



COLORADO

Colorado Water Conservation Board

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203
303-866-3441

September 12, 2019

Bellyache Ridge Metropolitan District
28 Second Street, Suite 213
Edwards, CO 81632

Subject: Loan Contract No. CT2015-015 (C150356)
Loan Compliance Confirmation

Attached for your records are the original documents relative to the agreement between the Bellyache Ridge Metropolitan District, and the Colorado Water Conservation Board (CWCB), Loan Contract No. CT2015-015 (C150356). The documents have been stamped "PAID IN FULL" denoting that the terms of the agreement have been satisfied in full by the District.

Should you have any questions, please contact me at Telephone No. (303) 866-3441, ext 3245 or email at lauren.miremont@state.co.us. If we can be of any further assistance to you in the near future, please let us know.

Sincerely,

Lauren Miremont
Finance Manager
Finance Section

Attachments

cc: CWCB Files



PROMISSORY NOTE

Date: April 8, 2014
Borrower: Bellyache Ridge Water Enterprise
Principal Amount: \$169,175
Interest Rate: 3.0% per annum
Term of Repayment: 30 years
Loan CONTRACT No.: C150356
Loan Payment: \$8,631.18
Payment Initiation Date*: 4/1/2017
Maturity Date*: 4/1/2047

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT ("SECURITY INSTRUMENTS") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and SECURITY INSTRUMENTS grant additional rights to the CWCB.
8. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be

Appendix 2 to Loan Contract C150356

considered in default for purposes of this PROMISSORY NOTE.

9. The BORROWER and any co-signer or guarantor hereby agree that if this PROMISSORY NOTE or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This PROMISSORY NOTE shall be governed in all respects by the laws of the State of Colorado.

Bellyache Ridge Metropolitan District acting
by and through its Bellyache Ridge Water
Enterprise

(S E A L)

Attest:

By 
Signature

NAME: Phillip Todd

TITLE: Board President

DATE: 4-8-2014

By 
Signature

NAME: Mary Anne Metternich

TITLE: Treasurer

DATE: 4-8-2014

PAID IN FULL


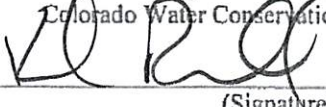
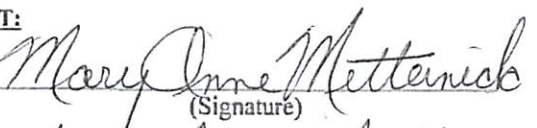

LOAN CONTRACT AMENDMENT NO. 1

SIGNATURE AND COVER PAGE (THREE SIGNED ORIGINALS REQUIRED)

State Agency: Department of Natural Resources Colorado Water Conservation Board (CWCBC) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 1 Contract Number CMS 98993 CT2015-015
Borrower Bellyache Ridge Metropolitan District, acting by and through the Bellyache Ridge Water Enterprise	Original Contract Number CMS 66738 CT2015-015
Current Contract Maximum Amount \$137,203.00	Contract Performance (Project) Beginning Date 04/18/2014
Reason for Modification Decrease due to substantial completion	Contract Performance (Project) End Date 04/01/2017
	Loan Contract Repayment Schedule (See Promissory Note) Payment Initiation Date: 04/01/2017 Maturity Date: 04/01/2047

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

BORROWER Bellyache Ridge Metropolitan District, acting by and through the Bellyache Ridge Water Enterprise  (Signature) Name: <u>Phillip B. B.</u> Title: <u>BRMP President</u> Date: <u>4-11-17</u>	STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Natural Resources Colorado Water Conservation Board (CWCBC)  (Signature) Name: Kirk Russell, P.E., Section Chief CWCBC Finance Section Date: <u>4/27/17</u>
ATTEST:  (Signature) Name: <u>Mary Anne Metternick</u> Title: <u>Secretary</u> Date: <u>4-11-17</u>	PAID IN FULL
In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate STATE CONTROLLER Robert Jaros, CPA, MBA, JD  By: Susan Borup, Controller, Department of Natural Resources Amendment Effective Date: <u>5/9/2017</u>	

1. **PARTIES**

This Amendment (the "Amendment") to the Original Contract shown on the Signature and Cover Page for this Amendment (the "Contract") is entered into by and between the Borrower, and the State.

2. **TERMINOLOGY**

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

3. **AMENDMENT EFFECTIVE DATE AND TERM**

A. **Amendment Effective Date**

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date.

The Parties' respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment.

4. **PURPOSE**

The Borrower was approved for a CWCB Loan Contract for the Well Replacement Project. The Borrower made a principal prepayment of \$3,383.73. A decrease of \$28,588.27 will also be made for funds not needed. The Project is completed and the parties agree to amend the contract to reduce the final loan amount from \$169,175.00 to \$137,203.00.

5. **MODIFICATIONS**

The Contract and all prior amendments thereto, if any, are modified as follows:

- A. The original loan contract amount is hereby deleted and replaced with the Current Contract Maximum Amount of \$137,203.00, shown on the Signature and Cover Page for this Amendment.
- B. Amendment to Promissory Note, Appendix A, in the revised loan amount, and incorporated herein *shall replace and supersede* the Original Promissory Note attached to the Original Contract as Appendix 2.
- C. Amendment to Security Agreement, Appendix B, in the revised loan amount, and incorporated herein *shall supplement and operate in conjunction* with the Original Security Agreement, attached to the Original Contract as Appendix 4.

6. **LIMITS OF EFFECT AND ORDER OF PRECEDENCE**

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments or other modifications to the Contract, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Contract, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract or any prior modification to the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Contract to the extent that this Amendment specifically modifies those Special Provisions.

APPENDIX A, AMENDMENT NO. 1 TO LOAN CONTRACT CT2015-015
AMENDMENT TO PROMISSORY NOTE

Date: April 11, 2017
Borrower: Bellyache Ridge Metropolitan District, acting by and through the
Bellyache Ridge Water Enterprise
Total Loan Amount: \$137,203.00
Interest Rate: 3.00%
Term of Repayment: 30 years
Loan Contract No.: CT2015-015 (C150356)
Loan Payment: \$7,000.00
Payment Initiation Date: April 1, 2017
Maturity Date: April 1, 2047

For Value Received, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this promissory note.

1. This Amendment to Promissory Note *shall replace and supersede* the Original Promissory Note attached to the Original Contract and incorporated by reference.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date, and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.

PAID IN FULL

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Bellyache Ridge Metropolitan
District, acting by and through the Bellyache
Ridge Water Enterprise

(SEAL)

By

Signature

Attest:

By Mary Anne Metternick
Signature

Name

Title

Name

Title

Date

Date

PAID IN FULL

COPY

APPENDIX B, AMENDMENT NO.1 TO LOAN CONTRACT CT2015-015
AMENDMENT TO SECURITY AGREEMENT

DEBTOR: Bellyache Ridge Metropolitan District, acting by and
through the Bellyache Ridge Water Enterprise
SECURED PARTY: Colorado Water Conservation Board
REVISED LOAN AMOUNT: \$137,203.00
TERM OF REPAYMENT: 30 years
INTEREST RATE: 3.00
LOAN CONTRACT NUMBER: CT2015-015 (C150356)

1. The Parties have amended the Original Loan Contract and Promissory Note to decrease the loan amount from \$169,175.00 to \$137,203.00, and hereby amend the Original Security Agreement to document the change of loan amount.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.
3. Collateral for the loan remains the same.

(SEAL)

DEBTOR: Bellyache Ridge Metropolitan District,
acting by and through the Bellyache Ridge Water
Enterprise

By P.N.A. BRMD president
Signature/Title

Date 4-11-17

ATTEST:

By Mary Anne Mettlen
Signature/Title

Date 4-11-17

PAID IN FULL

BORROWER: BELLYACHE RIDGE
METROPOLITAN DISTRICT ACTING BY AND
THROUGH ITS BELLYACHE RIDGE WATER
ENTERPRISE
CONTRACT NO: C150356
REQUESTED LOAN AMOUNT \$167,500
LOAN SERVICE FEE \$1,675
LOAN AMOUNT \$169,175

AGENCY NAME: COLORADO WATER
CONSERVATION BOARD
AGENCY NUMBER: PDA
CONTRACT TYPE: LOAN/PUBLIC
CWCB CMS #66738

CT 2015 -015

LOAN CONTRACT

(STANDARD CONTRACT – WAIVER #160 – APPROVED NOVEMBER 10, 2003)

THIS CONTRACT, made between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCB" or "STATE"), and the Bellyache Ridge Metropolitan District acting by and through its Bellyache Ridge Water Enterprise, c/o Robertson & Marchetti P.C., 28 Second Street, Suite 213, Edwards, Colorado, 81632, ("BORROWER").

FACTUAL RECITALS

1. Authority exists in the law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this CONTRACT under: Contract Encumbrance No. C150356, Fund Number 424, Appropriation Code M14, Organization YYYY, GBL B356, Program WTRC, Object Code 5560, Reporting Category 0356; and
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies; and
3. On July 17, 2013, the CWCB approved a loan request, from the BORROWER, for the Well Replacement Project ("PROJECT") to drill a replacement well which will provide the District with a long term water source. A contract was not executed at that time. On March 19, 2014, CWCB approved a change to the loan contract that included changing the BORROWER from Bellyache Ridge Metropolitan District to Bellyache Ridge Metropolitan District acting by and through its Bellyache Ridge Water Enterprise and a change of pledged collateral from mill levy revenues and annual financial reporting to user fees and rates and annual financial reporting. The total cost of the PROJECT is \$335,000. The total loan contract is for \$169,175 with an interest rate of 3.0% for a term 30 years; and
4. The **PROJECT SUMMARY**, attached as **APPENDIX 1** and incorporated herein, contains BORROWER Information (Section 1), the PROJECT Description (Section 2), CWCB's authority for making this loan (Section 3), and CWCB Approval and Legislative Authorization which identifies the amount of the loan and the terms of repayment (Section 4); and
5. The CWCB now desires, by this CONTRACT, to loan money to the BORROWER for this

PAID IN FULL

Loan Contract C150356

PROJECT upon mutually agreeable terms and conditions.

THEREFORE, in consideration of the mutual and dependent covenants contained herein, the parties agree as follows:

A. LOAN PROVISIONS

1. **Loan Service Fee.** The amount of the loan (LOAN AMOUNT) shall include (1) the amount of the funds loaned by the CWCB to the BORROWER for the PROJECT and (2) a service fee of one percent (1%) of the PROJECT amount. In the event that the BORROWER does not use the LOAN AMOUNT authorized, the parties shall amend this CONTRACT to revise the LOAN AMOUNT including adjustment of the service fee to reflect 1% of the actual LOAN AMOUNT disbursed to the BORROWER.
2. **Contract Amendment Service Fees.** Under certain circumstances, the BORROWER shall be assessed a fee for amending the CONTRACT.
 - a. A service fee shall be imposed on the BORROWER for amendments processed for the benefit of the BORROWER and necessary for the BORROWER's course of business but not necessary for the CWCB, including, but not limited to, a change in BORROWER name, assignment of CONTRACT, substitution of collateral, loan payment deferments in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including, but not limited to, loan payment deferments (up to 3 per loan), and changes in terms of loan repayment will be processed at no additional charge to the BORROWER.
 - b. The amount charged shall be in accordance with the fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current fee for an amendment is \$1,000.
 - c. The BORROWER shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded
3. **Promissory Note Provisions.** The CWCB agrees to loan to the BORROWER an amount not to exceed the LOAN AMOUNT and the BORROWER agrees to repay the loan in accordance with the terms as set forth in the **PROMISSORY NOTE**, attached hereto as **APPENDIX 2** and incorporated herein. The PROMISSORY NOTE shall identify the LOAN AMOUNT. If the amount of loan funds disbursed by the CWCB to the BORROWER differs from the LOAN AMOUNT, the parties agree to amend this CONTRACT, including its appendices where necessary, to revise the LOAN AMOUNT.
4. **Interest Prior to Project Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to PROJECT's substantial completion (as determined by the CWCB) and notify BORROWER of such amount. The BORROWER shall repay that amount to the CWCB either within ten (10) days from the date of notification from the CWCB, or, at the CWCB's discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the BORROWER.

5. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of this CONTRACT shall be remitted to the CWCB within 30 calendar days from notification from the CWCB of either (1) completion of the PROJECT or (2) determination by the CWCB that the PROJECT will not be completed.
6. **Borrower's Authority to Contract.** The BORROWER warrants that it has full power and authority to enter into this CONTRACT. The execution and delivery of this CONTRACT and the performance and observation of its terms, conditions and obligations have been duly authorized by all necessary actions of the BORROWER. The **BORROWER'S AUTHORIZING RESOLUTION(S) OR ORDINANCE(S)** are attached as **APPENDIX 3** and incorporated herein.
7. **Bond Counsel's Opinion Letter.** Prior to the execution of this CONTRACT by the CWCB, the BORROWER shall submit to the CWCB a letter from its bond counsel stating that it is the bond counsel's opinion that
 - a. the CONTRACT has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the CONTRACT and to bind the BORROWER; and
 - b. the resolutions or ordinances of the BORROWER authorizing the execution and delivery of the CONTRACT were duly adopted by the governing bodies of the BORROWER; and
 - c. there are no provisions in the Colorado Constitution or any other state or local law that prevent this CONTRACT from binding the BORROWER; and
 - d. the CONTRACT will be valid and binding against the BORROWER if entered into by the CWCB; and
 - e. the BORROWER was formed and is operated and maintained as a water activity enterprise pursuant to Article 45.1, Title 37, C.R.S. and within the meaning of COLORADO CONST. Art. X, Section 20.
8. **Pledge of revenues.** The BORROWER irrevocably pledges to the CWCB, for purposes of repayment of this loan, revenues levied for that purpose as authorized in APPENDIX 3 and any other funds legally available to the BORROWER, in an amount sufficient to pay the annual payment due under this CONTRACT ("PLEDGED REVENUES"). Further, the BORROWER agrees to:
 - a. **Segregation of Pledged Revenues.** The BORROWER shall set aside and keep the PLEDGED REVENUES in an account separate from other BORROWER revenues and warrants that these revenues will not be used for any other purpose.
 - b. **Establish Security Interest.** The BORROWER has duly executed a **SECURITY AGREEMENT**, attached hereto as **APPENDIX 4** and incorporated herein, to provide a security interest to the CWCB in the PLEDGED REVENUES. The CWCB shall have priority over all other competing claims for said revenues, except for the liens of the BORROWER's existing loans as listed in Section 5 (Schedule of Existing Debt), of the PROJECT SUMMARY, which sets forth the position of the lien created by this

CONTRACT in relation to any existing lien(s).

- c. **Rate Covenant.** Pursuant to its statutory authority and as permitted by law, the BORROWER shall take all necessary actions consistent therewith during the term of this CONTRACT to establish, levy and collect rates, charges and fees as described in APPENDIX 3, in amounts sufficient to pay this loan as required by the terms of this CONTRACT and the PROMISSORY NOTE, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves, including obtaining voter approval, if necessary, of increases in the BORROWER'S rate schedule or taxes, if applicable.
- d. **Debt Service Reserve Account.** To establish and maintain the debt service reserve account, the BORROWER shall deposit an amount equal to one-tenth of an annual payment into its debt service reserve fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan. In the event that the BORROWER applies funds from this account to repayment of the loan, the BORROWER shall replenish the account within ninety (90) days of withdrawal of the funds.
- e. **Additional Debts or Bonds.** The BORROWER shall not issue any indebtedness payable from the PLEDGED REVENUES and having a lien thereon which is superior to the lien of this loan. The BORROWER may issue parity debt only with the prior written approval of the CWCB, provided that:
 - i. The BORROWER is currently and at the time of the issuance of the parity debt in substantial compliance with all of the obligations of this CONTRACT, including, but not limited to, being current on the annual payments due under this CONTRACT and in the accumulation of all amounts then required to be accumulated in the BORROWER'S debt service reserve fund;
 - ii. The BORROWER provides to the CWCB a Parity Certificate from an independent certified public accountant certifying that, based on an analysis of the BORROWER'S revenues, for 12 consecutive months out of the 18 months immediately preceding the date of issuance of such parity debt, the BORROWER'S revenues are sufficient to pay its annual operating and maintenance expenses, annual debt service on all outstanding indebtedness having a lien on the pledged revenues, including this loan, the annual debt service on the proposed indebtedness to be issued, and all required deposits to any reserve funds required by this CONTRACT or by the lender(s) of any indebtedness having a lien on the pledged revenues. The analysis of revenues shall be based on the BORROWER'S current rate structure or the rate structure most recently adopted. No more than 10% of total revenues may originate from tap and/or connection fees.

The BORROWER acknowledges and understands that any request for approval of the issuance of additional debt must be reviewed and approved by the CWCB Director prior to the issuance of any additional debt.

- f. **Annual Statement of Debt Coverage.** Each year during the term of this CONTRACT, the BORROWER shall submit to the CWCB an annual audit report or a copy of the Application for Exemption from Audit filed with the Colorado Office of the State Auditor and a certificate of debt service coverage from a Certified Public Accountant.
9. **Pledged Revenues During Loan Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the PLEDGED REVENUES, so long as any of the principal, accrued interest, and late charges, if any, on this loan remain unpaid, without the prior written concurrence of the CWCB.
10. **Release After Loan Is Repaid.** Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the PROMISSORY NOTE, the CWCB agrees to release and terminate any and all of the CWCB's right, title, and interest in and to the PLEDGED REVENUES.
11. **Warranties.**
- a. The BORROWER warrants that, by acceptance of the loan under this CONTRACT and by its representations herein, the BORROWER shall be estopped from asserting for any reason that it is not authorized or obligated to repay the loan to the CWCB as required by this CONTRACT.
 - b. The BORROWER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the BORROWER, to solicit or secure this CONTRACT and has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this CONTRACT.
 - c. The BORROWER warrants that the PLEDGED REVENUES and COLLATERAL for this loan are not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner, except for any existing lien(s) identified in Section 5 (Schedule of Existing Debt) of the PROJECT SUMMARY, which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s).
12. **Remedies for Default.** Upon default in the payments to be made by the BORROWER under this CONTRACT, or default in the performance of any covenant or agreement contained herein, the CWCB, at its option, may:
- a. suspend this CONTRACT and withhold further loan disbursements pending corrective action by the BORROWER, and if the BORROWER does not cure the default as provided for below, permanently cease loan disbursements and deem the PROJECT substantially complete;
 - b. exercise its rights under any appendices to this CONTRACT, including, but not limited to, the PROMISSORY NOTE and SECURITY AGREEMENT; and/or
 - c. take any other appropriate action.

The CWCB shall provide written notice to the BORROWER of any such default and shall give the BORROWER an opportunity to cure within thirty (30) days of receipt of such notice. All remedies described herein may be simultaneously or selectively and successively enforced. The CWCB may enforce the provisions of this CONTRACT at its option without regard to prior waivers of previous defaults by the BORROWER, through judicial proceedings to require specific performance of this CONTRACT, or by such other proceedings in law or equity as may be deemed necessary by the CWCB to ensure compliance with provisions of this CONTRACT and the laws and regulations under which this CONTRACT is executed. The CWCB's exercise of any or all of the remedies described herein shall not relieve the BORROWER of any of its duties and obligations under this CONTRACT.

13. **Operation of Project.** The BORROWER shall, without expense or legal liability to the CWCB, manage, operate and maintain the PROJECT continuously in an efficient and economical manner.

14. **Borrower's Liability Insurance.**

- a. Because the BORROWER is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS 24-10-101, et seq., as amended ("Act"), the BORROWER shall at all times maintain such liability insurance, by commercial policy or self-insurance as is necessary to meet its liabilities under the Act.
- b. Prior to the disbursement of any loan funds, the BORROWER shall provide the CWCB with an Acord Form 25 or other form satisfactory to the CWCB evidencing said insurance and shall provide the CWCB with documentation of renewals of said insurance.

15. **Additional Contract Requirements.** Any additional CONTRACT requirements are set forth in Additional Contract Requirement (Section 6) of the PROJECT SUMMARY.

B. PROJECT PROVISIONS

1. **Construction Fund Program Procedures.** During the completion of the PROJECT, the BORROWER shall adhere to the CWCB Construction Fund Program Procedures (Section 7) of the PROJECT SUMMARY.
2. **Eligible Expenses.** The PROJECT expenses for which the BORROWER is eligible for loan disbursements are listed in Eligible Expenses (Section 8) of the PROJECT SUMMARY.
3. **Loan Disbursements.** The CWCB shall disburse loan funds in accordance with the Disbursement Schedule (Section 9) of the PROJECT SUMMARY.
4. **Time for Performance.** The BORROWER recognizes that time is of the essence in the performance of all of its obligations under this CONTRACT. Therefore, the BORROWER shall complete the PROJECT within the time specified in Time for Performance (Section 10) of the PROJECT SUMMARY.

5. **Indemnification by the Construction Firm.** The BORROWER shall require all construction firms and their subcontractors to indemnify the STATE and the BORROWER against all liability and loss, and against all claims and actions based upon or arising out of damage or injury, including death, to persons or property, caused by any acts or omissions of those parties or sustained in connection with the performance of any contract related to the PROJECT or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation, and the defense of any such claims or actions.
6. **Liability Insurance during Construction.** During construction of the PROJECT, the BORROWER shall require the construction firm(s) and any subcontractors to maintain the following insurance coverage in the limits shown during the term of their contracts for the construction of the PROJECT. The BORROWER shall provide the CWCB with an Acord Form 25 evidencing said insurance prior to commencement of construction, maintained until construction is complete, and shall provide the CWCB with documentation of renewals of said insurance. No payments shall be made to the BORROWER unless all insurance certificates are current.
 - a. Worker's compensation and employer's liability insurance in the required statutory amounts.
 - b. Automobile liability insurance that includes coverage for all owned, non-owned and hired vehicles with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage.
 - c. Commercial general liability insurance with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate. This insurance coverage shall include products/completed operations and bodily injury/property damage.

C. GENERAL PROVISIONS

1. **Periodic Inspections.** Throughout the term of this CONTRACT, the BORROWER shall permit a designated representative of the CWCB to make periodic inspections of the PROJECT. Such inspections shall cover the condition of the PROJECT, operating records, maintenance records, and financial records. These inspections are solely for the purpose of verifying compliance with the terms and conditions of this CONTRACT and shall not be construed nor interpreted as an approval of the actual design, construction or operation of any element of the PROJECT facilities.
2. **Applicable Laws.** The BORROWER shall strictly adhere to all applicable federal, state, and local laws and regulations that are in effect or may hereafter be established throughout the term of this CONTRACT.
3. **Designated Agent Of The CWCB.** The CWCB's employees are designated as the agents of the CWCB for the purpose of this CONTRACT.
4. **Assignment.** The BORROWER may not assign this CONTRACT except with the prior

written approval of the CWCB.

5. **Contract Relationship.** The parties to this CONTRACT intend that the relationship between them under this CONTRACT is that of lender-borrower, not employer-employee. No agent, employee, or servant of the BORROWER shall be, or shall be deemed to be, an employee, agent, or servant of the CWCB. The BORROWER shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, construction firms, and subcontractors during the term of this CONTRACT.
6. **Integration of Terms.** 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 renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written CONTRACT executed and approved pursuant to State fiscal rules, unless expressly provided for herein.
7. **Controlling Terms.** In the event of conflicts or inconsistencies between the terms of this CONTRACT and conditions as set forth in any of the appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: (1) Colorado Special Provisions, provided that the parties hereby agree that, for the purposes of such Special Provisions, (a) "Contractor" shall mean BORROWER (2) the remainder of this CONTRACT, and (3) the Appendices.
8. **Casualty and Eminent Domain.** If, at any time, during the term of this CONTRACT, (a) the BORROWER'S PROJECT facilities including buildings or any portion thereof, are damaged or destroyed, in whole or in part, by fire or other casualty, or (b) title to or use of the PROJECT facilities or any part thereof shall be taken under the exercise of the power of eminent domain, the BORROWER shall cause the net proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of the PROJECT facilities or any portion thereof, or to repayment of this loan. Any net proceeds remaining after such work has been completed or this loan has been repaid, shall be retained by the BORROWER. If the net insurance proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the BORROWER shall complete the work and pay any cost in excess of the net proceeds. In the event BORROWER chooses to repay the loan, BORROWER shall remain responsible for the full LOAN AMOUNT outstanding regardless of the amount of such insurance proceeds or condemnation award.
9. **Captions.** The captions and headings contained in this CONTRACT are for convenience and reference only and shall not be construed so as to define or limit the terms or provisions contracted herein.
10. **CWCB's Approval.** This CONTRACT requires review and approval of plans, specifications, and various other technical and legal documents. The CWCB's review of these documents is only for the purpose of verifying BORROWER's compliance with this CONTRACT and shall not be construed or interpreted as a technical review or

approval of the actual design or construction of the PROJECT. Notwithstanding any consents or approvals given to the BORROWER by the CWCB on any such documents, BORROWER and any of its consultants, by preparing any such documents, shall be solely responsible for the accuracy and completeness of any of said documents.

11. **Waiver.** The waiver of any breach of a term of this CONTRACT shall not be construed as a waiver of any other term or of any subsequent breach of the same term.
12. **Addresses for mailing.** All notices, correspondence, or other documents required by this CONTRACT shall be delivered or mailed to the addresses shown in the PROJECT SUMMARY, Section 1 for the BORROWER and to the address below for the CWCB:

Colorado Water Conservation Board
Attn: Construction Fund Section
1313 Sherman Street, Room 721
Denver, CO 80203

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

PAID IN FULL

Special Provisions

The Special Provisions apply to all contracts except where noted in *italics*.

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS §24-30-202(5.5).** 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.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not 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 shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy

available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.
10. **VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements]** Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
11. **PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]** Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.
12. **PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

SPs Effective
1/1/09

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT.

* Persons signing for BORROWER hereby swear and affirm that they are authorized to act on BORROWER's behalf and acknowledge that the State is relying on their representations to that effect.

Bellyache Ridge Metropolitan District acting
by and through its

Bellyache Ridge Water Enterprise

BY: [Signature]
Signature

NAME: Phillip Todd

TITLE: Board President

DATE: 4-8-2014

STATE OF COLORADO

John W. Hickenlooper, Governor
Department of Natural Resources
Mike King, Executive Director

BY: [Signature]

Name: Kirk Russell, P.E., Chief
Finance & Administration Section
Colorado Water Conservation Board

DATE: 4/15/14

Attest (Seal)

BY: [Signature]
Signature

NAME: Mary Anne Metternich

TITLE: Treasurer

DATE: 4-8-2014

Pre-Approved Form Contract Reviewer

BY: [Signature]
Peg Mason, CWCB Contracts Manager

DATE: 4-14-14

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid and there are no loan funds available until the State Controller, or such assistant as he may delegate, has signed it.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By [Signature]
Susan Borup, Controller, Department of Natural Resources

Effective Date 4/18/14

Loan Contract C150356

**Project Summary – Bellyache Ridge Metropolitan District acting by
and through its Bellyache Ridge Water Enterprise
Contract No. C150356**

SECTION 1 –BORROWER INFORMATION

Name: Bellyache Ridge Metropolitan District acting by and through its Bellyache Ridge Water Enterprise
Address: c/o Robertson & Marchetti, P.C., 28 Second Street, Suite 213, Edwards, Colorado 81632
Contact: Ken Marchetti
Phone Number: 970-926-6060
E-mail address: ken@rmpccpa.com
Type of Entity: The BELLYACHE RIDGE METROPOLITAN DISTRICT, located in Eagle County, was incorporated in 1981 as a Title 32 Special District. THE BELLYACHE RIDGE WATER ENTERPRISE is a water activity enterprise formed, by the District, pursuant to Article 45.1, Title 37, C.R.S. and is operated and maintained as an enterprise within the meaning of COLORADO CONST. Art. X, Section 20

Section 2 – Project Description

- A. Description of PROJECT: The District's water system is supplied by three wells. The purpose of this PROJECT is to drill a 1,900 foot deep replacement well for Well #2 to provide the District with a long term water source. The new well will be located approximately in the same location as the existing well. The new well is expected to produce 25gpm. The estimated total cost PROJECT is \$335,000.
- B. Description of Feasibility Study: The CWCB has reviewed a feasibility study report dated June, 2013 titled *Bellyache Ridge Metro District Well Replacement*, prepared by Thomas Zancanella, P.E. with Zancanella & Associates, Inc., Glenwood Springs, Colorado, which is incorporated herein by reference. The study was prepared in accordance with the CWCB guidelines. Based upon the feasibility report, the CWCB determined the PROJECT to be technically and financially feasible.

SECTION 3 – CWCB'S AUTHORITY

Construction Fund: This loan is made pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S., which authorize the CWCB to loan money for water projects from the CWCB Construction Fund for the benefit of the people of the state, provided that the BORROWER assures repayment of that money.

Section 37-60-122(1)(b), C.R.S., authorizes the CWCB to make loans of up to \$10,000,000 from the CWCB's Construction Fund and the State Severance Tax Trust Fund Perpetual Base Account Fund without prior approval from the General Assembly.

Appendix 1 to Loan Contract C150356

SECTION 4 - BOARD APPROVAL AND LEGISLATIVE AUTHORIZATION (IF NEEDED)

At its July 17, 2013 meeting, the CWCB approved a Small Project Loan from the Construction Fund to the BORROWER in an amount up to \$167,500 for PROJECT costs, with \$1,675 for the loan origination fee of 1% in accordance with CWCB Policy No. 16, resulting in a total loan amount of \$169,175 at an interest rate of 3.0% per annum for a repayment term of 30 years. A contract was not executed at that time. On March 19, 2014, CWCB approved a change to the loan contract that included changing the BORROWER from Bellyache Ridge Metropolitan District to the Bellyache Ridge Metropolitan District acting by and through its Bellyache Ridge Water Enterprise and a change of pledged collateral from mill levy revenues and annual financial reporting to user fees and rates and annual financial reporting.

SECTION 5 – SCHEDULE OF EXISTING DEBT

No other debt, backed by user fees and rates, exists.

SECTION 6 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS

NONE

SECTION 7 – CONSTRUCTION FUND PROGRAM PROCEDURES

- A. The BORROWER shall employ an engineer, registered in the state of Colorado to prepare plans and specifications for the PROJECT.
- B. Engineering contracts, plans and specifications must be submitted to the CWCB staff for verification of compliance with the terms of this CONTRACT when available prior to bidding. Any modifications to the plans and specifications must be approved in writing by the CWCB staff.
- C. For plans and specifications for all jurisdictional dams and reservoirs, as defined by § 37-87-105 C.R.S., the BORROWER shall provide a letter of approval from the State Engineer's Office prior to construction.
- D. The BORROWER shall extend an invitation to CWCB to be present at the bid opening.
- E. The BORROWER shall contract for the construction of the work with responsible and capable Construction Firms, which said Construction Firms shall be selected by the BORROWER and found acceptable by the CWCB staff.
- F. The BORROWER must provide a copy of the executed construction contract documents consisting of the contractor's proposal, construction contract, performance bond, payment bond, notice of award, ~~notice to proceed~~, sample change order, and sample field order, as well as the advertisement for bid and bid bond at bidding. After the CWCB staff verifies that these documents comply with the terms of this CONTRACT, the BORROWER may issue the notice to proceed to the Construction Firms.

- G. The BORROWER shall conduct a pre-construction conference at which time the CWCB staff shall have the opportunity to review and approve the construction schedule.
- H. If the CWCB staff determines that the PROJECT requires a resident inspector during construction, the BORROWER shall employ an inspector who has been approved by the CWCB staff.
- I. The BORROWER shall construct the PROJECT in accordance with the approved plans and specifications.
- J. Upon completion of the PROJECT construction, the BORROWER shall provide as-built drawings of the PROJECT to the CWCB staff, or, if required by § 37-87-105, C.R.S., the BORROWER shall provide the as-built drawings to the State Engineer's Office for approval and filing.
- K. Upon completion of the PROJECT construction, the BORROWER shall arrange a final inspection for the CWCB staff.
- L. The BORROWER shall pay all of the expenses related to the PROJECT when such bills are due.

SECTION 8 – ELIGIBLE EXPENSES. The following items are eligible for loan disbursements.

- A. Preparing final designs and specifications for the PROJECT.
- B. Preparing bid and construction contract documents.
- C. Preparing environmental assessment or environmental impact statements, and otherwise complying with the Federal National Environmental Policy Act.
- D. Complying with all federal, state, and local regulatory requirements, including the obtaining of all required permits.
- E. Fish and wildlife mitigation measures required by federal, state, or local laws and regulations.
- F. Actual construction as called for in the design documents and in change orders approved by the CWCB and the BORROWER.
- G. Engineering services for construction management, including design and construction management for CWCB-approved change orders.
- H. Interest during completion of the PROJECT pursuant to Paragraph A.4 of the CONTRACT.
- I. Legal services for reviewing engineering services contracts, reviewing this CONTRACT, reviewing construction contract documents, and for complying with all federal, state, and local regulatory requirements.
- J. PROJECT related expenses incurred prior to the Effective Date of this CONTRACT in accordance with the approval of this loan.

Appendix 1 to Loan Contract C150356

SECTION 9 – DISBURSEMENT SCHEDULE

For PROJECT costs: The BORROWER shall prepare a periodic progress report which contains a statement of the PROJECT costs expended for that period and shall forward said statement to the CWCB. After receipt of the periodic progress report from the BORROWER, and review and acceptance of the items therein as eligible expenses as described below, the CWCB will pay to the BORROWER the amount set forth in the report or such portion that has been approved by the CWCB. Such payment shall be made within thirty (30) days from the CWCB's approval of each progress report.

SECTION 10 – TIME FOR PERFORMANCE

PROJECT Beginning: Upon Effective Date of this CONTRACT (the date this CONTRACT is signed by the State Controller or his designee).

PROJECT Finish: Three (3) years from the Effective Date of this CONTRACT.

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PAID IN FULL

PROMISSORY NOTE

Date: April 8, 2014
Borrower: Bellyache Ridge Water Enterprise
Principal Amount: \$169,175
Interest Rate: 3.0% per annum
Term of Repayment: 30 years
Loan CONTRACT No.: C150356
Loan Payment: \$8,631.18
Payment Initiation Date*: _____
Maturity Date*: _____

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT ("SECURITY INSTRUMENTS") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and SECURITY INSTRUMENTS grant additional rights to the CWCB.
8. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be

Appendix 2 to Loan Contract C150356

considered in default for purposes of this PROMISSORY NOTE.

9. The BORROWER and any co-signer or guarantor hereby agree that if this PROMISSORY NOTE or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.

10. This PROMISSORY NOTE shall be governed in all respects by the laws of the State of Colorado.

Bellyache Ridge Metropolitan District acting
by and through its Bellyache Ridge Water
Enterprise

(S E A L)

Attest:

By 
Signature

NAME: Phillip Todd

TITLE: Board President

DATE: 4-8-2014

By 
Signature

NAME: Mary Anne Metternick

TITLE: Treasurer

DATE: 4-8-2014

PAID IN FULL

RESOLUTION OF THE
BELLYACHE RIDGE WATER ENTERPRISE
OF THE BELLYACHE RIDGE METROPOLITAN DISTRICT

A RESOLUTION APPROVING THE TERMS OF A SECURED LOAN FROM
THE STATE OF COLORADO WATER CONSERVATION BOARD TO THE
BELLYACHE RIDGE WATER ENTERPRISE FOR A WELL REPLACEMENT
PROJECT, AND AUTHORIZING THE EXECUTION OF DOCUMENTS
NECESSARY TO ACCOMPLISH SAME.

WHEREAS, the Bellyache Ridge Metropolitan District ("District") is a Colorado metropolitan district with all powers attributable thereto; and

WHEREAS, the District has established its Bellyache Ridge Water Enterprise ("Enterprise") pursuant to C.R.S. 37-45.1-101 (et. seq.); and

WHEREAS, in order to facilitate the Well Replacement Project ("Project") the District, acting by and through its Enterprise, has applied for and been approved for a loan in the amount of \$169,175 from the Colorado Water Conservation Board ("CWCB"); and

WHEREAS, the Board of Directors of the District, acting as the governing body of the Enterprise, has reviewed the loan documentation and desires to approve the loan and authorize the Enterprise to enter into the loan transaction.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BELLYACHE RIDGE METROPOLITAN DISTRICT, ACTING AS THE GOVERNING BODY OF THE BELLYACHE RIDGE WATER ENTERPRISE:

1. The Enterprise is authorized to enter into and comply with the terms of a contract with the CWCB for a loan in the amount of \$169,175, or such actual amount, more or less, as needed to finance the Project, including a CWCB loan origination fee of 1% ("Loan Contract").

2. The Enterprise is authorized and directed to impose and collect water activity enterprise revenues in an amount sufficient to pay the annual amounts due under the Loan Contract, and to pledge said revenues and the Enterprise's right to receive said revenues for repayment of the loan approved herein.

3. The Enterprise shall place said pledged revenues in a special account separate and apart from other Enterprise revenues.

4. The Enterprise is to make the annual payments required by the Loan Contract and related Promissory Note, and to make annual deposits to a debt service reserve fund as required by the Loan Contract.

5. The Enterprise is authorized to pledge its revenues, backed by CWCB's customary rate covenant and annual financial reporting, as collateral for the loan and to execute

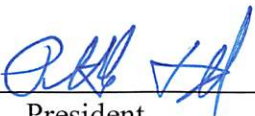
all documents, including a Promissory Note and Security Agreement, necessary to convey a security interest in said property to the CWCB.

6. The President and Secretary of the District, on behalf of the Enterprise, are authorized to execute all documents as required by the Loan Contract, including, but not limited to, a Promissory Note and Security Agreement.

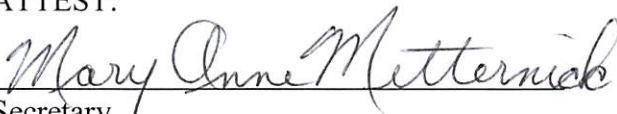
7. The President and Secretary of the District are authorized to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 11th day of March, 2014.

BELLYACHE RIDGE METROPOLITAN DISTRICT,
Acting by and through the Bellyache Ridge Water Enterprise

By 
President

ATTEST:


Secretary

PAID IN FULL

CERTIFICATION

THE UNDERSIGNED, THE PRESIDENT AND THE SECRETARY HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE DISTRICT'S BOARD OF DIRECTORS DULY CALLED AND HELD AS ABOVE RECITED, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE DISTRICT THE 11 DAY OF March, 2014.

(SEAL)

By [Signature]
Signature

ATTEST:

By Mary Anne Mitternuck
Signature of Secretary

Name: Phillip Todd
Title: President
Date: 3-11-14

Date: 3-11-14

PAID IN FULL

SECURITY AGREEMENT

(PLEDGE OF REVENUES)

DATE: APRIL 8, 2014

DEBTOR: Bellyache Ridge Metropolitan District acting by and through its
Bellyache Ridge Water Enterprise

SECURED PARTY: COLORADO WATER CONSERVATION BOARD
1313 SHERMAN STREET, ROOM 721
DENVER, CO 80203

PROMISSORY NOTE: \$169,175

TERMS OF REPAYMENT: 3.0% PER ANNUM FOR 30 YEARS

LOAN CONTRACT: C150356

COLLATERAL: All user fees and rates pledged to repay the loan as described in
PLEDGE OF REVENUES provisions of the LOAN CONTRACT and THE
DEBTOR'S RESOLUTION dated MARCH 11, 2014.

To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the TERMS OF REPAYMENT, or until all principal, interests, and late charges, if any, are paid in full, the DEBTOR grants to SECURED PARTY a security interest in the above described COLLATERAL.

DEBTOR EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Section 5 of the Loan Contract Project Summary, DEBTOR is the owner of the COLLATERAL free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the COLLATERAL against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by DEBTOR will not violate any law or agreement governing DEBTOR or to which DEBTOR is a party.
3. To not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the COLLATERAL and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the CONTRACT and by its representations herein, DEBTOR shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the COLLATERAL pursuant to the terms of this agreement.

UNTIL DEFAULT DEBTOR may have possession of the COLLATERAL, provided that DEBTOR keeps the COLLATERAL in an account separate from other revenues of DEBTOR and does not use the COLLATERAL for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the COLLATERAL.

Appendix 4 to Loan Contract C150356

DEBTOR SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:

- a. default in the payment or performance of any obligation contained herein or in the PROMISSORY NOTE or Loan CONTRACT;
- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against DEBTOR; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of DEBTOR which proves to have been false in any material respect when made or furnished.

UPON SUCH DEFAULT and at any time thereafter, SECURED PARTY shall have the remedies of a secured party under Section 11-57-208, Colorado Revised Statutes, as amended. SECURED PARTY may require DEBTOR to deliver or make the COLLATERAL available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY's reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the DEBTOR written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the DEBTOR shall be considered in default for purposes of this SECURITY AGREEMENT. No default shall be waived by SECURED PARTY except in writing, and no waiver by SECURED PARTY of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this SECURITY AGREEMENT shall not waive or impair any other security SECURED PARTY may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this SECURITY AGREEMENT; but SECURED PARTY shall retain its rights of set-off against DEBTOR. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and DEBTOR consents to venue and personal jurisdiction in said Court.

All rights of SECURED PARTY hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of DEBTOR shall bind its successors or assigns.

PAID IN FULL

Bellyache Ridge Metropolitan District acting
by and through its

DEBTOR: Bellyache Ridge Water Enterprise

(SEAL)

Attest:

By 
Signature Signature

NAME: Phillip Bodel
TITLE: Board President
DATE: 4-8-2014

By 
Signature

NAME: Mary Anne Metternick
TITLE: Treasurer
DATE: 4-8-2014

PAID IN FULL


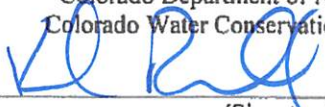


LOAN CONTRACT AMENDMENT NO. 1

SIGNATURE AND COVER PAGE (THREE SIGNED ORIGINALS REQUIRED)

State Agency: Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 1 Contract Number CMS 98993 CT2015-015
Borrower Bellyache Ridge Metropolitan District, acting by and through the Bellyache Ridge Water Enterprise	Original Contract Number CMS 66738 CT2015-015
Current Contract Maximum Amount \$137,203.00	Contract Performance (Project) Beginning Date 04/18/2014
Reason for Modification Decrease due to substantial completion	Contract Performance (Project) End Date 04/01/2017
	Loan Contract Repayment Schedule (See Promissory Note) Payment Initiation Date: 04/01/2017 Maturity Date: 04/01/2047

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

BORROWER Bellyache Ridge Metropolitan District, acting by and through the Bellyache Ridge Water Enterprise  (Signature) Name: <u>Phillip B. B.</u> Title: <u>BRMP President</u> Date: <u>4-11-17</u>	STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB)  (Signature) Name: Kirk Russell, P.E., Section Chief CWCB Finance Section Date: <u>4/27/17</u>
ATTEST:  (Signature) Name: <u>Mary Anne Metternich</u> Title: <u>Secretary</u> Date: <u>4-11-17</u>	PAID IN FULL
In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate STATE CONTROLLER Robert Jaros, CPA, MBA, JD  By: Susan Borup, Controller, Department of Natural Resources Amendment Effective Date: <u>5/9/2017</u>	

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Bellyache Ridge Metropolitan
District, acting by and through the Bellyache
Ridge Water Enterprise

(SEAL)

By



Signature

Attest:

By Mary Anne Metternick
Signature

Name

Phillip T. Tolb

Title

BRMO President

Name

Mary Anne Metternick

Date

4-11-17

Title

Secretary

Date

4-11-17

PAID IN FULL

**APPENDIX B, AMENDMENT NO.1 TO LOAN CONTRACT CT2015-015
AMENDMENT TO SECURITY AGREEMENT**

DEBTOR: Bellyache Ridge Metropolitan District, acting by and
through the Bellyache Ridge Water Enterprise
SECURED PARTY: Colorado Water Conservation Board
REVISED LOAN AMOUNT: \$137,203.00
TERM OF REPAYMENT: 30 years
INTEREST RATE: 3.00
LOAN CONTRACT NUMBER: CT2015-015 (C150356)

1. The Parties have amended the Original Loan Contract and Promissory Note to decrease the loan amount from \$169,175.00 to \$137,203.00, and hereby amend the Original Security Agreement to document the change of loan amount.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.
3. Collateral for the loan remains the same.

(S E A L)

DEBTOR: Bellyache Ridge Metropolitan District,
acting by and through the Bellyache Ridge Water
Enterprise

By *PMA BRMD*
Signature/Title

Date 4-11-17

ATTEST:

By *Mary Anne Metten*
Signature/Title

Date 4-11-17

PAID IN FULL