

**NONPROFIT CORPORATION
ARTICLES OF INCORPORATION**

FIRST: I, Kathryn A. Peterson, whose post office address is P.O. Box 210, Niwot, CO 80544, being at least eighteen (18) years of age, am hereby forming a corporation under and by virtue of the Colorado Revised Nonprofit Corporation Act.

SECOND: The name of the Corporation (which is hereafter called the "Corporation") is the Lefthand Watershed Oversight Group ("LWOG") Nonprofit Corporation.

THIRD: The street address of the principal office of the Corporation in this State is 6800 Nimbus Road, Longmont, CO 80503.

FOURTH: The name and street address of the Registered Agent of the Corporation in this State are Kathryn A. Peterson, 816 Bross St., Longmont, CO 80501. The written consent of the initial Registered Agent is provided in these Articles of Incorporation or in an accompanying document to be filed with these Articles of Incorporation.

FIFTH: The Corporation will not have voting members. The number, qualifications, rights, obligations and other matters relating to the members shall be as set forth in the Bylaws of the Corporation.

SIXTH: Upon the dissolution of the Corporation's affairs, or upon the abandonment of the Corporation's activities due to its impracticable or inexpedient nature, the assets of the Corporation then remaining in the hands of the Corporation shall be distributed, transferred, conveyed, delivered and paid over to any other charitable organization (as hereinafter defined) of this or any other State, having a similar or analogous character or purpose, in some way associated with or connected with the corporation to which the property previously belonged. If this Corporation is exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) the assets of the Corporation shall be distributed for one or more exempt purposes under Section 501(c)(3) or to the federal government or to a state or local government for a public purpose. Any such assets not so disposed of shall be disposed of by the District Court for the County in which the principal office of the Corporation is then located exclusively for such purposes or to such organizations as the District Court shall determine which are organized and operated exclusively for such purposes.

SEVENTH: The purposes for which the Corporation is formed are:

(a) The Corporation is organized exclusively for educational and charitable purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding

provision of any future United States Internal Revenue Law), and, more specifically, to receive and administer funds for such charitable and educational purposes, all for the public welfare, and for no other purposes, and to that end to take and hold, by bequest, devise, gift, purchase, or lease, either absolutely or in trust for such objects and purposes or any of them, any property, real, personal or mixed, without limitation as to amount of value, except such limitations, if any, as may be imposed by law; to sell, convey, and dispose of any such property and to invest and reinvest the principal thereof, and to deal with and expend the income there from for any of the before-mentioned purposes, without limitation, except such limitations, if any, as may be contained in the instrument under which such property is received; to receive any property, real, personal or mixed, in trust, under the terms of any will, deed of trust, or other trust instrument for the foregoing purposes or any of them, and in administering the same to carry out the directions, and exercise the powers contained in the trust instrument under which the property is received, including the expenditure of the principal as well as the income, for one or more of such purposes, if authorized or directed in the trust instrument under which it is received, but no gift, bequest or devise of any such property shall be received and accepted if it be conditioned or limited in such manner as shall require the disposition of the income or its principal to any person or organization other than a "charitable organization" or for other than "charitable purposes" within the meaning of such terms as defined in these Articles of Incorporation, or as shall in the opinion of the Board of Directors, jeopardize the federal income tax exemption of the Corporation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as now in force or afterwards amended; to receive, take title to, hold, and use the proceeds and income of stocks, bonds, obligations, or other securities of any corporation or corporations, domestic or foreign, but only for the foregoing purposes, or some of them; and, in general, to exercise any, all and every power for which a nonprofit corporation organized under the applicable provisions of the Colorado law for scientific, educational, and charitable purposes, all for the public welfare, can be authorized to exercise, but only to the extent the exercise of such powers is in furtherance of exempt purposes.

(b) No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its members, directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation to its members (if any), directors or officers for services rendered, to make payments and distributions to its members (if any) that are domestic or foreign nonprofit corporations, and to make payments and distributions in furtherance of the purposes set forth in these Articles of Incorporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

(c) Included among the educational and charitable purposes for which the Corporation is organized, as qualified and limited by subparagraphs (a) and (b) of this Article *SEVENTH* are the following:

The purpose of the Lefthand Watershed Oversight Group is to assess and protect the quality of water in the Lefthand Creek watershed; to serve as a hub of communication about watershed issues; to foster stakeholder collaboration in promoting education about watershed issues; and to facilitate the development of watershed health assessments, prioritization of protection measures, and development of remediation plans and practices that protect the Lefthand Creek watershed.

In achieving such goals and objectives, the Corporation shall not discriminate in the provision of its services on the basis of gender, race, color, creed, religion, national origin, or disability.

EIGHTH: (a) Board of Directors. The Board of Directors shall consist of a minimum of five and a maximum of nine voting members. At all times, the Board of Directors shall include a representative from each of the following entities/agencies: the Town of Ward, the Town of Jamestown, Left Hand Water District, Boulder County Parks and Open Space, and the James Creek Watershed Initiative. Such entity/agency representatives may be either elected officials, employees of such entities/agencies, or appointees of such entities/agencies.

(b) *Designation.* Each entity or agency may duly designate or appoint its representative in writing. Failure to designate such representative within 60 calendar days of incorporation of this Corporation, or the failure to designate a successor to such representative if such representative's designation terminates within 60 days of such terminations, may constitute a waiver of such entity's right to designate a representative.

(c) *Initial Board.* Such representatives shall constitute the initial Board of Directors which shall promptly meet and select additional members as provided herein.

(d) *Additional Members.* The initial Board may then select additional members, up to the maximum number of directors as set forth above, such additional members to have either a demonstrated interest in watershed issues, such as residents of the watershed or recreational users of streams or reservoirs within the Left Hand Creek and James Creek watersheds, or individuals having technical or scientific expertise that would be of assistance and value to the Corporation.

(e) *Election and Term of Directors.* Except for the entity/agency representatives selected as provided above, at each annual meeting of the Board of Directors, the Directors for the upcoming year shall be selected by a majority vote of the Directors. Except as provided herein, each director who is not a representative of an entity/agency shall hold office until the next annual meeting and until his/her successor has been selected and qualified, or until death, resignation, or removal.

(f) *Ex-Officio Members.* At the discretion of the Board, the Board may also formally recognized ex-officio non-voting directors who are representatives of various federal and state entities/agencies that may have an interest in the Corporation and its activities. Such ex-officio members shall be formally appointed by the Board, once constituted, and shall serve as liaisons between the Corporation and such entities/agencies.

NINTH: The Corporation may by its Bylaws make any other provisions or requirements for the arrangement or conduct of the business of the Corporation, provided the same is not inconsistent with these Articles of Incorporation nor contrary to the laws of the State of Colorado or of the United States.

TENTH: In these Articles of Incorporation,

(a) References to "charitable organizations" or "charitable organization" mean corporations, trusts, funds, foundations, or community chests created or organized in the United States or in any of its possessions, whether under the laws of the United States, any state or territory, the District of Columbia, or any possession of the United States, organized and operated exclusively for charitable purposes, no part of the net earnings of which inures or is payable to or for the benefit of any private shareholder, or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation and which do not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidates for public office. It is intended that the organization described in this Article *TENTH* shall be entitled to exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as now in force or afterwards amended.

(b) The term "charitable purposes" shall be limited to and shall include only religious, charitable, scientific testing for public safety, literary, or educational purposes within the meaning of the terms used in Section 501(c)(3) of the Internal Revenue Code of 1986, but only such purposes as also constitute public charitable purposes under the laws of the United States, any state or territory, the District of Columbia, or any possession of the United States, including, but not limited to, the granting of scholarships to young men and women to enable them to attend educational institutions.

ELEVENTH: With respect to indemnification of directors and officers of this corporation, the following shall apply:

1. *Definitions.* The following definitions shall apply to the terms as used in this Article:

"Corporation" includes this corporation and any domestic or foreign predecessor entity of the corporation in a merger, consolidation, or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

"Director" means an individual who is or was a director of the corporation or an individual who, while a director of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise, or employee benefit plan. A director shall be considered to be serving an employee benefit plan at the corporation's request if his or her duties to the corporation also impose duties on or otherwise involve services by him or her to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context otherwise requires, the estate or personal representative of a director.

"Expenses" includes counsel fees.

"Liability" means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses.

"Official capacity," when used with respect to a director, means the office of director in the corporation, and, when used with respect to a person other than a director, means the office in the corporation held by the officer or the employment, fiduciary, or agency relationship undertaken by the employee or agent on behalf of the corporation." Official capacity" does not include service for any other foreign or domestic corporation, nonprofit corporation or other person or employee benefit plan.

"Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

"Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

2. *Indemnification for Liability.*

a. Except as provided in paragraph (d) of this section (2), the corporation shall indemnify against liability incurred in any proceeding any individual made a party to the proceeding because he or she is or was a director or officer if:

(I) He or she conducted himself or herself in good faith;

(II) He or she reasonably believed:

(A) In the case of conduct in his or her official capacity with the corporation, that his or her conduct was in the corporation's best interests; or

(B) In all other cases, that his or her conduct was at least not opposed to the corporation's best interests; and

(III) In the case of any criminal proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful.

- b. A director's or officer's conduct with respect to an employee benefit plan for a purpose he or she reasonably believed to be in the interests of the participants in or beneficiaries of the plan is conduct that satisfies the requirements of this Section (2). A director's or officer's conduct with respect to an employee benefit plan for a purpose that he or she did not reasonably believe to be in the interests of the participants in or beneficiaries of the plan shall be deemed not to satisfy the requirements of this Section (2).
- c. The termination of any proceeding by judgment, order, settlement, or conviction, or upon a plea of *nolo contendere* or its equivalent, is not of itself determinative that the individual did not meet the standard of conduct set forth in paragraph (a) of this Section (2).
- d. The corporation may not indemnify a director or officer under this Section (2) either:
- (I) In connection with a proceeding by or in the right of the corporation in which the director or officer was adjudged liable to the corporation; or
- (II) In connection with any proceeding charging that a director or officer derived an improper personal benefit to the director or officer, whether or not involving action in his or her official capacity, in which he or she was adjudged liable on the basis that he or she derived an improper personal benefit.
- e. Indemnification permitted under this Section (2) in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.

3. *Mandatory Indemnification.*

- a. Except as limited by these Articles of Incorporation, the corporation shall be required to indemnify a director or officer of the corporation who was wholly successful, on the merits or otherwise, in defense of any proceeding to which he or she was a party because he or she was a director or officer against reasonable expenses incurred by him or her in connection with the proceeding.

- b. Except as otherwise limited by these Articles of Incorporation, a director or officer who is or was a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice the court considers necessary, may order indemnification in the following manner:
- (I) If it determines the director or officer is entitled to mandatory indemnification, the court shall order indemnification under paragraph (a) of this Section 3, in which case the court shall also order the corporation to pay the director's or officer's reasonable expenses incurred to obtain court-ordered indemnification.
 - (II) If it determines that the director or officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he or she met the standard of conduct set forth in paragraph (a) of Section (2) of this Article or was adjudged liable in the circumstances described in paragraph (d) of Section (2) of this Article, the court may order such indemnification as the court deems proper, except that the indemnification with respect to any proceeding in which liability shall have been adjudged in the circumstances described in paragraph (d) of Section (2) of this Article is limited to reasonable expenses incurred.

4. *Limitation on Indemnification.*

- a. The corporation may not indemnify a director or officer under Section (2) of this Article unless authorized in the specific case after a determination has been made that indemnification of the director or officer is permissible in the circumstances, because he or she has met the standard of conduct set forth in paragraph (a) of Section (2) of this Article.
- b. The determination required to be made by paragraph (a) of this Section (4) shall be made:
 - ~~(I)~~ By the board of directors by a majority vote of a quorum, which quorum shall consist of directors not parties to the proceeding; or
 - (II) If a quorum cannot be obtained, by a majority vote of a committee of the board designated by the board, which committee shall consist of two or more directors not parties to the proceeding, except that directors who are parties to the proceeding may participate in the designation of directors for the committee.
- c. If the quorum cannot be obtained or the committee cannot be established under paragraph (b) of this Section (4), or even if a quorum is obtained or a committee

designated if such quorum or committee so directs, the determination required to be made by paragraph (a) of this Section (4) shall be made:

- (I) By independent legal counsel selected by a vote of the board of directors or the committee in the manner specified in subparagraph (I) or (II) of paragraph (b) of this Section (4) or, if a quorum of the full board cannot be obtained and a committee cannot be established, by independent legal counsel selected by a majority vote of the full board; or
- (II) By the Equity Members entitled to vote, but Equity Members whose appointed directors are seeking indemnification may not vote on the determination.

d. Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that, if the determination that indemnification is permissible is made by independent legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by the body that selected said counsel.

5. *Advance Payment of Expenses.*

- a. The corporation shall pay for or reimburse the reasonable expenses incurred by a director, officer, employee or agent who is a party to a proceeding in advance of the final disposition of the proceeding if:
 - (I) The director, officer, employee or agent furnishes the corporation a written affirmation of his or her good faith belief that he or she has met the standard of conduct described in paragraph (a) of Section (2) of this Article;
 - (II) The director, officer, employee or agent furnishes the corporation a written undertaking, executed personally or on his or her behalf, to repay the advance if it is determined that he or she did not meet such standard of conduct; and
 - (III) A determination is made that the facts then known to those making the determination would not preclude indemnification under this Section (5).
- b. The undertaking required by subparagraph (II) of paragraph (a) of this Section (5) shall be an unlimited general obligation of the director, officer, employee or agent, but need not be secured and may be accepted without reference to financial ability to make repayment.

- c. Determinations and authorizations of payments under this Section shall be made in the manner specified under Section 4 hereof.
6. *Reimbursement of Witness Expenses.* The corporation shall pay or reimburse expenses incurred by a director in connection with his or her appearance as a witness in a proceeding at a time when he or she has not been made a named defendant or respondent in the proceeding.
7. *Insurance for Indemnification.* The corporation may purchase and maintain insurance on behalf of a person who is or was a director, officer, employee, fiduciary, or agent of the corporation or who, while a director, officer, employee, fiduciary, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary, or agent of any other foreign or domestic corporation, nonprofit corporation or other person or of an employee benefit plan, against any liability asserted against or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability under the provisions of this Article. Any such insurance may be procured from any insurance company designated by the Board of Directors of the corporation, whether such insurance company is formed under the laws of Colorado or any other jurisdiction of the United States of America, including any insurance company in which the corporation has equity or any other interest, through stock or otherwise.
8. *Notice of Indemnification.* Any indemnification of or advance of expenses to a director in accordance with this Article, if arising out of a proceeding by or on behalf of the corporation, shall be reported in writing to the Equity Members with or before the notice of the next Equity Members' meeting.
9. *Indemnification of Officers, Employees and Agents of the Corporation.* The Board of Directors may indemnify and advance expenses to an officer, employee or agent of the corporation who is not a director of the corporation to the same or greater extent as to a director if such indemnification and advance expense payment is provided for in these Articles of Incorporation, the Bylaws, by resolution of the shareholders or directors or by contract, in a manner consistent with the Colorado Revised Nonprofit Corporation Act.

TWELFTH: As used in this Article "conflicting interest transaction" means any of the following: (1) a contract, transaction or other financial relationship between the corporation and a director or officer of the corporation, or (2) a contract, transaction or other financial relationship between the corporation and a party related to a director or officer, or (3) a contract, transaction or other financial relationship between the corporation and an entity in which a director or officer of the corporation is a director or officer or has a financial interest. No conflicting interest transaction shall be either void or voidable, be enjoined, be set aside, or give rise to an award of damages or other sanctions in a proceeding by a member or by or in the right of the corporation, solely because the conflicting interest in the transaction involves a director or officer of the corporation or a party related to a director or an entity in which the director or officer of the corporation is a director or

officer of has a financial interest or solely because such directors or officers are present at or participate in a meeting of the Board of Directors or a committee thereof which authorizes, approves, or ratifies such a conflicting interest transaction, or solely because his or her votes are counted for such purpose if:

- (A) The material facts of such relationship or interest and as to the conflicting interest transaction are disclosed or known to the Board of Directors or committee and such board or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of disinterested directors even though the disinterested directors are less than a quorum; or
- (B) The material facts of such relationship or interest and as to the conflicting interest transaction are disclosed or known to the Equity Members entitled to vote thereon and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by vote of the Equity Members; or
- (C) The conflicting interest transaction is fair as to the corporation.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves, or ratifies such conflicting interest transaction. A "party related to a director" shall mean a spouse, a descendant, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the director or officer or a party related to a director or officer has a beneficial interest, or an entity in which a party related to a director or officer is a director, officer or has a financial interest.

THIRTEENTH: If this Corporation is also a private foundation within the meaning of Section 509(a) of the Internal Revenue Code:

(a) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

(b) The Corporation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

(c) The Corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

(d) The Corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

(e) The Corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

FOURTEENTH: The period of duration of the Corporation shall be perpetual.

FIFTEENTH: The participation of any entity, whether governmental or private, in the appointment of a director, providing in-kind services, or similar activities, shall not be construed as creating any partnership, authority, joint venture, or any other legal entity or relationship. This Corporation has no authority to, and shall not, bind any such entity mentioned herein and no such entity shall be legally responsible for any debts, liabilities, or financial obligations of the Corporation. Nothing herein shall be construed as creating any obligation or expectation that any such entity or entities shall fund this Corporation's activities.

IN WITNESS WHEREOF, I have signed these Articles of Incorporation this 21st day of April, 2004, and I acknowledge same to be my act.

Kathy A. Peterson
[Incorporator]

CONSENT OF REGISTERED AGENT

I hereby consent to being appointed as Registered Agent for the within Corporation.

Kathy A. Peterson
[Registered Agent]

[Verification/Acknowledgment Optional]

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing Articles of Incorporation were signed and sworn to before me by Kathy A. Peterson as Incorporator, on this 21st day of April, 2004

My Commission Expires: 4/20/06



Kim Marie Lane
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing Articles of Incorporation were signed and sworn to before me by Kathy A. Peterson as Registered Agent, on this 21st day of April, 2004.

My Commission Expires: 4/20/06



Kim Marie Lane
Notary Public