

INFRASTRUCTURE DEVELOPMENT AGREEMENT

THIS INFRASTRUCTURE DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between HIGHLANDS WATER COMPANY, a corporation organized and existing under the laws of the State of Utah (“Highlands”) and BNCAAA, LLC, a corporation organized and existing under the laws of the State of Utah which is the successor to Centerville Partners, LLC (BNCAAA, LLC and Centerville Partners, LLC shall be referred to collectively herein as “BNCAAA”). Highlands and BNCAAA may hereinafter also be referred to individually as a “Party” or collectively as the “Parties”.

WHEREAS, Highlands is a Utah corporation in the business of providing water service to residential and commercial properties located in Morgan County, Utah; and,

WHEREAS, BNCAAA is the developer of Whisper Ridge Phase I, a platted and approved subdivision located in Morgan County, Utah consisting of 64 residential lots (“Whisper Ridge I”) that will receive water service from Highlands; and,

WHEREAS, as a requirement of receiving water service from Highlands, BNCAAA is required to design, plan and construct all of the water infrastructure improvements necessary to supply water to Whisper Ridge I including, without limitation, a ground water well, a water storage tank, and water lines, and to dedicate the infrastructure improvements to Highlands; and,

WHEREAS, at Highlands’ request BNCAAA built additional water infrastructure improvements and system capacity that Highlands may use to meet future water supply demands within its service area. Specially, Highlands requested the construction of excess production capacity in the well, excess capacity in the water storage tank and excess capacity in the water lines sufficient to serve 636 equivalent residential units (“Excess Infrastructure”); and,

WHEREAS, the Parties agree that BNCAAA shall retain the right to use any well production capacity beyond that which is required to serve Whisper Ridge I and the 636 equivalent residential units identified as excess capacity and which is not otherwise committed; and,

WHEREAS, Highlands agrees to reimburse BNCAAA for the planning, design and construction of the Excess Infrastructure that Highlands uses to meet future water supply demands within its service area; and,

WHEREAS, BNCAAA has built the infrastructure required to serve Whisper Ridge I and the Excess Infrastructure and the Parties seek to formalize their agreement for the conveyance and payment of the Excess Infrastructure; and,

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

1. **Infrastructure Construction.** BNCAAA is solely responsible for the design, planning and construction of any and all water infrastructure improvements necessary to supply water to Whisper Ridge I and to connect Whisper Ridge I to Highlands existing water system including, without limitation, a groundwater well, a water storage tank, water lines, valves, meters, and electrical and other improvements and facilities (“Water System”).

BNCAAA is also solely responsible for the design, planning and construction of the Excess Infrastructure. BNCAAA is solely responsible for the payment of all costs associated with the design, planning and construction of the Water System and the Excess Infrastructure.

2. **Transfer of Infrastructure.** Upon execution of this Agreement BNCAAA shall convey to Highlands all of its right title and interest in and to the Water System and the Excess Infrastructure free and clear of all liens and encumbrances. The transfer of the Water System and the Excess Infrastructure shall be by Bill of Sale.

3. **Warranty and Indemnity.**

(a) BNCAAA shall warrant the Water System and the Excess Infrastructure for a period of two (2) years from the date BNCAAA conveys the Water System and the Excess Infrastructure to Highlands. If within the warranty period any defects or deficiencies are found by Highlands in the workmanship and/or materials, BNCAAA shall, upon written notice of Highlands, promptly act to repair, correct and resolve such defect or deficiency. All defects and deficiencies shall be repaired, corrected and resolved to the reasonable satisfaction of Highlands. Upon completion of the repair work, BNCAAA shall notify Highlands who shall promptly make an on-site inspection of the work and inform BNCAAA of any insufficiency.

(b) BNCAAA shall defend and hold Highlands harmless from and against any and all claims, demands, causes of action and liability, of any nature or kind, resulting from or arising out of or in connection with any defect or deficiency in workmanship and/or materials associated with the Water System or the Excess Infrastructure that arise during the warranty period.

4. **Payment for Excess Infrastructure.**

(a) The Parties hereby acknowledge that the construction of the Water System is required for Highlands to provide water service to Whisper Ridge I and that the cost of the Water System is appropriately borne by BNCAAA. Accordingly, BNCAAA shall dedicate and convey the Water System to Highlands without cost to Highlands.

(b) The Parties hereby acknowledge that the cost of the Excess Infrastructure does not directly benefit Whisper Ridge I but will benefit future development within the service area of Highlands. Accordingly, BNCAAA is entitled to the repayment of the costs it has incurred for the design, planning and construction of the Excess Infrastructure. The Parties agree that the cost for the design, planning and construction of the Excess Infrastructure is \$1,701,300.00. The Parties agree that the Excess Infrastructure represents infrastructure improvements sufficient to serve 636 equivalent residential units (“ERU”).

(c) As Highlands enters into agreements to provide water service to future developments which may be served by the Excess Infrastructure (including future phases of Whisper Ridge), Highlands shall require that the developers use and pay for the Excess Infrastructure (rather than build and dedicate new infrastructure to Highlands). Highlands will pay BNCAAA for the Excess Infrastructure from the fees it shall assess to said developers.¹ As Highlands collects fees from the developers whose project will be served by the Excess Infrastructure, Highlands shall pay BNCAAA \$2675.00 per ERU connection up to a total of 636 ERU or a total of \$1,701,300.00

5. Notices. Any notice, demand, request, consent, approval, or other communication which either Party is required or desires to give under this Agreement shall be made in writing and mailed to the other party at the address set forth below or at such other address as the Parties may provide from time to time. Such notices shall be mailed by first-class mail, postage prepaid to the parties as follows:

¹ Future developers, including future phases of Whisper Ridge, may be required to construct or pay for additional infrastructure that is not part of the Excess Infrastructure such as pumps or pump stations as required to convey water to their development property.

To Highlands at:
5880 Highland Drive
Mountain Green, Utah 84050

To BNCAAAA at:
1081 Birdie Circle
North Salt Lake, Utah 84054

6. **Obligations to Third Parties.** This Agreement shall not be deemed to confer any rights upon, nor obligate either of the Parties to any person or entity other than each other.

7. **Governing Law.** This Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of Utah both as to interpretation and performance.

8. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understanding, representation, or agreement of the Parties regarding the subject matter hereof. Any modification to this Agreement must be confirmed in writing and signed by both Parties.

9. **Further Assurances.** The Parties agree to do any act or thing and to execute any additional documents reasonably necessary and proper with the performance of their obligations hereunder and to carry out the intent of the Parties and to effect the provisions of this Agreement.

10. **Attorneys Fees.** In the event that any action or negotiation is required to enforce any of the terms or provision of this Agreement, the prevailing Party in such action or negotiation shall be entitled to payment of its reasonable attorney fees, cost and expenses incurred from the other Party.

11. **Waiver.** No covenant or condition of the Agreement may be waived by any party unless done so in writing. Forbearance or indulgence by any Party in any regard whatsoever shall not constitute waiver of the covenants or conditions to be performed by the other.

12. **Severability.** If any provision of this Agreement shall be held to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions contained herein or render the same invalid, inoperative, or unenforceable to any extent.

13. **Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and to their respective administrators, successors and assigns.

14. **Captions.** The captions appearing at the commencement of the paragraphs hereto are descriptive only and for convenience of reference. Should there be any conflict between any such caption and the paragraph at the head of which it appears, the paragraph and not the caption shall control and govern the construction of this Agreement.

15. **Execution in Counterparts.** This Agreement may be executed in counterparts each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

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DATED this 17th day of October, 2011.

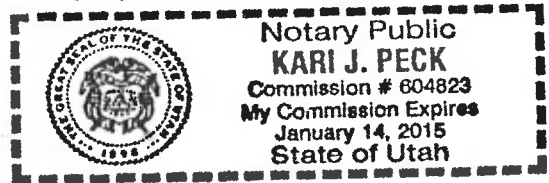
HIGHLANDS WATER COMPANY

By: [Signature]
Its: President

State of Utah)
: ss
County of Salt Lake)

Rodger Smith personally appeared before me on this 17th day of October 2011, in his capacity as President of Highlands Water Company and acknowledged that he executed the foregoing Agreement on behalf of Highlands Water Company.

Kari J Peck
Notary Public



DATED this 17th day of October, 2011.

BNCAAA, LLC

By: [Signature]
Its: Owner

State of Utah)
: ss
County of Salt Lake)

Dave Toleman personally appeared before me on this 17th day of October 2011, in his capacity as 50% of BNCAAA, LLC and acknowledged that he executed the foregoing Agreement on behalf of BNCAAA, LLC.

Kari J Peck
Notary Public

