Town.

4. Any expenditures pursuant to the Coal Creek/Clark Reservoir Agreement in excess of $10,000 must be unanimously approved by the County, City, and Town, which approval shall not be unreasonably withheld. The County's adopted purchasing policy shall apply and, when required, a competitive bid process will be used to select a contractor for the work unless the County, City and Town mutually agree otherwise. The County, City and Town must approve the award of a contract, which approval shall not be unreasonably withheld. In the event unanimous approval is not achieved for any proposed expenditure in excess of $10,000, or for an award of contract, the City and County will jointly select a professional engineer licensed in Colorado and the Town will select a professional engineer licensed in Colorado. The two engineers will then resolve the disagreement.

5. At least thirty (30) days before the date on which the Authority is terminated, the County agrees to accept assignment of the Coal Creek/Clark Reservoir Agreement and assume the Authority's management obligations thereunder. This assignment is conditioned on:

a. NPIC's consent to the assignment if required.

b. Amendment of the Coal Creek/Clark Reservoir Agreement to state that future fiscal obligations under the Agreement are contingent on annual appropriations by the County, Town and City.

c. A transfer of the Clark Reservoir O&M Fund held by the Authority to the County, with said funds being placed by the County in a dedicated interest earning account for future costs associated with Clark Reservoir.

F. Operation and Maintenance of East Side Detention Facility

1. Beginning January 1, 2018 and thereafter, the County agrees to provide general administration and management of the ESDF at no cost to the Authority, City, Town or Timnath. Such administration includes staff site visits and scheduling/tracking/invoicing for routine maintenance work.

2. The Parties acknowledge that the Authority is obligated to pay the Day Settlement and will incur costs to further modify the ESDF to minimize water augmentation requirements resulting from construction of the ESDF (the "ESDF Modifications"). The Parties agree that the existing estimated cost to complete the ESDF Modification in the amount of three hundred and fifty thousand dollars ($350,000) is already included in the expenditures to be funded by the Authority's anticipated fee revenues during 2018 and 2019 as a part of the construction costs of the ESDF to borne equally by the Parties. Notwithstanding the foregoing, fee payers in the Town shall have no obligation for the payment of any such costs in excess of eighty-seven thousand five hundred dollars ($87,500) (based on 25% of $350,000) and shall have no responsibility for other augmentation costs or operation and maintenance costs of the ESDF in 2018.

3. Beginning January 1, 2018 and thereafter, the Town shall have no further obligations or expectations with respect to the ESDF, except as set forth in Section III.F.2. above and the Town will have the continued right to divert and deliver stormwater flows into the ESDF not to exceed the historic flows for the 100-year storm event.

4. Commencing January 1, 2018 and thereafter, the County shall pay for maintenance and repairs of the ESDF in an amount not to exceed $1,000.00 in any given calendar year.

5. Should required maintenance, repairs or restoration (collectively "work") of the ESDF improvements exceed $1,000.00 in calendar year 2018 or any calendar year thereafter, the costs of such work shall be paid from the available fund balance in the ESDF O&M Fund. Notwithstanding the foregoing, the ESDF O&M Fund must be fully funded in the amount of one million two hundred thousand dollars ($1.2M) prior to termination of the Authority, as set forth in Section III.O.1. below.

6. To the extent there are insufficient monies in the ESDF O & M Fund, the County shall pay 33.4%, the City shall pay 33.3% and Timnath shall pay 33.3% of the cost of the work. This cost participation distribution shall apply to future expenses associated with the ESDF during the Remaining Loan Repayment Period and shall survive and continue after termination of the Authority. The future fiscal obligations for such amounts are contingent upon annual appropriations by the County, City and Timnath.

7. The County's adopted purchasing policy shall apply and, when required, a competitive bid process will be used to select a contractor for the work unless the County, City and Timnath mutually agree otherwise. The County, City and Timnath must approve the award of a contract, which approval shall not be unreasonably withheld. In the event unanimous approval is not achieved, the City and County will jointly select a professional engineer licensed in Colorado

and Timnath will select a professional engineer licensed in Colorado. The two engineers will then jointly select the contractor to whom the contract will be awarded.

8. At least thirty (30) days before the date on which the Authority is terminated, the County will accept transfer of ownership of the ESDF from the Authority and the Authority's ESDF O&M Fund shall be transferred to the County and placed in a dedicated, interest earning fund for future costs associated with the ESDF.

G. Local Match Reimbursement

The County, City and Town waive reimbursement by the Authority to them of the local match contributions made by each for the Pre-Disaster Mitigation Disaster Grant that would otherwise be due under the Boxelder IGA in the following estimated amounts: County: $500,000; City: $200,000 and Town: $300,000.

H. Town 2016 Fees

1. Within 24 hours after approval of this Agreement by the governing bodies of all of the Parties, the Town will remit to the Authority all of the Stormwater Service Fees and System Development Fees collected in 2016 and payable to the Authority in 2017.

2. Such 2016 fees are estimated to total $462,399.73.

I. Ratification by Town

The Town hereby ratifies and approves (i) all modifications and extensions of the CWCB Loans accomplished prior to the execution of this Agreement; and (ii) the Day Settlement.

J. Prepayment of Fees

To enable the Authority to meet its fiscal obligations for any calendar year, the County, City and Town may, but are not required to, remit to the Authority all or a portion of the fees each such entity collected in for such year and which are otherwise payable in the following calendar year, so long as there is no additional cost to the Authority for such prepayment. All Members hereby ratify and approve of all prepayments accomplished prior to the execution of this Agreement.

K. Role of Authority

Based on the completion of the Projects and the County's assumption of administrative functions for the Clark Reservoir Project and ESDF, the Members will direct that the operation of the Authority be limited to determining and assessing fees, paying the CWCB Debt Service, holding meetings as required or needed, obtaining legal advice as needed, and completing required audits or other reports. Notwithstanding the foregoing, or any other provision of this Agreement, nothing contained herein shall modify or constrain the Authority or power of the Authority under the Boxelder IGA.

L. Due Date for Fees/Payments in Lieu

All fees and/or payments in lieu of fees required to be made by the Parties to the Authority shall be paid on or before May 1 of each calendar year.

M. Stormwater Service Fee

1. The Stormwater Service Fee shall be calculated and paid to the Authority pursuant to billing policies and fee schedules adopted by the Authority.

2. The Stormwater Service Fee will continue to be collected by the Authority on behalf of the County. The County will reimburse the Authority for costs of collection from properties located within unincorporated Larimer County and such costs shall not be included in the Authority Annual Operating Costs.

3. Pursuant to section 5.04 of the IGA, the City and Town elect to collect the Stormwater Service Fees due from fee payers within their respective boundaries and remit such Service Fees to the Authority.

N. System Development Fee

1. The System Development Fee shall be calculated and paid to the Authority pursuant to billing policies and fee schedules adopted by the Authority.

2. Pursuant to section 5.04 of the IGA, the County, City and Town elect to collect the Stormwater System Development Fees due from fee payers within their respective boundaries and remit such Development Fees to the Authority.

O. Termination of Authority

2

1. Upon payment in full of the CWCB Loans, availability of the minimum amount of $1M in the Clark Reservoir O&M Fund and $1.2M in the ESDF O&M Fund, and collection of
3 sufficient fees to accomplish the equalization as set forth in section III O. 3. below (the "Equalization Payments"), the County, City and Town shall cooperate to cause the Authority's assignment of the Coal Creek Agreement to the County and transfer of fee ownership of the ESDF 4
to the County pursuant to Sections III(E)(5) and III(F)(7) of this Agreement, transfer funds in the ESDF O&M Fund and the Clark Reservoir O&M Fund to the County if not already accomplished, transfer of the funds to Parties as necessary to accomplish the "Equalization Payments" and terminate the Authority in accordance with Article X of the First Amendment. The funds in the Authority's General Fund shall be used to make the Equalization Payments provided that the use of the Equalization Payments by all Parties shall be restricted as set forth in section III O. 3. below.

2. Nothing herein is intended to prevent or authorize the County, City or Town from independently assessing and collecting fees or taxes related to the Projects after the Authority is terminated, as such matters are beyond the scope of this Agreement.

3. Before termination of the Authority, the Members shall cause each Party to receive Equalization Payments from the Authority in an amount equal to the fees each Party or its fee payers have paid in excess of such Party's percentage of the Authority's Continuing Obligations set forth in section III A, B, C and D, as adjusted by section III.P and subject to the limit identified in section III F 2. The result of these payments shall be that the amounts contributed by each Party or the fee payers within each Party's jurisdiction shall equal the percentages set forth in section III. A, B, C, and D, as adjusted by section III. P and subject to the limit in section III F 2. The Members may cause the Authority to make the Equalization Payments from funds in the Authority's General Fund. Any Equalization Payments received by the Parties pursuant to this section shall be utilized for the long-term operation and maintenance of the Clark Reservoir Project and the ESDF.

P. Annexation Adjustments

Should land area within the Authority's Service Area be annexed from the County to the City, Town or Timnath, the Parties agree to adjust the financial commitments and cost participation percentages for the County set forth in this Agreement based on the changes in land area, revenue, and other financial impact upon the Parties in order to maintain a fair and equitable allocation of the Authority's Continuing Obligations among the Parties or their fee payers if the annexation occurs prior to termination of the Authority, or a fair and equitable allocation of the ongoing costs of operation and maintenance of Clark Reservoir and the ESDF if the annexation occurs after termination of the Authority.

Q. Audit Committee

Each Party to this Agreement shall appoint one person to sit on a committee (the "Audit Committee") to meet at least annually following the completion of the annual Authority audit and at additional appropriate times to review compliance with this Agreement and compare all contributions to the Authority from the Parties or the fee payers within each Parties' boundaries with the percentages set forth in section III above. The Audit Committee shall make recommendations to the Authority on whether to prepay the CWCB Loans, add to the Clark Reservoir and ESDF O&M Funds, and/or add to cash balances sufficient to make the Equalization Payments based on the availability of funds and synchronization of the schedule for satisfying these three conditions before termination of the Authority as outlined in Section III. O. No Party shall appoint a member of the Authority Board of Directors to the Audit Committee.

R. Counterparts & Signatures

This Agreement may be executed in several identical counterparts, all of which taken together shall constitute one single agreement between the parties. Facsimile signatures and signatures transmitted via portable document format (PDF) shall be considered as original signatures.

S. Survival

The Parties agree that the terms of this Agreement shall continue and survive the termination of the Authority.

T. Timnath's Role

The Parties agree that Timnath, by its signature of this Agreement, does not become a Member or a party to the Boxelder IGA. Timnath shall have no obligations under the Boxelder IGA and Timnath's rights and obligations shall be limited to those set forth in this Agreement and those set forth in the Timnath Agreement.

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Signature Page Follows

BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY

By: ______________________ 12/12/2017
Chair DATE

Attest: ______________________
Deputy Clerk

LARIMER COUNTY CLERK
SEAL
COLORADO

DATE: 12-11-17
APPROVED AS TO FORM:
____
DEPUTY COUNTY ATTORNEY

CITY OF FORT COLLINS, COLORADO

By: ______________________
Mayor

ATTEST:

____
City Clerk

SEAL
CITY OF FORT COLLINS
COLORADO

Approved as to form:

____
Sr. Assistant City Attorney

TIMNATH DEVELOPMENT AUTHORITY OF COLORADO

Date: 12/15/17

Attest:

By: Melissa Peters
Secretary

By: [signature]
Chairperson

TOWN OF WELLINGTON, COLORADO

Date: 12/20/17

Attest:

By: [signature]
Town Clerk

By: [signature]
Mayor