AMENDED AND RESTATED
IMPROVEMENT ACQUISITION AND REIMBURSEMENT AGREEMENT

This **AMENDED AND RESTATED IMPROVEMENT ACQUISITION AND REIMBURSEMENT AGREEMENT** is made and entered into as of this _____ day of November, 2009, by and between **WATERFALL METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "**District**"), and **BOYD LAKE VILLAGE, LLC,** a Colorado limited liability company (the "**Developer**").

RECITALS

WHEREAS, the District, together with Waterfall Metropolitan District No. 2 (collectively, "the Districts"), was formed pursuant to Colorado Revised Statutes §32-1-101 *et seq.*, as amended, by order of the District Court for Larimer County, Colorado, and after approval of the eligible electors of the District at a regular election held on May 6, 2008, for the purpose of assisting in the financing and construction of certain public infrastructure consisting of water, wastewater, streets and other public improvements for the area generally located in the northwest section of the intersection of Boyd Lake Avenue and U. S. Highway 34 (the "**Service Area**"); and

WHEREAS, on April 1, 2008, the City Council of the City of Loveland, Colorado approved the "Consolidated Service Plan for Waterfall Metropolitan Districts Nos. 1 & 2" (the "**Service Plan**") for the purpose of providing certain parameters for the financing and development of the Service Area; and

WHEREAS, at the organizational election of the District held on May 6, 2008, a majority of eligible electors in the District approved the District's issuance of indebtedness and the imposition of ad valorem taxes by the District for the purpose of repaying such debt; and

WHEREAS, pursuant to the Service Plan, the maximum amount of debt which may be incurred by the Districts is $18,000,000; provided, however, that the District shall not incur debt in excess of $12,000,000, and Waterfall Metropolitan District No. 2 shall not incur debt in excess of $6,000,000; and

WHEREAS, in furtherance of its Service Plan, the District has incurred costs associated with the Districts' organization, and has, and will continue to, incur capital costs associated with the construction of public improvements to be located within and without the District's boundaries; and

WHEREAS, the District desires to induce the Developer to provide certain public improvements set forth in the District's Service Plan, together with all things of value, including all work product, both tangible and intangible, including legal, accounting, engineering and management service related thereto (the "Improvements"); and

WHEREAS, the Developer has funded the Districts' costs for organization, and has, and is willing to continue to, construct such Improvements for the District, or on behalf of the District, on the condition that the District agrees to acquire the Improvements from the Developer and pay all reasonable costs related thereto; and

WHEREAS, the District agrees to acquire and/or purchase such Improvements constructed by the Developer for the District, or on behalf of the District, and to pay all reasonable costs related thereto, and all costs related to the Districts' organization, subject to the terms and conditions set forth herein; and

WHEREAS, the District and the Developer previously executed an "Improvement Acquisition and Reimbursement Agreement" on June 26, 2008, relating to the procedures for the funding, construction, and acquisition of Improvements and for the District's payment of costs related thereto (the "**Prior Agreement**"); and

WHEREAS, the District and the Developer desire to enter into this Amended and Restated Improvement Acquisition and Reimbursement Agreement (the "**Agreement**") for the purpose of consolidating all understandings and commitments between the parties relating to the funding and repayment of costs associated with the Districts' organization and the construction and acquisition of Improvements, including the Prior Agreement, which Agreement may constitute a refunding of any indebtedness evidenced by the Prior Agreement; and

WHEREAS, the District's Board of Directors and the Developer's Board of Managers have authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement; and

WHEREAS, those employees and/or affiliates of the Developer who serve on the District's Board of Directors have each disclosed potential conflicts of interest in connection with this Agreement, as required by law.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the District and the Developer agree as follows:

COVENANTS AND AGREEMENTS

1. Construction of Improvements. The Developer agrees to cause the Improvements described in the District's Service Plan to be designed, constructed, and completed subject to the terms and conditions set forth herein. The Developer agrees to design, construct, and complete the Improvements in substantial conformance with the design standards and specifications as established and in use by the District, the City of Loveland, Colorado and other appropriate jurisdictions.

2. Improvement Acquisition Procedures. Upon the Developer's completion of the Improvements to be either acquired by the District or dedicated to third parties on the District's behalf as further provided in Paragraph 5.B. hereof, the Developer shall cause a "Purchase

Application" to be submitted to the District consisting of the following, reasonably satisfactory to the District, related to such Improvements:

A. A list of Improvements to be acquired and/or dedicated and costs related thereto, which costs shall represent the Purchase Price (as defined in Paragraph 4 hereof). The president or principal of the Developer shall certify, under penalty of perjury, that the list of Improvements to be acquired and/or dedicated and the costs related thereto are true, correct, and accurate to the best of the president's or principal's knowledge, information and belief;

B. A professional engineer engaged by the District or, if consented to by the District, engaged by the Developer, shall review the costs of Improvements set forth in the Purchase Application, inspect the Improvements and certify to the District, by means of an Engineer's Certification in substantially the form attached hereto as **Exhibit A,** that such costs are reasonable and that the Improvements are fit for their intended purpose. The District's accountant shall review the summation of costs and concur with the calculations set forth in the Engineer's Certification; and

C. Such additional information as the District may reasonably require.

3. District Acceptance of Improvements. Upon approval by the District of the Purchase Application, the District shall deliver a letter of acceptance which will provide, at a minimum: (i) the District's acknowledgement that the Developer has completed the Improvements in accordance with the terms herein; (ii) if applicable, the District's acknowledgement that the Developer will dedicate the Improvements to a third party; (iii) that the District accepts the Improvements in accordance with the terms of this Agreement; (iv) that the Developer has complied with all terms and conditions of this Agreement; and (v) that the District will provide for the immediate payment of the Purchase Price except as otherwise provided therein.

4. Purchase Price. The "Purchase Price" for the Improvements shall be equal to the District's Costs with respect to such Improvements, and shall be in accordance with the District's Service Plan and all other applicable laws. The "District's Costs" for such Improvements shall equal the amount so certified in the Engineer's Certification (as described in Paragraph 2.B. hereof), and approved by the District's Board as reasonable and appropriate, but shall not exceed one hundred percent (100%) of the actual construction costs (which shall also include design engineering and other items, but which shall not include any interest or other compensation to Developer). Allowance shall be made for inclusion in the Purchase Price of related soft costs, but shall exclude Developer overhead and/or profit. The District is exempt from Colorado sales and use taxes. The Developer shall use reasonable efforts to assure that the Purchase Price does not include sales and use taxes. Notwithstanding the foregoing, in no event may the Purchase Price for the Improvements exceed the lesser of (i) the amount of indebtedness for such Improvements, together with any other Improvements previously acquired by the District, permitted by the District's Service Plan and authorized by a vote of the eligible electors of the District or (ii) a total of $12,000,000. If, at such time as the District accepts the Improvements pursuant to Paragraph 3 herein and the District does not have the funds to pay for the Improvements, the District shall issue a Subordinate Note as provided in Paragraph 6 herein, reflecting the Purchase Price for the Improvements being acquired.

5. Conveyance of Improvements; Dedication.

A. At such time as the District has provided its Acceptance Letter and supplied the Purchase Price or Subordinate Note as provided in Paragraph 4 herein, the Developer shall convey the Improvements and related work to the District by means of a "Bill of Sale" in substantially the form set forth in **Exhibit B,** or shall convey Improvements at the request of the District to other parties for the benefit of the District as provided in Paragraph 5.B. herein.

B. The Developer and the District agree that certain Improvements constructed by the Developer shall be dedicated to third parties. The Developer and the District shall coordinate their efforts with respect to the anticipated dedication or conveyance of such Improvements so the District is a party to such conveyance or dedication in a manner reasonably satisfactory to the District. The Parties agree to cooperate and coordinate in order to effect the dedication of the Improvements to the appropriate governmental entity for operation and maintenance.

C. The Developer shall assign to the District any warranties associated with the Improvements.

6. Issuance of the Subordinate Note; Interest.

A. In the event the District does not have the funds to pay for the Improvements as provided in Paragraph 4 hereof, and any organizational costs funded by the Developer, the District shall promptly execute and deliver to the Developer a Subordinate Note similar in form as attached hereto as **Exhibit C**. The Subordinate Note shall be repayable only to the extent and in the amount of the Purchase Price to be paid for the Improvements as noted on Schedule A thereto (the "**Principal**"), which amount shall not exceed the lesser of (i) the amount of indebtedness for such Improvements, together with any other Improvements previously acquired by the District, as permitted by the District's Service Plan and authorized by a vote of the eligible electors of the District or (ii) a total of $12,000,000.

B. Upon acceptance of the Improvements constructed by the Developer, the District shall complete the appropriate information in Schedule A of the Subordinate Note, showing the date of purchase, the purchase price of the Improvements, the accrued interest, the total accumulated amount due to the Developer, and the District's acknowledgment of the amount outstanding.

C. Any Subordinate Note issued hereunder shall bear interest at the rate of Two Percent (2%) plus the Federal Reserve Bank Prime Rate, Simple Interest, such interest not to exceed a rate of Twelve Percent (12%), from the purchase date noted on Schedule A to the earlier of the maturity date or date of redemption thereof. Said interest shall be payable upon maturity of any Subordinate Note. If a Subordinate Note, or any portion thereof, is redeemed prior to its maturity date, then the interest that accrued on the Principal amount so redeemed, must be paid upon redemption; for purposes of the foregoing, interest shall be deemed to have

accrued up to and including the date of redemption. Following any repayment in whole or in part of a Subordinate Note, the District may continue to acquire Improvements and note such purchases on the Subordinate Note in accordance with the provisions hereof, provided that the total of all purchases made hereunder, regardless of whether prepaid, shall not exceed the lesser of (i) the amount of indebtedness for such Improvements, together with any other Improvements previously acquired by the District, as permitted by the District's Service Plan and authorized by a vote of the eligible electors of the District or (ii) a total of $12,000,000.

D. The terms of this Agreement may be used to construe the intent of the District and the Developer in connection with the issuance of a Subordinate Note, and shall be read as nearly as possible to make the provisions of a Subordinate Note and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of a Subordinate Note issued hereunder, the terms of such Subordinate Note shall prevail.

E. If, for any reason, a Subordinate Note is determined to be invalid or unenforceable (except in the case of fraud by the Developer in connection therewith), the District shall issue a new promissory note to the Developer that is legally enforceable. Said new promissory note must evidence the District's obligation to pay the Purchase Price for all Improvements accepted and purchased under this Agreement with interest.

7. Terms of Repayment; Source of Revenues.

A. All purchases reflected on the Subordinate Note shall be repaid in accordance with the terms of the Subordinate Note and with the terms provided herein. Any Subordinate Note issued shall have a maturity date not later than 40 years from the date the Subordinate Note is issued by the District. **The District's agreement to issue a Subordinate Note pursuant to the terms hereunder constitutes a multiple fiscal year obligation under the State of Colorado Constitution, is authorized pursuant to a vote of the eligible electors of the District, and shall not be subject to annual appropriation.**

B. The District shall repay the Subordinate Note from the proceeds of any bonds issued (the "**Bonds**"). The issuance of any such Bonds shall be in the discretion of the District, and issued at such time or times, and contain such terms, as may be determined by the District. The foregoing shall not constitute a lien or encumbrance upon any Bond proceeds now or hereafter held by the District. In the event Bond proceeds are not available to fund repayment of any amounts owed hereunder, as evidenced by any Subordinate Note, the District may make repayment from any legally available revenues of the District, including but not limited to fees, rates, tolls, charges, revenues resulting from the imposition of ad valorem taxes, and any other revenues legally available to the District; *provided, however, that any such repayment shall be subject to the terms and conditions of, and such repayment obligations shall be subordinate to, the Bonds and any refundings thereof; and the provisions of any bond resolution, indenture or any other document related thereto; and further provided that any mill levy certified by the District for the purpose of repaying advances made hereunder shall not be higher than the Service Plan mill levy cap, as it now exists or may be amended from time to time, provided that, in no event, shall the mill levy exceed 50 mills.* The Subordinate Note must be paid in full by the District prior to payment of any other obligation thereof which may have a claim on any District

revenues which are otherwise available for payment of the Subordinate Note, other than current District operation and maintenance expenses.

C. Repayment of some or all of the funds advanced to the District by the Developer pursuant to this Agreement, including the repayment of any Subordinate Note issued hereunder, shall be contingent upon the availability of bond proceeds or other legally available revenues of the District. Failure by the District to make a payment of principal or interest on the Subordinate Note shall not cause or permit acceleration thereof; rather, the Subordinate Note shall continue to bear interest at the rate and in the manner specified therein and herein, without interest on accrued, unpaid interest. Failure by the District to repay the Developer as a result of insufficient funds shall not constitute a default hereunder, nor subject the District to any claims and/or causes of action by the Developer, including mechanic's liens, arising out of the District's nonperformance of its payment obligation.

D. Any Subordinate Note may be prepaid in whole at any time without redemption premium or other penalty, but with interest accrued to the date of prepayments on the principal amount prepaid. Any and all prepayments shall first be applied to accrued and unpaid interest and then to principal.

E. Any repayment made to the Developer by the District shall be notated on Schedule "A" to such Subordinate Note.

8. Exemption from Registration Under the Colorado Municipal Bond Supervision Act. The Note issued hereunder by the District shall be issued in denominations of not less than $500,000 each, in integral multiples of not less than $1,000, and shall be exempt from registration under the Colorado Municipal Bond Supervision Act.

9. Tax Covenant. In the event the District is advised by nationally recognized bond counsel that payments of all or any portion of interest due on any Subordinate Note issued hereunder may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder, in accordance with written instructions of nationally recognized bond counsel. The Developer acknowledges that no representations or warranties whatsoever have been made by the District or its Board of Directors as to the treatment for federal or state income tax purposes of any interest payable hereunder.

10. Obligations Irrevocable. The obligations created by this Agreement are absolute, irrevocable, and unconditional, unless a contrary notation is specifically made herein, and may only be modified pursuant to Paragraph 15 herein.

11. Termination. The Developer's obligations to construct the Improvements as set forth in this Agreement shall continue until such time as mutually agreed to by the Parities in writing. The District's obligations hereunder shall terminate at the earlier of the repayment in

full of the Subordinate Note or forty years from the execution date hereof; provided that the District shall continue to be obligated to pay any amounts then owing under any Subordinate Note issued and outstanding hereunder in accordance with the terms thereof.

12. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

13. Indemnification. The Developer hereby agrees to indemnify and save harmless the District from all claims and/or causes of action, including mechanic's liens, arising out of the Developer's performance of any act or the nonperformance of any obligation with respect to the Improvements constructed, and in that regard agrees to pay any and all costs incurred by the District as a result thereof, including settlement amounts, judgments and reasonable attorneys' fees.

14. Notices and Place for Payments. Any notice or payment required under this Agreement or any notice desired to be given by any party to this Agreement shall be in writing and may be personally delivered; sent by certified mail, return receipt requested; sent by telephone facsimile with a hard copy sent by regular mail; or sent by a nationally recognized receipted overnight delivery service, including United States Postal Service, United Parcel Service, Federal Express, or Airborne Express, for earliest delivery the next day. Any such notice shall be deemed to have been given as follows: when personally delivered to the party to whom it is addressed; when mailed, three delivery (3) days after deposit in the United States mail, postage prepaid; when by telephone facsimile, on the day sent if sent on a day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next day at 9 a.m.; and when by overnight delivery service, one (1) day after deposit in the custody of the delivery service. The addresses and facsimile numbers of the mailing, transmitting, or delivering of notices shall be as follows:

If to the District: Waterfall Metropolitan District No. 1
c/o Pinnacle Consulting Group, Inc.
5110 Granite Street, Suite C
Loveland, Colorado 80538
Attn: Carla Hawkins
Fax: (970) 669-3612

With a copy to: Icenogle, Norton, Smith, Gilida & Pogue, P.C.
1331 Seventeenth Street, Suite 500
Denver, Colorado 80202
Attn: Alan D. Pogue
Fax: (303) 292-9101

If to the Developer: Boyd Lake Village, LLC
c/o Dando Development
2314 East 14th Street
Loveland, Colorado 80537
Attn: Kirk A. Dando
Fax: (970) 613-0803

15. Amendments. Except as otherwise provided herein, this Agreement may not be amended, modified, or changed, in whole or in part, without a written agreement executed by the District and the Developer.

16. Assignment. This Agreement, in whole or in part, may not be assigned without the prior, written consent of both the District and the Developer; provided, however, that the District's obligation to repay the Developer for funds loaned hereunder shall not be offered, sold or transferred to a third party. Any attempted assignment in violation of this paragraph shall be immediately void and of no effect.

17. Applicable Laws. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado.

18. Severability. If any clause or provision of this Agreement is adjudged invalid and/or unenforceable by a court of competent jurisdiction or by operation of any law, such clause or provision shall not affect the validity of this Agreement as a whole, but shall be severed herefrom, leaving the remaining Agreement intact and enforceable.

19. Authority. By execution hereof, the District and the Developer represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

20. Legal Existence. The District will maintain its legal identity and existence so long as any amounts due to the Developer as contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting the Developer's privileges and rights under this Agreement.

21. Effect of Prior Agreement.

A. This Agreement, and any Subordinate Note issued hereunder, constitute and represent the entire, integrated agreement between the District and the Developer with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral, including the Prior Agreement. This Agreement shall become effective upon the date of full execution hereof. The Prior Agreement is hereby terminated and shall be of no further force or effect.

B. The Developer and the District each hereby waives any claims available to it as a result of any failure by the other party to perform any covenant or condition, or to otherwise comply with the provisions of the Prior Agreement.

(Remainder of page left intentionally blank.)

IN WITNESS WHEREOF, the District and the Developer have executed this Agreement to be effective on the date and year first above written.

WATERFALL METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado

Kirk A. Dando, President

ATTEST:

James A. Martell, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF Larimer)

The foregoing Agreement was acknowledged before me on this 22nd day of December, 2009 by Kirk A. Dando as President and James A. Martell as Secretary of Waterfall Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

My Commission expires: 4/21/2013.

Notary Public

NOTARY PUBLIC
CARLAGENE HAWKINS
STATE OF COLORADO

BOYD LAKE VILLAGE, LLC,
a Colorado limited liability company

By: Kirk A. Dando
Its: Manager

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing Agreement was acknowledged before me on this 22nd day of December, 2009, by Kirk A. Dando as _____ of Boyd Lake Village, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My Commission expires: 4/21/2013.

Carlagene Hawkins
Notary Public

NOTARY PUBLIC
CARLAGENE HAWKINS
STATE OF COLORADO

EXHIBIT A

ENGINEER'S CERTIFICATION

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Before me, the undersigned, personally appeared _____ who, being by me first duly sworn on oath, deposes and says:

1. That he/she is an engineer duly qualified to issue a professional opinion respecting the fitness and condition of the improvements and costs described in Exhibit 1 attached hereto which have been constructed and are proposed to be conveyed to Waterfall Metropolitan District No. 1 (the "District") or dedicated to third parties pursuant to a certain Amended and Restated Improvement Acquisition and Reimbursement Agreement by and between the District and Boyd Lake Village, LLC, dated _____, 2009 (the "Agreement").

2. That he/she has inspected and otherwise examined the improvements described in Exhibit 1 attached hereto (the "Improvements"), and has reviewed the costs itemized therein.

3. That he/she found the Improvements to be in satisfactory form and condition and that it is his/her professional opinion that the Improvements are fit for the purpose intended by the Agreement.

4. That he/she found the costs set forth in Exhibit A to be reasonable and consistent with costs of similar Improvements constructed for similar purposes.

[DISTRICT ENGINEER]

_____
By: _____
Its: _____

Subscribed and sworn to before me this ____ day of _____, 20___.

My commission expires: _____

_____
Notary Public

EXHIBIT 1
To Engineer's Certification
COSTS OF IMPROVEMENTS

EXHIBIT B

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that Boyd Lake Village, LLC, hereinafter referred to as "Grantor", for good and valuable consideration, the receipt of which is hereby acknowledged, paid by Waterfall Metropolitan District No. 1, whose address is _____, has bargained and sold, and by these presents, does grant and convey unto Waterfall Metropolitan District No. 1, its successors and assigns, all of its right, title and interest in the improvements constructed pursuant to the listing of invoices on Exhibit 1, attached hereto and incorporated herein (the "Improvements") and all things of value, including all work product, both tangible and intangible, including legal, accounting, engineering, and management costs related thereto, accruing from the costs associated with the provision of the Improvements.

TO HAVE AND TO HOLD the same unto Waterfall Metropolitan District No. 1, its successors and assigns forever; and Grantor, its successors and assigns, shall warrant and defend the sale of said property, improvements, services and facilities made unto Waterfall Metropolitan District No. 1, its successors or assigns, against all and every person or persons whomsoever, and warrants that the conveyance of the property, improvement, services and facilities to Waterfall Metropolitan District No. 1, its successors or assigns, is made free from any claim or demand whatever.

IN WITNESS WHEREOF, Grantor, by and through its authorized representatives, hereby executes this Bill of Sale and sets its seal as of this ____ day of _____, 20__.

BOYD LAKE VILLAGE, LLC

_____
By: _____
Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, as _____ of Boyd Lake Village, LLC.

(S E A L)

My commission expires: _____.

_____
Notary Public

EXHIBIT 1
To Bill of Sale
IMPROVEMENTS

EXHIBIT C

FORM OF SUBORDINATE PROMISSORY NOTE

WATERFALL METROPOLITAN DISTRICT NO. 1
REVENUE AND LIMITED TAX OBLIGATION
SUBORDINATE PROMISSORY NOTE

PRINCIPAL AMOUNT:	Up To _____ Dollars ($_____)
INTEREST RATE:	Two Percent (2%) plus the Federal Reserve Bank Prime Rate, Simple Interest, not to exceed Twelve Percent (12%)
DATED:	As of _____, 2009
REGISTERED OWNER:	Boyd Lake Village, LLC (the "Developer")
MATURITY DATE:	_____, 2049

Waterfall Metropolitan District No. 1 (the "District"), a body corporate, politic and a political subdivision organized under the laws of the State of Colorado, for the value received, hereby promises to pay, but solely and only from, and contingent upon receipt of, the sources hereinafter described, the principal sum stated above (or such lesser amount as may be shown hereunder as set forth in Schedule "A" attached hereto) together with interest at the rate stated above, which interest shall accrue on said principal sum from and after the date hereof to the maturity date hereof, in lawful money of the United States of America to the registered owner named above, or registered assigns, on the maturity date stated above unless this Note shall be prepaid in full, in which case on such payment date.

In any case where the date of maturity for payment of interest or principal of this Note or the date fixed for prepayment hereof shall be a Saturday or Sunday, a legal holiday or a day on which banking institutions in the city or town of payment are authorized by law to close, then payment of interest or principal or prepayment price shall be made on the immediately following business day with the same force and effect as if made on the date of maturity or the date fixed for prepayment. Prior to the Maturity Date, and at such time as the District has available funds, this Note may be prepaid in whole at any time without redemption premium or other penalty, but with interest accrued on the principal amount prepaid, up to and including the date of prepayment. Any and all prepayments shall first be applied to accrued, unpaid interest, then to the principal. This Note shall be paid in full from the sources hereinafter described prior to the payment of any other obligation of the District which may have a claim on any revenues thereof that would otherwise be available for the payment of this Note, other than current operation and maintenance expenses of the District and current debt service on any outstanding bonds of the District.

This Note is executed pursuant to, and is secured by, that certain Amended and Restated Improvement Acquisition and Reimbursement Agreement by and between the District and the Developer dated December 18, 2008, the terms of which are hereby incorporated by reference, and has been executed and delivered to pay for certain indebtedness incurred on its behalf as set

forth therein. Pursuant to said Amended and Restated Improvement Acquisition and Reimbursement Agreement, the District is obligated to repay both the principal amount of this Note and any and all interest accrued thereon, from the sources and in the manner specified therein, contingent upon receipt of funds from certain revenue sources including, but not limited to revenues resulting from the imposition of an ad valorem tax levy, bond proceeds, and any other legally available revenues.

The obligation of the District to levy ad valorem taxes to provide for the payment of this Note is subject to restrictions provided in the District's Service Plan, electoral authority of the District, the provisions of any bond resolution, indenture or other document related to the District's issuance of bonds to fund capital improvements now or hereafter including the refunding thereof, and any applicable laws. Pursuant to the District's Service Plan, the maximum mill levy the District may impose for the payment of this Note is 45 mills, which mill levy shall be subject to adjustment if the laws of the State change with respect to the assessment of property for taxation purposes, the ratio for determining assessed valuation changes, or other similar changes occur. **However, in no event shall the District impose a mill levy in excess of 50 mills for the repayment of this Note.**

Failure by the District to repay the Developer as a result of insufficient funds shall not constitute a default hereunder, nor subject the District to any claims and/or causes of action by the Developer, including mechanic's liens, arising out of the District's nonperformance of its payment obligation. A failure to make a payment of principal or interest due on the Note shall not cause or permit acceleration thereof; rather, the Note shall continue to bear interest at the rate and manner specified herein.

The District and the Developer agree that upon each advance made pursuant to said Amended and Restated Improvement Acquisition and Reimbursement Agreement, the District shall complete the appropriate information in Schedule "A" of this Note as contemplated therein. Any payments on the Note shall also be evidenced on Schedule "A" hereto. This Note shall be fully discharged forty (40) years from the date of issuance.

Neither the Board of Directors of the District, nor any person executing this Note, shall be personally liable hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

This Note is issued pursuant to and in full compliance with the Constitution and laws of the State of Colorado. All issues arising hereunder shall be governed by the laws of Colorado.

This Note is issued pursuant to the Supplemental Public Securities Act, Section 11-57-201, et seq, C.R.S., as amended.

This Note is issued in denominations of not less than $500,000 each, in integral multiples of not less than $1,000, and shall be exempt from registration under the Colorado Municipal Bond Supervision Act.

THIS NOTE IS A SPECIAL LIMITED OBLIGATION OF THE DISTRICT AND SHALL BE PAYABLE SOLELY FROM CERTAIN REVENUES SPECIFIED IN THE

AMENDED AND RESTATED IMPROVEMENT ACQUISITION AND REIMBURSEMENT AGREEMENT. THIS NOTE SHALL NOT CONSTITUTE A DEBT OR OBLIGATION OF THE STATE OF COLORADO OR LARIMER COUNTY, COLORADO. THE DEVELOPER SHALL HAVE NO RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE STATE OF COLORADO OR LARIMER COUNTY TO PAY THIS NOTE OR THE INTEREST THEREON, NOR TO ENFORCE PAYMENT OF THE SAME AGAINST THE PROPERTY OF THE STATE OF COLORADO OR LARIMER COUNTY, NOR SHALL THIS NOTE CONSTITUTE A CHARGE, LIEN OR ENCUMBRANCE, LEGAL OR EQUITABLE, UPON ANY PROPERTY OF THE STATE OF COLORADO OR LARIMER COUNTY.

BY ITS ACCEPTANCE HEREOF, THE DEVELOPER ACKNOWLEDGES THAT THE DISTRICT AND ITS OFFICERS, ATTORNEYS, EMPLOYEES OR AGENTS NEITHER MAKE, NOR HAVE MADE, ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE PROPER TREATMENT FOR FEDERAL, STATE AND/OR LOCAL INCOME TAX PURPOSES OF THE INTEREST PAYABLE HEREUNDER.

The District waives demand, presentment, and notice of dishonor and protest with respect to any payment due hereunder. No waiver of any payment or other right under this Note shall operate as a waiver of any other payment or right, including right of offset. If the Developer enforces this Note upon default, the District shall pay or reimburse the Developer for reasonable expenses incurred in the collection hereof or in the realization of any security hereof, including reasonable attorney's fees.

Notwithstanding any provision herein, or in any instrument now or hereafter securing the obligation of the District specified herein, the total liability for payments in the nature of interest shall not exceed the limit now imposed by the usury laws of the State of Colorado. By signing in the space provided below, the District hereby acknowledges and agrees that this Note shall be irrevocable for all purposes and shall be binding upon the District, and its respective permitted successors, except as otherwise provided herein. This Note may not be terminated orally, but only by payments in full or by a written discharge signed by the owner and holder of this Note.

This Note shall not be offered, sold, or transferred to third parties.

It is hereby certified, recited and declared that all conditions, acts and things required to exist or occur by the Constitution or statutes of the State of Colorado, currently exist and either occurred prior to, or in connection with, the issuance of this Note.

(Remainder of Page Left Intentionally Blank)

IN WITNESS WHEREOF, the District has caused this Note to be executed in its name and on its behalf by its President and by attestation via the signature of its Secretary, with an imprint of its seal affixed hereon.

WATERFALL METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado

(S E A L)

EXHIBIT FORM – DO NOT SIGN
By: _____
Its: President

ATTEST:

EXHIBIT FORM – DO NOT SIGN
By: _____
Its: Secretary

SCHEDULE A

Loan/				Interest	Interest	Principal	------------	Balance Due	------------
Interest	Date	Loan	Payment	Accrued	Paid	Paid	Interest	Principal	Total

SCHEDULE A

Loan/				Interest	Interest	Principal	------------	Balance Due	------------
Interest	Date	Loan	Payment	Accrued	Paid	Paid	Interest	Principal	Total