

DEED OF TEMPORARY EASEMENT
(Underground Utility)

THIS DEED of Temporary Easement, is made this ____ day of _____, 20__ between _____ ("Owner"), whose address is _____, and **BOXELDER SANITATION DISTRICT** ("District"), a statutory special district and political subdivision of the State of Colorado, whose address is 3201 East Mulberry Unit Q, Post Office Box 1518, Fort Collins, Colorado 80522.

WITNESSETH:

1. That for and in consideration of the covenants and agreements herein set forth, the sum of _____ Dollars (\$ _____) and other good and valuable consideration in hand paid by the District to the Owner, the receipt and adequacy of which is hereby acknowledged, the Owner, who is the recorded owner of that certain parcel of real property described in Exhibit "A" " **(Note: Exhibit A is to be a legal description of the parcel on which the easement is granted)** attached hereto and incorporated herein by this reference, hereby grants, sells and conveys to the District, its successors and assigns, a temporary non-exclusive easement, effective as of the date hereof, to construct and install underground utilities and pipelines, including all underground improvements and appurtenances thereto, and in all of the hereinafter described more fully on Exhibits "B" and "C", **(Note: Exhibit B is to be a legal description of the easement, Exhibit C is to be a drawing on 8-1/2" x 11" sheet(s) of the easement)** attached hereto and incorporated herein by this reference.

2. Said easement shall expire and be of no further force or effect after a term of two (2) years from the execution of this document. The District reserves the right to exercise a one (1) year extension to the original term defined herein. In the event construction has not commenced within the aforementioned time period (inclusive of extension), the Owner agrees to grant temporary extensions to the District to accommodate construction.

3. The Owner understands a contractor's warranty period related to the installation of the underground utilities and pipelines will be enforceable by the District for a two-year period after construction is completed. The Owner agrees to extend the temporary easement to cover the warranty period and warranty work, as is necessary to accommodate warranty procedures.

4. The District covenants and agrees to restore lands and improvements within said easement, including without limitation prior landscaping and fences, to a condition substantially the same as their prior condition and in substantially the same location. The District further covenants that no dirt or soil excavated in the easement will be removed from the property without the consent of the Owner.

5. Owner reserves the right to use said easement for purposes which will not interfere with District's full enjoyment of the right hereby granted; and the parties further agree that the uses of said easement by Owner and the agreements concerning those uses shall be as follows:

- (a) During the term hereof and any extension, Owner shall not erect or construct any building or other structure, or drill or operate any well, or construct any

permanent obstruction, or decrease or substantially increase ground level, which will interfere with District's use of the easement for the purposes specified herein.

- (b) During the term hereof and any extensions, Owner shall take no action which would impair or in any way decrease or substantially increase the ground level of, or the lateral or subjacent support for, or which would interfere with the use of, the aforementioned underground utility lines, improvements and appurtenances within the easement without obtaining the specific written permission of the District
- (c) During the term hereof and any extensions, the Owner may use the easement for any and all lawful purposes not inconsistent with the purposes set forth in this easement, including but not limited to setbacks, density, open space, landscaping, roadways, and parking, so long as such uses do not interfere with the construction, maintenance and/or repair activities required during the effective term of the easement.
- (d) In the event any of the terms of this Paragraph 5 (a) through 5 (c) are violated by the Owner or by any person or entity acting on behalf of the Owner, such violation shall be immediately corrected and eliminated upon receipt of written notice from the District, and if not corrected, the District shall have the right to correct and eliminate such violation, and the Owner, its heirs, administrators, successors and assigns, shall promptly pay the costs to correct said violation including, but not limited to, District's reasonable attorney costs. If such violation is not corrected, the District shall also have the right to file appropriate proceedings to enjoin any violation and request specific performance of the conditions described herein. This provision shall not preclude the District from seeking other appropriate relief including without limitation recovery of damages to the improvements caused by Owner's acts or omissions. The District reserves the right to do all acts necessary to immediately remedy any emergency or situation that may arise that disrupts or affects the utility.

6. The parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

7. Owner warrants that it has full and lawful authority to make the grant hereinabove contained, and promises and agrees to defend and indemnify the District in the exercise of its rights hereunder against any defect in Owner's title to the land involved or Owner's rights to make the grant hereinabove contained.

8. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

9. The signatory for the owner warrants that it has full and lawful authority to make the grant hereinabove contained on behalf of Owner.

