

Hourglass Dam
w/TermK&PB

DEPARTMENT OF AGENCY NAME Water Conservation Board
DEPARTMENT OR AGENCY NUMBER PDA
ROUTING NUMBER 93314

\$230,000

PROJECT CONTRACT

THIS CONTRACT, made this 19th day of November 1992, by and between the State of Colorado for the use and benefit of the Department of Natural Resources (Colorado Water Conservation Board), hereinafter referred to as the State, and the City of Greeley, Greeley Civic Center, Greeley, Colorado 80631, hereinafter referred to as the contractor/ Borrower.

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number 424, Organization YYYY, Appropriation 005, Program WTRC, Object Code 5120, Contract Encumbrance Number; C153633; and

WHEREAS, required approval, clearance and coordination have been accomplished from and with appropriate agencies; and

WHEREAS, pursuant to the provisions of Sections 37-60-119 and 37-60-120, Colorado Revised Statutes, the State is authorized to loan money for the construction and rehabilitation of water projects for the benefit of the people of the State provided that the Borrower assures repayment of that money; and

WHEREAS, the Borrower is a duly constituted Home Rule City in the State of Colorado and wishes to construct, or cause to be constructed, the enlargement and rehabilitation of its Hourglass Dam and appurtenant structures, hereinafter called the project, which is located in Larimer County, Colorado, at an estimated cost of Five Hundred Thousand Dollars (\$500,000); and

WHEREAS, pursuant to the Borrower's City Charter, the Borrower has authority to contract to borrow money provided that an Ordinance be duly passed by the City Council, and to levy assessments to assure repayment according to the terms of the contract; and

WHEREAS, on April 3, 1990, the parties entered into a feasibility report contract to the extent of Twenty Thousand Dollars (\$20,000). A feasibility investigation of said project was conducted and the State has determined that such a project is technically and financially feasible; and

WHEREAS, on November 19, 1992, the State and the Borrower entered into a termination contract terminating the April 3, 1990, feasibility report contract; and

WHEREAS, the State agrees to loan money for the construction and rehabilitation of said project upon mutually agreeable terms and conditions, subject to the availability of funding for that purpose; and

WHEREAS, pursuant to Session 1 of Chapter 326, Session Laws of Colorado 1991, the State has been authorized to loan a sum not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) for the feasibility report and the construction of the project; and

WHEREAS, the State and Borrower agree to include the repayment of the sum of Twenty Thousand Dollars (\$20,000), previously advanced by the State for the feasibility study of the Hourglass Dam, in the repayment of the loan of Two Hundred Thirty Thousand Dollars (\$230,000) made under this contract for a total principal repayment of Two Hundred Fifty Thousand Dollars (\$250,000).

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is agreed by the parties hereto as follows:

A. The State and the Borrower have entered into a termination contract, attached hereto as Exhibit A, and a feasibility report contract, attached hereto as Exhibit B. Exhibits A and B are incorporated by reference herein.

B. The Borrower agrees that it shall:

1. Employ an engineering firm to prepare project plans and specifications for the project. Both the engineering firm and the project plans and specifications must be approved by the State before initiation of construction on the project, including any real estate and water rights acquisitions, can commence.

2. Contract for the construction of said project to a responsible and capable firm or firms (hereinafter referred to as Construction Firm or Firms), which Construction Firms shall be selected through competitive public bidding, said project to be completed within two and one-half (2-1/2) years of the date of this contract in accordance with the project plans and specifications and any necessary modification thereof approved by the State. The State must give written approval of all contracts before they can become effective. An extension of the above-specified time may be granted in writing by the State in its sole discretion if such time is insufficient because of acts or circumstances beyond the control of the Borrower.

3. Require all Construction Firms and their subcontractors to indemnify the State and the Borrower against all liability and loss, and against all claims, actions, and legal expenses and costs incurred on the defense of any claim or action based upon or arising out of damage or injury, including death, to persons or

property caused by any acts or omissions of the Construction Firms and their subcontractors or sustained in connection with the performance of any contract or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation by the Construction Firms and their subcontractors.

4. Require all Construction Firms and their subcontractors to maintain the following:

a. Workmen's compensation and employers' liability insurance.

b. Automobile liability insurance for all vehicles.

c. Comprehensive general liability insurance in at least the following amounts:

(1) For any injury to one person in any single occurrence, the sum of One Hundred Fifty Thousand Dollars (\$150,000).

(2) For any injury to two or more persons in any single occurrence, the sum of Four Hundred Thousand Dollars (\$400,000).

(3) For any damage to property, the sum of Four Hundred Thousand Dollars (\$400,000) for each occurrence.

PAID IN FULL
Said liability insurance shall name the Borrower and the State as an additional insured. No loan proceeds shall be disbursed under this contract unless a copy of a certificate of said liability insurance has been filed with the State.

5. As security for the loan, execute a deed of trust that shall convey the following real property to the State as security for the loan:

One hundred percent (100%) interest in and to the Hourglass Dam, together with all inlet and outlet structures, ditches, spillways, and structures appurtenant thereto or used in connection therewith.

Record the deed in the proper county or counties and pay for all recording fees. The retainage shall not be paid to the Borrower until a mortgage has been executed, recorded, and filed with the State.

6. Without expense to the State, manage, operate, and maintain the project continuously in an efficient and economical manner, and assume all legal liability for such management,

operation, and maintenance. The Borrower agrees to indemnify and hold the State harmless from any liability as a result of the State's interest in the project facilities and any other property identified in paragraph B.5. above. The Borrower shall maintain general liability insurance covering the management, operation, and maintenance of the project until it completes repayment to the State in at least the following amounts:

- a. For any injury to one person in any single occurrence, the sum of One Hundred Fifty Thousand Dollars (\$150,000).
- b. For any injury to two or more persons in any single occurrence, the sum of Four Hundred Thousand Dollars (\$400,000).
- c. For any damage to property, the sum of Four Hundred Thousand Dollars (\$400,000) for each occurrence.

Said liability coverage shall be maintained through the Borrower's self-insurance program. A copy of the ordinance creating the Borrower's self-insurance program and a letter of credit creating a reserve for the program are attached and made a part hereof as Exhibit C.

7. Make the services of said project available within its capacity and in accordance with its charter and all pertinent statutes, rules and regulations, and operational guidelines to all persons in the Borrower's service area without discrimination as to race, color, religion, or national origin at reasonable charges (including assessments, taxes, or fees), whether for one or more classes of service, in accordance with a schedule of such charges formally adopted by the Borrower through its City Council, as may be modified from time to time. The Borrower hereby states and affirms that the rate schedule adopted by the Water and Sewer Board and the City Council in accordance with the Charter of the Borrower shall provide for the generation of sufficient revenues for: (1) the operation and maintenance of the water system; (2) debt service requirements including repayment of the project loan authorized by this contract; and (3) additions to a reserve account to offset depreciation to the water system. The Borrower may make such modification to the rate schedule as the Borrower deems necessary to efficiently and economically provide for the financial requirements of the system. The rate schedule shall remain reasonable and non-discriminatory.

8. Adjust its operating costs and service charges at the request of the State to provide for adequate operation and maintenance, emergency repair services, obsolescence reserves, and debt reserves and to assure repayment pursuant to this contract.

9. Provide the State with such periodic reports as the State may require and permit periodic inspections of its operations and accounts by a designated representative of the State for the term of this contract.

10. Repay to the State the total sum of Three Hundred Sixty-One Thousand Two Hundred Ninety Dollars (\$361,290), which includes as the principal the project loan amount of Two Hundred Thirty Thousand Dollars (\$230,000) and the Twenty-Thousand-Dollar (\$20,000) feasibility report amount (as shown in Exhibit B), together with interest at five percent (5%) per annum, said repayment to be made in constant annual installments of Twenty-Four Thousand Eighty-Six Dollars (\$24,086) each for fifteen (15) years, as shown in Exhibit D, attached hereto and incorporated by reference herein, which first installment shall be due and payable on the first day of the month next succeeding the month in which the State provides the Borrower with written notification that the project has been substantially completed, and yearly thereafter until the entire principal sum shall have been paid. Said installment payments shall be made payable to the Colorado Water Conservation Board, payable at the State offices of said Board in Denver, Colorado.

a. At the Borrower's option, the total principal repayment can be repaid to the State by the Borrower at any time within the fifteen (15)-year repayment period, thereby terminating this contract. The repayment of the total principal prior to the end of the fifteen (15)-year period can be done by submitting a final payment to the State equal in amount to the outstanding unpaid principal plus interest accumulated on the unpaid total principal calculated at a rate of five percent (5%) per annum for that period from the last scheduled annual payment date to the date final payment is made.

11. Pledge its full faith and credit in support of its obligations pursuant to this contract and warrants that it shall lawfully adopt a valid ordinance that recognizes this obligation pursuant to its charter prior to the execution of this contract. Such ordinance is a condition precedent to State performance of this contract. Such ordinance shall be irrevocable for the period of repayment of the project contract loan, and shall specifically authorize the Borrower to enter into this contract, Such ordinance shall specifically pledge the full faith and credit of the Borrower to repay the project contract loan in the event of default. Such ordinance shall be attached hereto as Exhibit E and is incorporated herein by this reference.

12. Obtain and maintain general fire and hazard insurance on the project in an amount not less than the outstanding amount of the loan made by the State to the Borrower until the Borrower has repaid the loan in full under the terms of paragraph

**PAID
IN FULL**

B.10. including B.10.a. above. The State shall be the sole insured of this policy. The outstanding loan amount payable to the State shall be reduced in the amount of any payments made to the State under this insurance coverage. If only a portion of the outstanding loan amount is paid to the State under this policy, the number of installment payments shall remain unchanged; however, the amount of each payment shall be reduced to accurately reflect the reduction in outstanding loan principal. A copy of the ordinance creating the Borrower's self-insurance program and a letter of credit creating a reserve for the program are attached as Exhibit C.

13. Comply with the Construction Fund Program Procedures attached hereto as Exhibit F and incorporated by reference herein.

14. Comply with the provisions of Section 37-60-120, Colorado Revised Statutes, and any other applicable State and Federal statutes, procedures, requirements, rules, or regulations.

15. Not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the project or any portion thereof so long as any of the annual installments required by paragraph B.10. above remain unpaid, or until the outstanding principal of the project loan is repaid in accordance with paragraph B.10.a., without the prior written concurrence of the State.

C. Upon default in the payments herein set forth to be made by the Borrower, or default in the performance of any covenant or contract contained herein, the State, at its option, may (a) declare the entire principal amount, principal and interest, then outstanding immediately due and payable; (b) for the account of the Borrower, incur and pay reasonable expenses for repair, maintenance, and operation of the project herein described and such expenses as may be necessary to cure the cause of default; (c) take possession of the project, repair, maintain, and operate or lease it; (d) take action on the security (described in paragraph B.5. above) pursuant to the deed of trust) and/or (e) take any other appropriate legal action including, but not limited to, action enforcing specific performance of this contract. All remedies described herein may be simultaneously or selectively and successively enforced. The provisions of this contract may be enforced by the State at its discretion. No delay or failure of the State in exercising any right, power, or privilege under this agreement shall operate as a waiver thereof.

D. The State agrees that it shall:

1. Loan to the Borrower for the purpose of this contract an amount not to exceed Two Hundred Thirty Thousand Dollars (\$230,000). Said Two Hundred Thirty Thousand Dollars (\$230,000)

shall be made available to the Borrower in accordance with the following terms and conditions:

a. Beginning with the monthly period commencing with the date of this contract and for every month thereafter until said project has been completed, the Borrower shall prepare, with the assistance of the engineering firm referred to in paragraph B.1. above, an estimate of the funds required from the State for project engineering and/or construction during that month and shall forward said estimate to the State not less than fifteen (15) days prior to the beginning of such month.

b. Upon receipt and approval by the State of such monthly estimate, the State will, within forty (40) days from the approval of such estimate, pay over to the Borrower the amount of the monthly estimate or such portion thereof as has been approved by the State.

c. No payments will be made under this contract for project construction until the project plans and specifications referred to in paragraph B.1. above are approved by the State.

E. This contract is not assignable by the Borrower except with written approval of the State.

F. The parties to this contract intend that the relationship between them contemplated by this contract is that of lender-borrower, not employer-employee, nor principal-agent. No agent, employee, or servant of the Borrower shall be or shall be deemed to be an employee, agent, or servant of the State. The Borrower will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, Construction Firms, and subcontractors during the performance of this contract.

G. This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the State fiscal rules.

H. In its sole discretion, the State may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of the Borrower's obligations under this contract, with or without valuable consideration, upon such terms and conditions as the State may determine to be (a) advisable to further the purposes of this contract or to protect the State's

financial interest therein, and (b) consistent with both the statutory purposes of this contract and the limitations of the statutory authority under which it is made.

I. Upon completion of the repayment to the State in the sum of Three Hundred Sixty-One Thousand Two Hundred Ninety Dollars (\$361,290), as set forth in paragraph B.10. of this contract, or upon repayment of the project loan in accordance with paragraph B.10.a. of this contract, the State agrees to convey to the Borrower all of the State's right, title, and interest in and to the project and any other property described in paragraph B.5.

J. The Borrower warrants that it has full power and authority to enter into this agreement. The execution and delivery of this contract and the performance and observance of their terms, conditions, and obligations have been duly authorized by all necessary action by the Borrower.

K. The Borrower warrants that by acceptance of the loan pursuant to the terms of this contract and by the Borrower's representation herein, the Borrower shall be estopped from asserting for any reason that it is not authorized or obligated to pay the loan money to the State as required by this contract.

L. The Colorado Water Conservation Board, its agents and employees, is hereby designated as the agent of the State for the purpose of this contract.

M. All notices, correspondence, or other documents required by this contract shall be delivered or mailed to the following addresses:

1. For the State

Director
Colorado Water Conservation Board
721 State Centennial Building
1313 Sherman Street
Denver, CO 80203
Attn: Project Planning and
Construction Section

2. For the Borrower

Director
Water and Sewer
Department
City of Greeley
Greeley Civic Center
Greeley, CO 80631

SPECIAL PROVISIONS

CONTROLLER'S APPROVAL

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

FUND AVAILABILITY

2. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

BOND REQUIREMENT

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public works for this State, the contractor shall, before entering the performance of any such work included in this contract, duly execute and deliver to and file with the official whose signature appears below for the State, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract, and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond, when so required, is executed, delivered and filed, no claim in favor of the contractor arising under this contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with 38-26-106 CRS, as amended.

INDEMNIFICATION

4. To the extent authorized by law, the contractor shall indemnify, save and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

DISCRIMINATION AND AFFIRMATIVE ACTION

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (24-34-402, CRS 1982 Replacement Vol.), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.
- (3) The contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.
- (4) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (5) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity, because of race, creed, color, sex, national origin, or ancestry.
- (6) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(7) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraph (1) through (8) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

COLORADO LABOR PREFERENCE

6a. Provisions of 8-17-101 & 102, CRS for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

b. When construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements (section 8-19-101 and 102, CRS).

GENERAL

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this Contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be established.

9. The signatories hereto aver that they are familiar with 18-8-301, et. seq., (Bribery and Corrupt Influences) and 18-8-401, et. seq., (Abuse of Public Office), CRS 1978 Replacement Vol., and that no violation of such provisions is present.

10. The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein:

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day first above written.

Contractor:

(Full Legal Name) CITY OF GREELEY
 Mayor: [Signature]
 City Manager: [Signature]
 Position (Title) Purchasing Agent:
84-6000593
 Social Security Number or Federal I.D. Number

(If Corporation:)

Attest (Seal)

By [Signature]
 Corporation Secretary, or Equivalent, Town/City/County/Clerk

ATTORNEY GENERAL

GALE A. NORTON
 ATTORNEY GENERAL

By [Signature]
 DAVID M. KAYE
 FIRST ASSISTANT ATTORNEY GENERAL
 GENERAL LEGAL SERVICES

CITY OF GREELEY

Reviewed as to Legal Form:
 Office of the City Attorney

By [Signature]
 City Attorney

STATE OF COLORADO
 ROY ROMER, GOVERNOR

By [Signature]
 For the Executive Director
 DEPARTMENT OF NATURAL RESOURCES
 (COLO. WATER CONSERVATION BOARD
 DARRIS C. LILE, P.E., DIRECTOR)

APPROVALS

CONTROLLER
 By [Signature]

CLIFFORD W. HALL

CITY OF GREELEY

Certification of Contract Funds Availability

[Signature]
 Director of Finance

DEPARTMENT OR AGENCY NAME Water Conservation Board
DEPARTMENT OR AGENCY NUMBER PDA
ROUTING NUMBER

No Encumbrance
Terminates Contract
No. 153573

EXHIBIT A

TERMINATION CONTRACT

THIS CONTRACT, made this 19th day of November 1992, by and between the State of Colorado for the use and benefit of the Department of NATURAL RESOURCES
(COLORADO WATER CONSERVATION BOARD),
hereinafter referred to as the State, and the City of Greeley,
Greeley Civic Center, Greeley, Colorado 80631,
hereinafter referred to as the contractor/Contractor or Borrower.

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number N/A, Organization N/A, Appropriation N/A, Program N/A, Object Code N/A, Contract Encumbrance Number, N/A; and

WHEREAS, required approval, clearance and coordination have been accomplished from and with appropriate agencies; and

WHEREAS, the State and the Borrower entered into a contract on April 3, 1990, which contract shall hereinafter be referred to as the "feasibility report contract," in which the State agreed to pay the Borrower Twenty Thousand Dollars (\$20,000) for the purpose of partially funding a feasibility report concerning the rehabilitation of the Hourglass Dam; and

WHEREAS, the State and the Borrower intend to enter into a separate contract, hereinafter referred to as the "project contract," in which the State will loan the Borrower money for the purpose of rehabilitating the Hourglass Dam; and

WHEREAS, initiation of construction to do this work will create an obligation on the part of the Borrower to make payments under the terms of the existing feasibility report contract; and

WHEREAS, the parties agree that it would be mutually beneficial to terminate the Borrower's obligation under the feasibility report contract provided that the repayment of the principal amount of Twenty Thousand Dollars (\$20,000) will be integrated with the Borrower's repayment of the construction loan as evidenced by the project contract, which will be

executed contemporaneously with and immediately prior to the execution of this termination contract.

NOW, THEREFORE it is hereby agreed that:

1. The feasibility report contract entered into between the State and the Borrower on April 3, 1990 (attached hereto as Exhibit B and incorporated by reference herein), Contract Encumbrance No. C-153573, Routing No. 90423, is hereby terminated and the remaining obligations of the State and the Borrower under the terms of that contract are no longer enforceable.

2. The Borrower agrees to the following terms for the repayment of Twenty Thousand Dollars (\$20,000), which represents the principal amount provided by the State as partial financing for the feasibility report under the terms of the feasibility report contract:

a. The Twenty Thousand Dollars (\$20,000) referred to above will be added to that amount loaned to the Borrower by the State under the project contract for the rehabilitation of the Hourglass Dam.

b. The total amount described in paragraph 2.a. above and interest for the full term will be repaid under the terms of the project contract to be entered into between the State and the Borrower.

3. This termination of the feasibility report contract will not be effective until such time as a valid and enforceable project contract containing the terms of paragraph 2. above is in effect for the rehabilitation work stated therein.

**PAID
IN FULL**

SPECIAL PROVISIONS

CONTROLLER'S APPROVAL

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

FUND AVAILABILITY

2. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

BOND REQUIREMENT

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public works for this State, the contractor shall, before entering the performance of any such work included in the contract, duly execute and deliver to and file with the official whose signature appears below for the State, a good and sufficient bond or other acceptable surety approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract, and in addition, shall provide that if the contractor or his subcontractor fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contractor or his subcontractor in the performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond, when so required, is executed, delivered and filed, no claim in favor of the contractor arising under this contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with 38-26-106 CRS, as amended.

INDEMNIFICATION

4. To the extent authorized by law, the contractor shall indemnify, save and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

DISCRIMINATION AND AFFIRMATIVE ACTION

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (24-J4-402, CRS 1982 Repealment Vol.), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.
- (3) The contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.
- (4) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (5) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity, because of race, creed, color, sex, national origin, or ancestry.
- (6) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(7) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraph (1) through (8) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

COLORADO LABOR PREFERENCE

6a. Provisions of 8-17-101 & 102, CRS for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

b. When construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements (section 8-19-101 and 102, CRS).

GENERAL

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this Contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be established.

9. The signatories hereto aver that they are familiar with 18-8-301, et. seq., (Bribery and Corrupt Influences) and 18-8-401, et. seq., (Abuse of Public Office), CRS 1978 Replacement Vol., and that no violation of such provisions is present.

10. The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein:

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day first above written.

Contractor:

(Full Legal Name) CITY OF GREELEY

Mayor: [Signature]

City Manager: [Signature]

Position (Title) Purchasing Agent:

84-6000593

Social Security Number or Federal I.D. Number

(If Corporation:)

Attest (Seal)

By [Signature]

Corporation Secretary or Equivalent, State or Country Cert.

ATTORNEY GENERAL GALE A. NORTON

By [Signature]

DAVID M. KAYE
FIRST ASSISTANT ATTORNEY GENERAL
LEGAL SERVICES

CITY OF GREELEY

Reviewed as to Legal Form:

Office of the City Attorney

By: [Signature]

City Attorney

STATE OF COLORADO
ROY ROMER, GOVERNOR

[Signature]

For the Executive Director
DEPARTMENT OF NATURAL RESOURCES
(COLO. WATER CONSERVATION BOARD
DARIES C. LILE, P.E., DIRECTOR)

APPROVALS

CONTROLLER

By

CLIFFORD W. HALL

CITY OF GREELEY

Certification of Contract Funds Availabili

[Signature]

Director of Finance

Hourglass
Dam

FEASIBILITY
REPORT
CONTRACT

DEPARTMENT	AGENCY NUMBER
	34-04-00
CONTRACT ROUTING NUMBER	
90423	

\$20,000

THIS CONTRACT, made this 3rd day of April, 1990, by and between the State of Colorado for the use and benefit of the Department of " Natural Resources (Colorado Water Conservation Board), hereinafter referred to as the State, and " the City of Greeley, 1000 10th St., Greeley, CO 80631, hereinafter referred to as the contractor /Contractor.

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number 4008, G/L Account Number 5297X, Contract Encumbrance Number C153573, and ABL Account No. 12970, Org. Unit 77-77-777,

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, pursuant to the provisions of section 37-60-119, Colorado Revised Statutes, as amended, the State is authorized to construct certain water projects for the benefit of the people of the State of Colorado; and

WHEREAS, the City of Greeley has made application to the State for the improvement of its existing facility, such improvement of the facility is hereinafter sometimes referred to as the project; and

WHEREAS, the Contractor is a City within the State of Colorado;

NOW THEREFORE, it is hereby agreed that:

1. The Contractor shall have a feasibility report prepared and directed to the problem of improving the facilities of the Hourglass Dam in accordance with a proposal for a project feasibility report prepared by the consulting engineering firms of McCall, Ellingson, and Morrill and Woodward-Clyde and Associates (the Consultant) and approved by the State, dated October 19, 1989, which proposal is attached hereto as Appendix A and made a part of this contract.

2. Fifteen (15) copies of the final report called for in this contract shall be furnished to the State not later than ninety (90) days after the date of this contract, unless such time is extended by mutual agreement of the parties hereto in writing.

3. As compensation for the services of the Contractor, the State shall pay to the Contractor the sum of Twenty Thousand Dollars (\$20,000) in the manner following:

a. Sixty percent (60%), to wit, Twelve Thousand Dollars (\$12,000) of the total amount due in two (2) monthly installments of Six Thousand Dollars (\$6,000) each, commencing fifteen (15) days after the date of this contract.

b. The remaining forty percent (40%), to wit, Eight Thousand Dollars (\$8,000) within forty (40) days following receipt and acceptance of the written report specified in paragraph 2. of this contract.

4. The total cost of services to be rendered for the Contractor by the Consultant is Forty Thousand Dollars and the Contractor shall pay the sum of Twenty Thousand Dollars (\$20,000) as agreed to by letter dated October 19, 1989, which

EXHIBIT B

1127E*

is hereby attached and made a part of this contract as Appendix B; and in no event shall this payment be the liability of the State of Colorado.

5. In consideration of the State assuming a portion of the cost of the preparation of the said project feasibility report, the Contractor shall pay to the State the sum of Twenty-Five Thousand Nine Hundred Dollars (\$25,900) provided that construction of the subject water project is initiated within ten (10) years of the date of this contract. The Contractor shall fulfill this obligation irrespective of how or by whom or to what specifications or plans the subject project is financed, paid, or constructed so long as construction of the project is initiated within the specified time.

6. In the event the Contractor must make payment pursuant to the terms of paragraph 5. above, then the said sum of Twenty-Five Thousand Nine Hundred Dollars (\$25,900) shall be payable in ten (10) equal yearly installments of Two Thousand Five Hundred Ninety Dollars (\$2,590) each, the first installment to be due and payable upon the January 1st next succeeding the initiation of construction on the said water project. Subsequent payments shall be due and payable on January 1st of each year thereafter.

7. This contract is personal in nature and assignment of performance by the Contractor to another is prohibited unless prior approval in writing is granted by the State.

8. The Contractor is an independent contractor and as such is not entitled to any benefits of the State personnel system.

9. The original contract price stated in paragraph 4. and any additions thereto shall be adjusted to exclude any significant sums by which the State determines the contract price increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of the contract.

10. The Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure this contract and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for him, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this contract.

11. All notices, correspondence, or other documents required by this contract shall be delivered or mailed to the following addresses:

a. For the State

Mr. J. William McDonald, Director
Colorado Water Conservation Board
721 State Centennial Building
1313 Sherman Street
Denver, CO 80203
Attn: Nick Ioannides

b. For the Contractor

City of Greeley
1000 10th Street
Greeley, CO 80631
Attn: Mark Rybus
Director of Public Works

**PAID
IN FULL**

SPECIAL PROVISIONS

CONTROLLER'S APPROVAL

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

FUND AVAILABILITY

2. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

BOND REQUIREMENT

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public works for this State, the contractor shall, before entering the performance of any such work included in this contract, duly execute and deliver to and file with the official whose signature appears below for the State, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract, and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond, when so required, is executed, delivered and filed, no claim in favor of the contractor arising under this contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with 38-26-106 CRS, as amended.

INDEMNIFICATION

4. To the extent authorized by law, the contractor shall indemnify, save and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

DISCRIMINATION AND AFFIRMATIVE ACTION

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (24-34-402, CRS 1982 Replacement Vol.), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.
- (3) The contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.
- (4) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (5) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity, because of race, creed, color, sex, national origin, or ancestry.
- (6) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(7) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraph (1) through (8) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

COLORADO LABOR PREFERENCE

6a. Provisions of 8-17-101 & 102, CRS for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

b. When construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements (section 8-19-101 and 102, CRS).

GENERAL

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this Contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be established.

9. The signatories hereto aver that they are familiar with 18-8-301, et. seq., (Bribery and Corrupt Influences) and 18-8-401, et. seq., (Abuse of Public Office), CRS 1978 Replacement Vol., and that no violation of such provisions is present.

10. The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein:

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day first above written.

Contractor:

(Full Legal Name) CITY OF GREELEY

W. D. Farr
Position (Title) Chairman, Water-Sewer Board

84-6000593

Social Security Number or Federal I.D. Number

(If Corporation:)

Attest (Seal)

By [Signature]
Corporate Secretary, or Equivalent, Town/City/County Clerk

ATTORNEY GENERAL DUANE WOODARD

By [Signature]

DAVID M. KAYE
First Assistant Attorney General
General Legal Services

STATE OF COLORADO

ROY ROMER, GOVERNOR

By [Signature]
For the Executive Director
DEPARTMENT OF NATURAL RESOURCES
(COLO. WATER CONSERVATION BOARD
J. WILLIAM McDONALD, DIRECTOR)

APPROVALS

CONTROLLER

By [Signature]

CLIFFORD W. HALL

APPENDIX A

Hourglass Dam Rehabilitation

Feasibility Study

Final Plan of Study

October 19, 1989

The final plan of study for the Hourglass Dam Rehabilitation Feasibility Study follows. The plan of study is organized in accordance with the outline starting on page 17 of the Colorado Water Conservation Board's "Guidelines" dated 1978.

PART A - GENERAL REQUIREMENTS FOR FEASIBILITY REPORTS

1. Letter of Transmittal. The letter of transmittal will be prepared by the City of Greeley with the assistance of McCall-Ellingson & Morrill, Inc. (MEM). It will transmit the feasibility report and accompanying documents. The letter will be signed by the designated officer of the City of Greeley.
2. Resolution of Applying Organization. The feasibility report will be accompanied by an appropriate City of Greeley resolution. It will include;
 - a. Amount of total estimated project cost.
 - b. Amount of applicant's contribution.
 - c. Amount of state financial assistance requested
 - d. Amount of loans and grants from other sources, if any.
 - e. Length of repayment period in years (not to exceed 40 years).
3. Report of Interested Agencies. Potentially interested agencies will be contacted early in the Study. Copies of the draft feasibility report will be supplied to them as required, and copies of their reports and letters will be included in the application.

The Hourglass Dam Study is primarily intended to provide increased safety and operating efficiency of an existing dam. It is a existing single purpose municipal and industrial water supply facility.

PART B - OUTLINE FOR FEASIBILITY REPORTS

1. Prefacing Material. The prefacing material will include the following.
 - a. Title Page
 - b. Letter of Transmittal
 - c. Resolution of City of Greeley
 - d. Table of Contents
 - e. List of maps and exhibits
 - f. Project Summary. The brief resume of the report contents will be in the approved sample form.

2. Chapter I. General Information

- a. Project Map. A project map will be included to show the existing project. No project expansion is included, and it is not considered necessary to use colors to clarify the Hourglass Dam rehabilitation project.
- b. Location. The location of the project will include the county, distance and direction from the nearest major city, and the elevation of the project.
- c. Climate. Climatic data will include the following:
 - (1.) Average monthly temperatures, maximum and minimum temperatures of record, length of frost-free period, and average monthly precipitation.
 - (2.) Wind, hail and any other applicable damaging climological phenomena.

3. Chapter II. The City of Greeley.

- a. History of the City.
- b. Laws under which the City is organized.
- c. Powers and Authorities of the City, including the following:
 - (1) Right to eminent domain
 - (2) Taxing authority
 - (3) Authority to enter into contractual arrangements with the Colorado Water Conservation Board.
 - (4) Authority to vest title to the project or a portion thereof in the Colorado Water Conservation Board.
- d. Financial Status, including balance sheet and statement of income and expenditures for the two most recent years of operation. Latest year full audit report will be included as an appendix to the feasibility report.
- e. Physical Assets, to include existing facilities and their condition, and major maintenance equipment owned by the City including age and condition.

4. Chapter III. Land. Not considered to be applicable to the Hourglass Dam Rehabilitation project, with the exception of:

- a. Land ownership in the Hourglass Reservoir area.

b. Geologic Investigations. The Hourglass Dam site will be described. All readily available data on site conditions will be reviewed. Additional field explorations, surveys and field geologic mapping will be carried out, as described in Appendix A Scope of work under the Contract for Consulting/Professional Services dated October 1989, between the City of Greeley, Colorado and McCall-Ellingson and Morrill, Inc. The additional work is described in Appendix A of that Contract, as follows:

1. Perform field explorations to evaluate subsurface conditions and to develop information regarding characteristics of the soil and rock materials found at Hourglass Dam. This will include the following:

Two borings will be located in the main dam section and shall be drilled to 80 feet in depth. Two more holes will be drilled at Station 16 + 00 along the dam crest in the vicinity of the downstream face ponding area. These holes shall be approximately 55 feet in depth. Test borings may be stopped above the depths described if boulders or difficult drilling conditions are encountered at a very shallow depth, for example 20 feet in the planned 80 foot hole, and additional hole will be attempted. In each hole, sample attempts will be made and Standard Penetration Tests (SPT) will be taken at approximately every 5-foot intervals. PVC casing will be placed in each hole drilled through the embankment to serve as a permanent piezometer.

2. A field survey to supplement existing topographic and design information will be performed. This shall include key spot elevations appurtenant to the dam and facilities, bore hole locations, critical cross sections of the supply canal side channel spillway. Elevations will be tied to Comanche Reservoir Datum, and horizontal control will be tied to established land corners, if land corners are reasonably accessible.
3. Perform field geologic mapping to develop information for use in illustrating geologic conditions at the site. The report will include a typical cross-section representing data obtained from the test boring program.
4. The Project Manager of the Consultant shall be Lyman Flook.

The geologic reports, including geologic maps and sections, geologic logs of foundation exploration holes, and logs of materials in exploration holes will be included as an appendix to the rehabilitation feasibility report.

5. Chapter IV. Water

a. Water Requirements.

- (1) Development of water requirements for municipal and industrial water, including peak hourly, daily, weekly and monthly uses.
- (2) Agricultural water supplies are not involved.
- (3) Water losses from point of diversion to point of delivery are not considered relevant.
- (4) Monthly Water Diversion requirements are not considered relevant.
- (5) Projected project requirements are not expected to change during payout period, since no reservoir expansion is included.

b. Surface Water Supply.

- (1) Water releases from Hourglass Dam will be given for 10 consecutive years.
- (2) Neither recreational nor fish and wildlife benefits are being claimed for Hourglass Reservoir.
- (3) Daily water production, maximum supply rate, peak consumption and the like are not considered applicable to Hourglass Dam rehabilitation.

c. Ground-water Supply. Ground-water supply is not considered to be applicable.

d. Water Rights.

- (1) Effective water rights and permits, including dates of priority will be included. Their effect on availability of present and future water supply will be discussed.

e. Water Utilization. Water utilization is not considered to be applicable to the Hourglass Dam rehabilitation project.

f. Water Quality. A general statement of water quality will be included. Detailed information is not considered to be appropriate for the existing dam rehabilitation.

6. Chapter V. Plan of Development.

- PAID
RECEIVED**
- a. Physical Plan. Several conceptual rehabilitation plans will be prepared for Hourglass Dam. These will include reservoir floor, blanketing, slurry wall cutoff and seepage collection. Sketch designs will be prepared for the promising conceptual plans. Their various components will be described and the purposes to be served will be discussed. The operation of the existing and the rehabilitated dam will be described.

All dam rehabilitation plans will conform to the State Engineer's current Safety Standard

c. Design. Criteria and Standards used in design will include the following:

- (1) Sizing criteria for hydraulic features that are to be modified.
- (2) Reservoir losses.
- (3) Structural design criteria, including assumptions used for stability analysis.
- (4) Volume and peak discharge of inflow design floods for spillway design.
- (5) Not applicable. Hourglass Dam is a storage dam.
- (6) Flood hazard evaluation, including erosion conditions.
- (7) Not applicable. No river pumping plants are involved.
- (8) Not applicable. Canal cross-drainage is not involved.
- (9) Not applicable. No pumping plants are to be included.
- (10) Not applicable. No pumping plants are to be included.
- (11) Not applicable. No pumping plants are to be included.
- (12) Not included. No pipelines are to be included.
- (13) Availability and sources of required construction materials will be described.
- (14) Care and handling of water during construction will be described.

d. Structure Plans. Proposed major and minor structures will be described.

- (1) Not applicable. Neither canals nor pipelines are to be included.
- (2) Layout and sections will be included for all major structures and for typical minor structures.

e. Drainage. Present drainage problems will be described for Hourglass Dam, and drainage improvements to alleviate damage to the dam will be described.

f. Sedimentation. Not applicable to the Hourglass Dam rehabilitation project.

g. Right-of-Way. Right-of-Way requirements will be discussed.

7. Chapter VI. Estimated Costs.

- a. Costs of Construction. Costs of construction will be furnished in accordance with the Colorado Water Conservation Board's format. The following will be included.
- (1) The deviation of unit construction costs and pertinent factors affecting estimated construction costs will be described.
 - (2) A tabulation of construction quantities, unit costs and total costs will be included for each type of work or material for each major structure and each class of minor structure.
 - (3) A summary titled "SUMMARY OF PROJECT COSTS" will be included. It will be on the Colorado Water Conservation Board's approved format.
 - (4) The allowance for contingencies will be discussed. a minimum contingency of 20 percent is generally appropriate for feasibility level dam rehabilitation studies.
 - (5) The allowance for future cost escalations will be discussed. It will be specifically identified in the cost summary as ("Projected Price Increase").
 - (6) Total project cost will include interest during construction that the City of Greeley may have to pay.
 - (7) Other cost elements will be discussed as may be appropriate. They will include engineering, administration and any other project costs.
- b. Fund Requirement Schedule. Annual fund requirements will be shown by fiscal years for each year of the construction period.
- c. Operation, Maintenance, and Replacement Costs. A tabulation of estimated future operation, maintenance and replacement costs will be included. Estimated future costs will be compared with current costs. The tabulation will be made in budget form.
- d. Emergency Operating Fund. An EMERGENCY OPERATING FUND will be established, in accordance with the Colorado Water Conservation Board's guidelines, as required.

8. Chapter VII. Project Evaluation. A Project Evaluation will present an estimate of the City's payment capacity. The basis of payment capacity and justification therefore, will be discussed. The payment capacity is expected to include municipal and industrial water as well as reduction in operation and maintenance costs.

9. Chapter VIII. Financial Program.

Financial feasibility of the proposal will be demonstrated. Approximate procedures will be developed in consultation with the Colorado Water Conservation Water Board. The elements to be considered are expected to be as follows:

- a. Allocation will be made on the single municipal and industrial water supply.
- b. Cost allocation will not be required for the single purpose project.
- c. Water rates will be discussed.
- d. A payout schedule will be included, to show each major item of increase and expense, principal and interest payment on construction fund for each year of the repayment period. The source of data shown for each column of the schedule will be explained. The emergency-operating reserve will be accumulated over the first 10 years of the projects.

PART C - ENVIRONMENTAL ASSESSMENT

1. Environmental Assessment. It is understood that an environmental assessment is not required for the rehabilitation of Hourglass Dam.

PAID
IN FULL



APPENDIX B

WATER & SEWER DEPARTMENT

1000 10TH STREET, GREELEY, COLORADO 80631 303-350-9812

RECEIVED

October 19, 1989

OCT 23 '89

COLORADO WATER
CONSERVATION
BOARD

Mr. Nick Ioannides, P.E.
Chief, Project Planning and Construction
Colorado Water Conservation Board
721 State Centennial Building
1313 Sherman Street
Denver, Colorado 80203

RE: HOURGLASS DAM

Dear Mr. Ioannides:

On October 5, 1989, Greeley's Water and Sewer Board approved the selection of McCall, Ellingson and Morrill as the prime consultant and Woodward-Clyde and Associates as a subconsultant to perform a feasibility study of Hourglass Dam. The City Council approved the budget of \$40,000.00 for the Hourglass Feasibility Study on November 29, 1988. The funds are available for the entire project, but Greeley is expecting 50 percent participation by the Colorado Water Conservation Board. Greeley will, as it has for previous projects, pay the consultant's entire invoice and bill the Conservation Board for 50%, up to \$20,000.00.

I hope this letter conveys Greeley's commitment to the Hourglass Dam Project. If I can assist you with the Conservation Board contract, please don't hesitate to call me at 494-5643. Thanks for your help in securing the Board's approval.

Sincerely yours,

George A. McCoy (by ed)

George A. McCoy, P.E., L.S.
Water Resource Engineer

GAM/ld

cc: Mark H. Rybus

PAID
IN FULL

Chapter 4.18RISK MANAGEMENTSections:

- 4.18.010 Purpose and intent.
- 4.18.020 Duties of risk manager.
- 4.18.030 Claims reserve fund.
- 4.18.040 Compromise or settlement of claims.
- 4.18.050 Claims review board.
- 4.18.060 Rules and regulations.
- 4.18.070 Litigation.
- 4.18.080 Immunities.

4.18.010 Purpose and intent. A. The city council of the city of Greeley recognizes that there is an extraordinary need to address methods to protect the city and its employees against claims brought under the provisions of the Colorado Governmental Immunity Act and arising under federal law.

B. The city council recognizes the undesirable consequences of uninsured liability of the city, including failure to respond to meritorious claims in a timely fashion, and greater ultimate costs of settlement caused by failure to investigate claims in an orderly and timely manner. The city council declares, therefore, that the appropriate remedy is to create a reserve fund for purposes of self-insurance of the city to the extent that insurance coverage has not been obtained. The city council declares that the purpose of this chapter is to create a claims reserve fund; provide a mechanism for claims adjustment, investigation, and defense; and to authorize the settlement and payment of claims and payment of judgments rendered against the city for such claims or judgments arising out of violation of federal law or pursuant to any action which lies in tort or could lie in tort regardless of whether that may be the type of cause of action chosen by the claimant. The city council finds that, in order to adequately protect the city and carry out these purposes, it is necessary to authorize the special projects manager to perform these risk management services for the city. The city council further declares its intent to continuously explore the availability of commercial liability insurance policies of all types, including but not limited to variable deductible amounts as a supplement or in lieu of the self-insurance reserve fund herein provided in order to ensure that the costs of protecting the city against liability are minimized. (Ord. 18, 1987 §1(part)).

1. To pay liability claims and expenses related thereto brought against the city, its employees or officials pursuant to the Colorado Governmental Immunity Act, and claims against the city and its officials or employees arising under federal law, which the city is legally obligated to pay and which are compromised or settled pursuant to this chapter, or in which a final money judgment against the city has been entered, and which are not otherwise covered by a commercial liability insurance policy;

2. To pay the costs of defense, including expert witness fees and outside counsel legal fees, and investigation and other related defense costs in connection with claims brought pursuant to the requirements of subsection D1 of this section;

3. To pay premiums and deductible amounts pursuant to any commercial liability insurance policy purchased by the city in lieu of or in addition to the reserve fund provided in this chapter.

E. Moneys in the claims reserve fund shall not be used to pay any of the following:

1. Claims for liabilities or losses which are eligible for payment under any existing commercial insurance policy;

2. All claims other than those which arise under federal law or which lie or could lie in tort regardless of whether that may be the type of action chosen by the claimant;

3. Any other claim or expense not set forth in subsection D of this section.

F. The director of finance shall be responsible for the management and investment of the claims reserve fund.

G. The setting aside of reserves for self-insurance purposes in the claims reserve fund created in this section shall not be construed to create an insurance company nor shall the claims reserve fund otherwise be subject to the provisions of the laws of the state of Colorado regarding insurance or insurance companies. The requirements of Section 10-4-716 CRS concerning self-insurance under the Colorado Auto Accident Reparations Act are not applicable to this chapter.

H. Disbursements made from the claims reserve fund for eligible expenditures shall be initiated by the preparation of a warrant requisition to the director of finance from the risk manager in accordance with the authority set forth in Sections 4.18.040 and 4.18.070 of this chapter. All requests for disbursements from the claims reserve fund shall be given the highest priority by the director of finance with respect to the processing and preparation of a warrant in connection with the compromise or settlement of claims or the payments of judgments.

I. Beginning on or before June 1, 1988, and on or before June 1st of each year thereafter, the risk manager, in consultation with the director of finance, shall report to the city council regarding the operation and management of the claims

D. In investigating claims brought against the city and its officials or employees, the risk manager or his designee shall have authority to seek the advice and cooperation of all departments of the city with respect to establishment of facts, determination of liability, and assistance in utilization of the professional expertise of various employees within the city in connection with those claims. Such advice and assistance shall be provided on a timely basis.

E. No claim shall be settled pursuant to the requirements of this section unless the claimant has executed and presented a full release or discharge of liability to the city and its officers and employees arising out of the facts under that claim unless otherwise authorized by the risk manager and the city attorney.

F. All action and findings by the risk manager or his designee pursuant to this section shall remain confidential and shall be considered investigation and fact-finding in anticipation of litigation under the supervision of the city attorney. (Ord. 18, 1987 §1(part)).

4.18.050 Claims review board. A. There is created a claims review board which shall consist of the city manager or his designated representative, the risk manager, the city attorney or his designee assistant city attorney, the director of finance, and the department head involving a claim within his department. The claims review board shall meet only when required to determine whether or not to compromise or settle a claim within the authorities provided to in Section 4.18.040. Three members present shall constitute a quorum of the board.

B. The risk manager or his designee shall act as the secretary of the board and shall be responsible for preparing its agenda and providing the board with all applicable reports and documentation necessary to properly assess claims brought before it.

C. It shall be the responsibility of the risk manager and the city attorney or his designee assistant city attorney to prepare a claims assessment in connection with each claim brought before the board, and that claims assessment shall meet all of the requirements, as a minimum, of the claims settlement report as set forth in Section 4.18.040C. Said claims assessment shall remain confidential and shall be considered investigation and fact-finding in anticipation of litigation. (Ord. 18, 1987 §1(part)).

4.18.060 Rules and regulations. In order to carry out the purposes of this chapter, the risk manager may promulgate reasonable rules and regulations governing the following:

A. The administration of programs authorized in this chapter;

E. In addition to a quarterly litigation report, the city attorney shall be responsible for providing a litigation settlement report to the city council and the risk manager for all cases which have been settled without the prior knowledge of city council pursuant to the requirements of this section. (Ord. 18, 1987 §1(part)).

4.18.080 Immunities. Nothing contained in this chapter shall constitute or be construed as a waiver of any immunity or legal defense as provided the city under common law or the Colorado Governmental Immunity Act, or any other state or federal statute or ordinance. (Ord. 18, 1987 §1(part)).

PAID
IN FULL

CITY OF GREELEY, COLORADO

RESOLUTION NO. 36, 1987

A RESOLUTION AUTHORIZING THE MAYOR AND THE CITY CLERK TO SIGN A LETTER OF CREDIT IN THE AMOUNT OF \$1 MILLION AS PART OF THE SELF-INSURANCE PROGRAM OF THE CITY OF GREELEY PURSUANT TO CHAPTER 4.18 OF THE GREELEY MUNICIPAL CODE.

WHEREAS, the City of Greeley has adopted a self-insurance program; and

WHEREAS, the self-insurance program of the City of Greeley contemplates a letter of credit in the amount of \$1 million to pay claims and defense costs in excess of the City's reserve funds; and

WHEREAS, the Intrawest Bank of Greeley has agreed to provide the letter of credit to the City of Greeley contemplated by the City's self-insurance program; and

WHEREAS, the City Council of the City of Greeley determines that it is in the best interest of the citizens of the City of Greeley that the letter of credit be obtained for self-insurance purposes;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF GREELEY, COLORADO, that the Mayor and the City Clerk are authorized to execute a letter of credit with Intrawest Bank in the

PAID
IN FULL

amount of \$1 million for self-insurance pursuant to implementation of the self-insurance program of the City of Greeley.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS 4th DAY OF August, 1987.

ATTEST:

THE CITY OF GREELEY, COLORADO

Denise Pellard
City Clerk

By [Signature]
Mayor

PAID
IN FULL

Repayment Schedule

Hourglass Reservoir
Once-a-Year Payment
Payment

\$24,085.99

Principal \$250,000.00

Interest 0.05

Term 15 YEARS

PERIOD	PRINCIPAL	PAYMENT	INTEREST	PRINCIPAL REPAYMENT
1	\$250,000.00	\$24,085.99	\$12,500.65	\$11,585.35
2	238,414.65	24,085.99	11,921.35	12,164.64
3	226,250.01	24,085.99	11,313.09	12,772.91
4	213,477.10	24,085.99	10,674.41	13,411.59
5	200,065.52	24,085.99	10,003.79	14,082.20
6	185,983.32	24,085.99	9,299.65	14,786.35
7	171,196.97	24,085.99	8,560.29	15,525.70
8	155,671.27	24,085.99	7,783.97	16,302.03
9	139,369.24	24,085.99	6,968.82	17,117.17
10	122,252.07	24,085.99	6,112.92	17,973.07
11	104,279.00	24,085.99	5,214.22	18,871.77
12	85,407.23	24,085.99	4,270.58	19,815.41
13	65,591.82	24,085.99	3,279.76	20,806.23
14	44,785.58	24,085.99	2,239.40	21,846.60
15	22,938.98	24,085.99	1,147.01	22,938.98

PAID
IN FULL

EXHIBIT D

THE CITY OF GREELEY, COLORADO

ORDINANCE NO. 87 , 1992

AN ORDINANCE AUTHORIZING THE APPROVAL OF A CONTRACT AND ADDENDUM CONTRACT BETWEEN THE COLORADO WATER CONSERVATION BOARD AND THE CITY OF GREELEY FOR THE REHABILITATION OF HOURGLASS DAM AND RELATED WATER UTILITY IMPROVEMENTS AND NECESSARY INCIDENTALS; PRESCRIBING THE FORM OF THE MORTGAGE SECURING SAID OBLIGATION; PROVIDING FOR THE PAYMENT OF THE SAME AND THE INTEREST THEREON.

WHEREAS, for the purpose of rehabilitation of Hourglass Dam, as well as other water utility improvements and necessary incidentals (the Project), the City of Greeley (the City) by proper action has considered a contract and amendments thereto between itself and the Colorado Water Conservation Board; and

WHEREAS, the City Council has received the funds to build and complete the project and determined that the cost of such project shall benefit the health, safety and welfare of the inhabitants of the City and shall not exceed a cost of Two Hundred Fifty Thousand Dollars (\$250,000) principal with interest to be paid at five percent (5%) over a term of fifteen (15) years in equal principal payments not including costs for collection, administration and other incidentals; and

WHEREAS, by reason of the fact that the Colorado Water Conservation Board requires that the City of Greeley pledge the full faith and credit of said City to subject obligation; and

WHEREAS, by reason that it is necessary to obtain money to pay the costs of the construction of the project, which costs have and will hereafter become due and payable, this ordinance is hereby declared to become necessary to the preservation of the public peace, health, and property and shall take effect upon publication following passage pursuant to Article III, Section 3-17 of the Greeley City Charter; and

WHEREAS, the requirements of Article XI, Section 3 of the Colorado Constitution are not applicable to this project and that the pledge of credit by the City of Greeley applies only to the obligation of the City under the contract amendment and is not in aid of any other person or in payment of any debt, contract, or liability of any other person; and

WHEREAS, Article 11, Section 1, and the Charter of the City of Greeley provide that debts contracted by a home rule city for the purposes of supplying water shall be excepted from the operation of Section 6 insofar as no political subdivision of the State shall contract any general obligation debt by loan in any form, whether individually or by contract, without an election; and

WHEREAS, it is now necessary to provide for the approval of the payback contract and this ordinance in this form, subject to the commensurate payment schedule incorporated therein:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREELEY, COLORADO:

SECTION 1. By virtue and pursuant to Article 11, Sections 1 and 6, and Article III of the Greeley City Charter, the Colorado Revised Statutes and the Colorado Constitution, and all other laws thereunto enabling, the City of Greeley shall agree to pay and pledge its full faith and credit to repay all the costs incurred in constructing and installing the Rehabilitation of Hourglass Dam.

Payment shall consist of fifteen (15) equal principal payments of Twenty-Four Thousand Eighty-Six Dollars (\$24,086) with interest accruing at 5% per annum, in accordance with the project contract and the project contract amendment herinbefore stated.

The payment schedule is as set out in the Payback Schedule (Exhibit C).

The maximum net effective interest rate authorized to be paid under this contract shall be 5 percent (5%) per annum.

SECTION 2. Paying Agent. The afore-referenced payments shall be payable in lawful money of the United States of America at the offices of the Colorado Water Conservation Board, or such other place as designated in writing to the City of Greeley, or to their successors and assigns. Such payment may be paid by check or warrant of the City of Greeley.

SECTION 3. Execution of the Project Contract and Project Contract Amendment. The Project Contract has been previously executed by the City of Greeley through its Water and Sewer Board Chairman, W.D. Farr, and attested by its Clerk, Betsy Holder, by lawful resolution of the City of Greeley and the project contract amendment shall be further executed by the City of Greeley through its lawfully elected Mayor, William J. Morton, and attested by its duly appointed Clerk.

SECTION 4. Irrepealability of this Ordinance. This ordinance shall be irrepealable for a period not to exceed twenty-seven (27) years or such lesser time as is necessary to complete the payments referenced in Section 1 of this ordinance.

SECTION 5. Security for the Performance of the Obligations Provided for in this Ordinance. A mortgage, in a form mutually satisfactory to the City of Greeley and the Colorado Water Conservation Board, shall be incorporated into this ordinance by reference as provided in Article III, Section 3-5 of the Greeley City Charter. In summary:

a. The mortgage provides that the Colorado Water Conservation Board shall take a mortgage interest as provided by Colorado law in the Rehabilitation of Hourglass Dam.

b. The mortgage provides that all the afore-referenced items are real property or fixtures and that if the same shall be considered to be personal property under Colorado law or the Uniform Commercial Code, the mortgage shall be deemed to be a security agreement in personal property and shall be treated as such.

c. The mortgage provides that the mortgagee is justly indebted to the mortgagor in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) and has agreed to pay the same with interest.

d. The mortgage requires that mortgagor has good title to the premises and warrants the same free of all encumbrances.

e. The mortgage provides for a future advance clause and provides that such mortgagor shall pledge its full faith and credit to assure repayment of the agreement loan to the mortgagee.

f. The mortgage provides that the mortgagor shall not demand or otherwise allow the destruction of the security, will keep the security insured to the extent such insurance can be obtained, and shall maintain the premises in good condition and repair and shall not suffer any waste to the premises and shall comply with all statutes and requirements of government authorities with jurisdiction.

g. The mortgage provides for events of default such as failure to pay the indebtedness, breach of warranties, demolition or threatened waste of the premises, or attachment of mechanics liens.

SECTION 6. Payment of Principal and Interest. There may be established a special principal and interest fund to contain the proceeds from such assessments which may be levied by assessment of water charges for the use of municipal water either within or without the limits of the City of Greeley.

Nothing in this ordinance or in the creation of the afore-referenced fund shall preclude the City from budgeting and applying such monies from other funds as it deems necessary or expedient for the payment of the obligations set forth herein or the prepayment of such obligations set forth herein.

SECTION 7. Execution of Collateral Documents. The Mayor, City Clerk, Finance Director, City Attorney, and other appropriate officers of the City are hereby authorized to execute on behalf of the City any collateral documents appropriate or necessary, directly or indirectly, relating to the subject matter of this ordinance.

SECTION 8. Severability. If any one or more sections or parts of this ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this ordinance, it being the intention that various provisions hereof are severable.

SECTION 9. Repealer. All ordinances or parts thereof in conflict with this ordinance are hereby repealed.

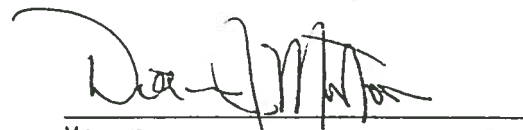
SECTION 10. Ordinance Irrepealable. After the execution of the project contract for Hourglass Dam Rehabilitation and the mortgage, this ordinance shall be and remain irrepealable until the contract shall have been fully paid, satisfied and discharged.

SECTION 11. Publication. Upon passage, this ordinance shall be numbered and recorded, and the adoption and publication shall be authenticated by the signature of the Mayor and the City Clerk and by the affidavit of publication.

SECTION 12. Public Hearing. Notice is hereby given that a public hearing will be held on this ordinance before its consideration and final reading on Tues, the 20th day of Oct at 7:30p.m in the City Council Chambers at the Public Safety Building in the City of Greeley, Colorado, at which time and place all persons interested may appear and be heard, if they so desire.

APPROVED FOR PUBLIC HEARING this 6th day of October, 1992.

THE CITY OF GREELEY, COLORADO



Mayor

SEAL

ATTEST:



City Clerk


PASSED, APPROVED AND ADOPTED ON FINAL READING on this 20th day of
October 1992.



Mayor

SEAL

ATTEST:



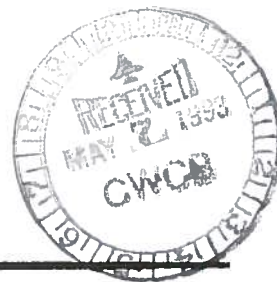
City Clerk

**PAID
IN FULL**

SCHEDULE A
COLORADO WATER CONSERVATION BOARD
CONSTRUCTION FUND PROGRAM PROCEDURES

1. Board approval of engineering firm and engineering agreement between engineering firm and project sponsor.
2. Preparation of detailed plans and specifications for authorized projects by consulting engineering firm.
3. Approval of detailed plans and specifications by Board staff (plans and specifications for storage dams and reservoirs must also be approved by State Engineer's Office).
4. Board staff approval of bidding for the project. Board staff present at bid opening for construction.
5. Project sponsor may issue the notice of award and the notice to proceed with construction to the contractor (both notices must be approved by the Board staff before they are issued).
6. Conduct a pre-construction conference. Approval of construction schedule by Board staff.
7. Construction commences. The Board staff makes periodic inspections during construction. All change orders must be approved by the Board staff in advance and before any construction on change items can commence. Emergency items cleared by telephone.
8. The consulting engineer certifies that the project has been completed according to approved drawings and specifications and arranges for final inspection.
9. Final inspection and acceptance of as-built project by Board staff.
10. Submittal of as-built drawings to Board staff for approval and filing.

APPENDIX A HOURGLASS REHABILITATION DESIGN SCOPE OF SERVICES



Task 1 - Initial Coordination Meeting. The City's representative and our project manager will schedule the initial coordination meeting. The agenda for this meeting should include distribution of all criteria, reports, and existing data held by the City. The project team will submit a preliminary schedule of events. The meeting will cover preliminary design criteria, scheduling, contract procedures, and report and drawing formats to determine the extent of Contract preparation.

Task 2 - Data Gathering. After review of the data supplied at the initial coordination meeting, we will begin field inspection, surveying, soils investigations, and literature review. Assumptions we have made regarding work under this task are:

- Published data for reservoir facilities, mapping, and survey information will be used as much as possible. Where existing data is questionable, as identified by the City or by our review, additional field data will be obtained.
- Elevations and locations of existing facilities, easements, and right-of-ways will be tied to the City monument system.
- New aerial photography will be developed to be used for topographic map preparation of the project area. Mapping will include contours and all planimetric features. Individual trees will not be included on the map.

Task 3 - Hydrologic and Hydraulic Analysis - The hydrologic analysis in the Feasibility Report will need to be modified to conform with analysis similar to the method used that is currently accepted by the SEO.

Task 4 - Preliminary Design - Preliminary designs and evaluations will be made for only those alternatives identified by the Project Team and City during the workshop meetings. A brief preliminary design report will be prepared and will consist of a narrative describing the design criteria, alternative selection process, methodologies used, hydrologic and hydraulic analyses, Opinions of Cost, and discussion about advantages and disadvantages of each alternative. Items that will be included in the Preliminary design include the following:

Post-It™ brand fax transmittal memo 7671		# of pages > 5
To	DENNIS MILLER	
From	SAM BOONE	
Co.	CWCB	
Co.	CITY OF GRAND RAPIDS	
Dept.	Phone # 350-9817	
Fax # 260-4474	Fax # 350-9736	

1. Riprap and bedding design.
2. Toe drain design.
3. Design of filter blankets.
4. Design of control section and erosion control protection for the emergency spillway.
5. Seepage considerations and analysis of alternative control measures.
6. Determine embankment details and slope protection.
7. Modification to the outlet works and outlet channel.
8. Calculation of PMF using HEC-1.

Task 5 - Final Design - Final design will begin only after selection and approval by the City of a single improvement alternative. At this time, Final Design will begin. Additional review meetings will be held with the City Staff at 50 percent and 90 percent completion. These meetings will review drawings and design concepts and will allow the opportunity for adjustments to meet City needs and resolve technical questions.

In addition to in-house Staff and City review, TEC will provide quality control to check completed Contract Documents prior to construction. These checks ensure that the Project Team's total expertise and experience has been utilized on the project and will reduce the possibility of omissions and errors that could present problems during construction. Our in-house review takes place concurrently with the City's final review and prior to printing the Contract Documents for advertisement. After all reviews are complete, the Documents will be modified and prepared for bidding.

Task 6 - Final Design Report. TEC shall prepare a final design report that describes in detail the methodology used in formulating the final design for Hourglass Dam and appurtenant structures. The design report shall contain all background information, calculations, and other required documentation necessary to allow a thorough review of project plans and specifications by the City, the Colorado State Engineer's Office, the Colorado Water Conservation Board, and the United States Forest Service.

Task 7 - Agency Submittal and Review. Following a review of the final design documents by the City and the Colorado Water Conservation Board and at the direction of the City, TEC shall submit the construction plans, technical specifications, and other required documentation to the Colorado State Engineer's Office for review and approval. The submittal shall be done in strict accordance with the rules and regulations of the Colorado State Engineer's Office. Three packets containing the same documents and information submitted to the Colorado State Engineer's Office shall be forwarded to the City. One of the final design documents shall be forwarded by the City to the Colorado Water

Conservation Board, and the United States Forest Service.

TEC shall be available during the review process to answer questions, attend meetings, or provide any additional information required by the Colorado State Engineer's Office, the Colorado Water Conservation Board, or the United States Forest Service to complete their review and approval process.

TEC shall make revisions, at no additional cost to the City, to the plans and technical specifications necessary to obtain the approval of the design documents by the Colorado State Engineer's Office, the Colorado Water Conservation Board, and the United States Forest Service. No revisions, agreements, or concessions, as required by the Colorado State Engineer's Office, the Colorado Water Conservation Board, or the United States Forest Service shall be made without prior approval by the City. The City shall be notified and have the option to participate in any meetings between TEC and the Colorado State Engineer's Office, the Colorado Water Conservation Board, and the United States Forest Service. Further, TEC shall keep the City fully informed of any and all communications between TEC, the Colorado State Engineer's Office, and the United States Forest Service.

Following the approval of the design documents by the Colorado State Engineer's Office, the Colorado Water Conservation Board, and the United States Forest Service, TEC shall provide to the City: 1) five complete sets of all design documents and complete bid documents as per City specifications and 2) one set of high-quality, unbound, reproducible design and bid documents.

Task 8 - Project Management. TEC, acting through the project manager, shall maintain close contact with the City throughout the execution of this contract. A comprehensive monthly progress report shall be prepared by TEC and forwarded to the City. Memoranda shall be generated following all meetings between the City and TEC, or between the City and other involved agencies, to insure a clear understanding between meeting participants. Memoranda shall be distributed to the meeting participants and the City.

This task shall also include the preparation of the invoices and billing information in accordance with Article 3, Paragraph A of this project.

PAID
IN FULL

Professional Fees. The fee structure to be used will be a Not-To-Exceed time and reimbursable direct-cost agreement. We have listed the hourly rates that we intend to use for this project in the following table:

<u>Classification</u>	<u>Hourly Rate</u>
Principal	\$74.00
Project Manager - Brian Zick	\$60.00
Project Engineer - Duane Smith	\$65.00
Staff Engineer	\$46.00
Technician	\$41.00
Draftsman	\$35.00
Survey Crew (2-man)	\$60.00
Registered Surveyor	\$40.00
Secretarial	\$25.00
Mileage	\$0.35/Mile

Based on the project requirements, we have prepared a breakdown of the Engineering Costs for the Feasibility Study Alternate. For this alternate, we assume that we can rely on the Feasibility Study that will provide the necessary supportive information to complete design. An extensive preliminary design phase will not occur with this alternate. To accomplish the work for this alternate, we propose the following fees:

Surveying/Mapping from new aerial photography	\$ 4,300
Data Gathering	\$ 800
Hydrologic Analysis	\$ 1,500
Geotechnical and Structural	\$ 5,000
Design	\$15,000
Specifications	\$ 2,500
Finite Element Analysis	\$ 3,100
Legal and Easement Surveys	\$ 5,000
Total	\$37,200

**PAID
IN FULL**

APPENDIX B
HOURLASS REHABILITATION DESIGN
PROJECT SCHEDULE

Completion Date

Start Project/Meetings	April 30, 1993
Preliminary Design	June 30, 1993
Final Design	August 30, 1993
Review by Colorado State Engineers Office	Approximately December 1, 1993
Delivery to the City Reproducible Plans and Specifications	Approximately December 31, 1993

**PAID
IN FULL**