

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 91, SERIES 2016**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH
CACHE LA POUFRE RESERVOIR COMPANY FOR THE DEVELOPMENT OF A
STORM DRAINAGE MASTER PLAN**

WHEREAS, the Town Council of the Town of Timnath (“Town”) pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, attached hereto as Exhibit A is the proposed Memorandum of Understanding; and

WHEREAS, the Town of Timnath and Cache la Poudre Reservoir Company wish to enter into a Memorandum of Understanding for the master plan development; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO AS FOLLOW:

Section 1. Approval

The Agreement is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON OCTOBER 25, 2016.

TOWN OF TIMNATH, COLORADO



Jill Grossman-Belisle, Mayor

ATTEST:



Milissa Peters, CMC
Town Clerk



EXHIBIT A

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is by and between the **Town of Timnath**, (“Town”) and the **Cache La Poudre Reservoir Company**, (“CLPRC”). The Town and the CLPRC may be collectively referred to as the “Parties.”

The MOU is to memorialize the understanding between the Parties developed at a meeting held June 27, 2016 (“Meeting”). This MOU is not intended to be comprehensive or legalistic, but to generally summarize the major points understanding of the Parties to provide guidance as the Town’s pending Stormwater Master Plan update (Update) is developed—in so far as the Update concerns or implicates the CLPRC or its structures or water rights. At the Meeting there was general agreement on the following:

- 1) Purpose of Update. For a variety of reasons the Town has determined that an update its existing Stormwater Master Plan is necessary. The Parties agree that the Update needs to include several items to address the CLPRC’s concerns and issues and to otherwise protect the CLPRC from injury to its water rights or structures, incurring additional operational, management or accounting costs and to otherwise ensure that the CLPRC is not and its operations are not negatively impacted from the carriage of additional stormwater.
- 2) Issues/Matters to be Addressed in the Update.
 - a. System Capacity: The Update will have to identify and evaluate the capacity of CLPRC Structures (including in particular the Timnath Inlet from 1-25 to and through the Timnath Reservoir). The purpose is to evaluate capability of CLPRC system to safely carry storm flows without impacting the integrity of the facilities.
 - i. NOTE: A particular capacity issue is the Timnath Reservoir Inlet gate to the reservoir, which is a swing gate that, when the reservoir is full, will back water into the Inlet.
 - ii. NOTE 2: Assuming Serratoga Falls Subdivision stormwater plan (and agreement) are executed before the Update is completed, the Update will have to account for stormwater flows that the CLPRC agrees to accept as part of a stormwater agreement with Serratoga Falls Subdivision.
 - b. Analysis of Storm Flows:
 - i. Historical Flows: The Update will need to update the existing historical inflow analysis including inflow from Serratoga Falls Subdivision (consistent with any stormwater agreement with Serratoga Falls Subdivision).
 - ii. Location/Structures of Inflows: The Update will need to identify and evaluate the locations of inflow, both historical and under future development. Evaluation will need to address peak flow as well as volume of flows (an uneven flow analysis).

- iii. Future Development Flows: The Update will need to evaluate future flows under development conditions, including both peak flows and the magnitude of flows.
 - c. Necessary Improvements: The Update will need to evaluate and determine locations where Improvements are necessary to accommodate expected flows and to protect CLPRC's ditch and structures from injury and to allow for continued unimpeded and uninterrupted operations.
 - i. NOTE: Any Improvements that are made necessary by Serratoga Falls Subdivision's stormwater must be identified and evaluated. It is expected that Serratoga Falls Subdivision will pay the costs of any such improvements.
 - d. Timing of Update: It is expected that the Update will be completed by March 2017 and will facilitate the Parties' future evaluation of development and development stormwater flows, and the terms and conditions of such development.
 - e. TROC / No. 2 Ditch Confluence/ Impact to the Greeley No. 2 Ditch: The Timnath Reservoir Outlet Canal ("TROC") does not return water to the Cache La Poudre River; rather storm flows in the TROC will be released into the Greeley No. 2 Canal. At the Meeting it was agreed that the Update would need to address the impact of these flows on the No. 2 Ditch and how these storm flows will be addressed. It is anticipated that such flows may require an IGA with Windsor and/or Larimer County and potentially the construction of a return structure to the Poudre River. The Update needs to address and evaluate this issue with recommended course(s) of action.
 - f. Operational Issues: The Update will address additional issues concerning the operation, maintenance and improvement of CLPRC structures necessitated by increased storm flows. The Update will address at least generally the anticipated cost of any such improvements.
 - g. Alternatives: The Update will address viable alternatives and mitigation options for storm flows, particularly as necessary to mitigate impacts to the CLPRC's structures and operations.
- 3) CLPRC Involvement and Participation. The Parties agree that the Update, and in particular aspects of the Update that impact or implicate the CLPRC and its ditch and structures, are of vital interest to the CLPRC. Accordingly, it is the Parties' expectation and understanding that the CLPRC will be closely involved and consulted in the development of the Update, and that the reasonable requests and concerns of the CLPRC's will be incorporated/addressed in the Update. The CLPRC's reasonable costs incurred in participating, reviewing and providing input to the Update shall be reimbursed by the Town.

- 4) Stormwater Agreement. A purpose of the Update, and the goal of this MOU, is to facilitate the negotiation of a comprehensive Stormwater Agreement between the Parties that will address the foregoing issues, with the ultimate goal of providing for the use of CLPRC facilities for the carriage of stormwater in a way that will prevent impacted or injury to the CLPRC's water rights and structures and will not create unmitigated costs and expenses to the CLPRC. It is also anticipated that this Agreement will address not only the design and construction of stormwater structures in the Update, as well as in pending or future development, but also the ongoing maintenance and enforcement of stormwater obligations.

THE CACHE LA POUUDRE RESERVOIR COMPANY

By: _____
Its: _____

TOWN OF TIMNATH

By:  _____
Its: *Mayer* _____