

AGREEMENT FOR ACQUISITION OF CHATFIELD RESERVOIR REALLOCATION PROJECT SHARES FROM THE STATE OF COLORADO

THIS AGREEMENT shall be dated, for reference purposes only, as of the last date either party signs this Agreement as indicated on the signature pages hereto, is entered into by and between the State of Colorado, acting by and through the Department of Natural Resources, Colorado Water Conservation Board ("CWCB"), and Dominion Water & Sanitation District, a Title 32 Special District 1805 Shea Center Drive, Suite 140, Highlands Ranch, Colorado 80129 ("Purchaser").

1. Recitals

1.1. Section 204 of the Flood Control Act of 1950 (Public Law 81-516), as modified by Section 88 of the Water Resources Development Act of 1974 (Public Law 93-251), authorized the construction, operation, and maintenance of the Chatfield Dam and Reservoir Project, Colorado (hereinafter the "Chatfield Reservoir") for flood control and other purposes, and Chatfield Reservoir has been constructed and is operational.

1.2. Chatfield Reservoir is located in Sections 1, 2, 11, 12, 13, 14 and 23, Township 6 South, Range 69 West, 6th P.M. and Sections 6, 7 and 18, Township 6 South, Range 68 West, 6th P.M. in Douglas and Jefferson Counties, Colorado. It is owned by the United States of America, was constructed for flood control and other purposes, and is operated by the Department of the Army represented by the Assistant Secretary of the Army (Civil Works) (the "USACE").

1.3. Section 808 of the Water Resources Development Act of 1986 (Public Law 99-662), as amended by Section 3042 of the Water Resources Development Act of 2007 (Public Law 110-114), authorized the reallocation of Storage Space (as defined below) in Chatfield Reservoir for joint flood control-conservation purposes, including storage for municipal and industrial water supply, agriculture, environmental restoration, and recreation and fishery habitat protection and enhancement, upon a finding of feasibility and economic justification by the Chief of Engineers, and, in accordance with the provisions of the Water Supply Act of 1958 (Title III of Public Law 85-500) as amended (43 U.S.C. 390b), the Federal Water Project Recreation Act (16 U.S.C. 4601-12 *et seq.*), and such other federal laws as the Secretary determines appropriate, upon agreement of non-Federal interests to repay the cost allocated to such storage.

1.4. The State of Colorado by and through the CWCB and the USACE entered into the Chatfield, Cherry Creek and Bear Creek Feasibility Study (Contract No. C153882) on September 2, 1999, to study the feasibility of reallocating existing Storage Space in Chatfield Reservoir.

1.5. The CWCB entered into a series of “Letters of Commitment” with more than a dozen water provider entities (“Water Providers”) during the feasibility study.

1.6. The Letters of Commitment allocated Storage Space in Chatfield Reservoir that will be made available by the Chatfield Storage Reallocation Project (“Reallocation Project”) as “shares” in the Reallocation Project. The Letters of Commitment specified that a Water Provider may opt out of its share of Storage Space in Chatfield Reservoir at any time, provided that the Water Provider allows other participating entities an opportunity to purchase the relinquished shares. Any relinquished portion of the shares not acquired by other entities were conveyed to the CWCB, which holds the Storage Space for later redistribution. The Letters of Commitment authorized the CWCB to develop methods for distributing or selling the Storage Space to the water community.

1.7. The USACE issued its Chatfield Reservoir Storage Reallocation Final Integrated Feasibility Report and Environmental Impact Statement dated July 2013, Addendum No. 1, dated March 2014, and Addendum No. 2, dated September 2014 (collectively the “Reallocation Report”) evaluating the Reallocation Project. On May 29, 2014, the USACE issued its Record of Decision authorizing the reallocation of 20,600 acre-feet of Storage Space from the exclusive flood control pool to a joint-use flood control-conservation pool for municipal and industrial water supply and other purposes.

1.8. The USACE and the Colorado Department of Natural Resources (“CDNR”) entered into an “Agreement Between the Department of the Army and the Colorado Department of Natural Resources for Reallocation of Water Storage Space, Recreation Modifications, and Compensatory Mitigation Features at the Chatfield Dam and Reservoir, Colorado” dated October 9, 2014 (“Water Storage Agreement”), by which CDNR acquired the right to use for water storage purposes the 20,600 acre-feet of Storage Space referenced above, subject to the terms stated therein. Article VI of the Water Storage Agreement contemplates that CDNR will grant portions of the Storage Space in Chatfield Reservoir to the Water Providers to store water supplies owned or used by them, and for the performance of the recreation modifications and the compensatory mitigation features.

1.9. Section 116 of Division C, Omnibus Appropriations Act, 2009 (Public Law 111-8), as amended by Section 4013(f) of the Water Resources Reform and Development Act of 2014 (Public Law 113-121), authorizes CDNR (or a designee of CDNR) to perform facility modifications and any required mitigation for the reallocation of Storage Space in the Chatfield Project.

1.10. The Colorado General Assembly provided the CWCB the authority and ability to hold Storage Space in the Chatfield Project and to contract with, and allocate storage to, local entities who will utilize the reservoir Storage Space among

other powers and duties established in section 37-60-120.1, C.R.S. Over time, the Colorado General Assembly has appropriated more than \$62 million for the CWCB to retain Storage Space in the Reallocation Project. On October 15, 2015, the CWCB entered into a Water Provider Agreement with CDNR for 7,057 acre-feet of Storage Space in Chatfield Reservoir (the "CWCB Water Provider Agreement"). The CWCB Water Provider Agreement with CDNR has been amended to reflect sales of Storage Space to third parties prior to the sale contemplated by this Agreement.

1.11. The implementation costs for the Reallocation Project are 100% non-federal. The October 2017 estimate of all project implementation costs is \$171,000,000 ("Total Estimated Project Costs").

1.12. The non-Federal sponsor, CDNR, is responsible for construction and operational costs associated with the Reallocation Project. The Colorado Division of Parks and Wildlife currently operates and manages Chatfield State Park and associated facilities around Chatfield Reservoir. Each of the Water Providers entered into separate Water Provider Agreements with CDNR to work collaboratively with the CDNR and bear all costs of the mitigation and modification, and take the lead role in design and construction. The Water Providers formed the Chatfield Reservoir Mitigation Company ("CRMC"), a Colorado nonprofit corporation, in October 2015 to be responsible for implementation of the environmental mitigation and recreation modification activities necessary to implement the Reallocation Project. The USACE's involvement in these efforts is limited to oversight, review, and approval.

1.13. As described in Article II.F of the Water Storage Agreement, CDNR is responsible for annual Operation, Maintenance, Repair, Rehabilitation, Reconstruction and Replacement ("O&M-RRR&R") payments to the USACE in an amount proportionate to the Reallocation Project.

1.14. CRMC is funded by regular assessments collected from the Water Providers, its members. CRMC assessments are based on the number of membership units ("CRMC Units") each member owns. Each CRMC Unit corresponds to one (1) acre-foot of Storage Space in the Reallocation Project.

1.15. Purchaser wishes to acquire long-term future storage for its renewable water supplies.

1.16. By this Agreement, the parties provide for the Purchaser's acquisition of 500 acre-feet of Storage Space in the Reallocation Project from the CWCB, for Purchaser's exclusive ownership and use, by means of a single acquisition of 500 acre-feet of the CWCB's existing Storage Space under the CWCB Water Provider Agreement.

For and in consideration of the premises and the mutual covenants, conditions, and promises herein, the parties agree as follows:

2. Definitions. Terms defined in Article I of the Water Storage Agreement and used in this Agreement shall have the same meaning as in the Water Storage Agreement unless further defined in this Section 2.

2.1. *Base Water Charge* means the base cost per acre-foot of the Dominion Storage Space to be acquired pursuant to this Agreement. The Base Water Charge shall be \$8,300.97 per acre-foot. The Base Water Charge is determined by dividing the Total Estimated Project Costs (\$171,000,000) by the total number of acre-feet in the Reallocation Project (20,600).

2.2. *CRMC Assessments* means the amount charged by the CRMC to support the CRMC operations. CRMC Assessments are charged by the CRMC on a pro rata basis annually. CRMC Assessments may change over time as the CRMC's duties change based on the status of the Reallocation Project.

2.3. *Dominion Storage Space* means the 500 acre-feet in Chatfield Reservoir that will be assigned to Purchaser pursuant to this Agreement.

2.4. *Effective Date.* The Effective Date means the date that is the Loan Effective Date under the State of Colorado Intergovernmental Loan Contract between CWCB and Purchaser CT2020-3122 (the "Loan Contract."). If the Loan Contract fails to be fully executed and delivered to Purchaser, this Agreement shall be null and void, and neither party shall have any rights or obligations hereunder.

2.5. *Final Project Cost* means the total amount paid to implement the Reallocation Project in accordance with the Water Storage Agreement at the end of the period of construction of the Reallocation Project as defined in the Water Storage Agreement.

2.6. *O&M-RRR&R* means the operations and maintenance and repair, rehabilitation, reconstruction, and replacement costs of Chatfield Reservoir as further defined in Article II.F of the Water Storage Agreement.

2.7. *Reconciled Payment Obligation* means the Final Project Cost of the Reallocation Project determined following final completion of the Reallocation Project. The Final Project Cost of the Reallocation Project will be compared to the Base Water Charge and the balance shall constitute the Reconciled Payment Obligation.

2.8. *Storage Space* means storage volume in acre-feet in Chatfield Reservoir. Storage Space does not refer to a specific water right, rather, the term refers to the right to Storage Space in Chatfield Reservoir wherein the Purchaser and other Water Providers may store their respective water rights.

2.9. *Water Storage Agreement* means the Agreement Between the Department of the Army and the Colorado Department of Natural Resources for Reallocation of Water Storage Space, Recreation Modifications, and Compensatory Mitigation Features at the Chatfield Dam and Reservoir, Colorado dated October 9, 2014, by which CDNR acquired the right to use for water storage purposes the 20,600 acre-feet of Storage Space referenced above, subject to the terms stated therein.

2.10. *Water Provider Agreement* means the agreements entered into between the Colorado Department of Natural Resources and each Water Provider that has agreed to take on the responsibility to pay for some portion of the Reallocation Project and assume the rights and responsibilities of CDNR under the Water Storage Agreement in exchange for Storage Space in Chatfield Reservoir.

3. Acquisition. Purchaser will acquire the Dominion Storage Space in one lump sum purchase, subject to the following terms:

3.1. *Assumption.* Purchaser will assume and accept all of the CWCB's rights and obligations pursuant to the Water Storage Agreement to the extent applicable to the Dominion Storage Space.

3.2. *Assignment.* CWCB will execute a partial assignment granting all of the CWCB's rights and obligations pursuant to the Water Storage Agreement to the extent applicable to the Dominion Storage Space.

3.3. *Payment Amount.* The total consideration for acquisition of the Dominion Storage Space is \$4,150,485.00 (the "Purchase Price"), comprising the Base Water Charge for the volume of the Dominion Storage Space. The parties recognize that the Reallocation Project has not been completed and therefore the Final Project Cost has not yet been determined and therefore the amount set forth in this paragraph does not include the Reconciled Payment Obligation. Accordingly, Purchaser will be responsible to pay any Reconciled Payment Obligation attributable to the Dominion Storage Space Purchase subject to the terms of the Dominion Water Purchase Agreement. The parties acknowledge and agree that the Purchase Price will be funded entirely by the proceeds of the loan made pursuant to the Loan Contract (the "Loan") which proceeds will be distributed to Dominion's Escrow Agreement as required by the Dominion Water Provider Agreement. Accordingly, Purchaser shall not be required to pay any part of the Purchase Price directly to CWCB at Closing.

3.4. *Closing.* The closing of the transaction under this Agreement ("Closing") will be held on a mutually agreeable day and time within ninety (90) days after the Effective Date. Unless otherwise agreed by the parties, the Closing will be facilitated by the parties over five phases. All documents and deliveries may

be signed or conducted in counterparts or on separate days to facilitate efficient document transfers.

3.4.1. Phase 1. Phase 1 will be complete when the parties both possess the following documents:

3.4.1.1. This Agreement. Purchaser will deliver to CWCB a duly executed version of this Agreement. CWCB will deliver to Purchaser a duly executed version of this Agreement to Purchaser. All exhibits attached to this Agreement will not be duly executed in this Phase 1. Each Party will receive one (1) complete copy of the fully signed Agreement.

3.4.1.2. Loan Contract. Purchaser will deliver to CWCB three (3) duly executed copies of the Loan Contract. CWCB will deliver to Purchaser a scanned copy of the executed version of the Loan Contract signed by the CWCB but excluding signature by the State Controller. CWCB will deliver all three (3) executed versions of the Loan Contract will be delivered to the State Controller. The Loan Contract will include the following:

3.4.1.2.1. Promissory Note. Purchaser will deliver to CWCB a duly executed promissory note in favor of CWCB in the form provided for under the Loan Contract for the amount of the Purchase Price (the "Promissory Note"). The Promissory Note will not include the "Payment Initiation Date" or the "Maturity Date".

3.4.1.2.2. Resolution or Ordinance. Purchaser will deliver to CWCB the resolution or ordinance authorizing Purchaser to enter into the Loan Agreement as required by the Loan Contract.

3.4.1.2.3. Collateral Agreement. Purchaser will deliver to CWCB a duly executed collateral agreement in favor of CWCB in the form provided for under the Loan Contract (the "Collateral Agreement"). The Collateral Agreement will not include the date or the date of the Water Provider Agreement.

3.4.1.2.4. Bond Counsel Opinion. Purchaser will deliver to CWCB a duly executed opinion letter from bond counsel as required by the Loan Contract

3.4.2. Phase 2. Phase 2 will be complete when the parties both possess a duly executed copy of the Loan Contract, signed by the State Controller.

3.4.2.1. Upon completion of Phase 1, the CWCB will deliver the three (3) complete versions of the Loan Contract to the State Controller for official approval and signature.

3.4.2.2. If the State Controller seeks any modifications to the Loan Contract, CWCB will work in good faith with Purchaser to promptly resolve any State Controller concerns and the Parties will each duly execute any revised Loan Contract as required by the State Controller.

3.4.3. Phase 3. Phase 3 will be complete when the parties both possess the following documents:

3.4.3.1. Partial Assignment. CWCB will deliver to Purchaser a partial assignment pursuant to which CWCB assigns its rights and obligations to the Dominion Storage Space and 500 CRMC Units and effecting a share assignment and stock power as to affect the transfer of 500 CRMC Units to Purchaser substantially in the form attached hereto as Exhibit 1 ("Partial Assignment").

3.4.3.2. Assumption. Purchaser will deliver to CWCB an assumption pursuant to which Purchaser assumes the Dominion Storage Space and 500 CRMC Units along with the appurtenant responsibility to pay to the CRMC the O&M-RRR&R costs and CRMC Assessments associated with the Dominion Storage Space substantially in the form attached hereto as Exhibit 2 ("Assumption").

3.4.3.3. Dominion Water Provider Agreement. Purchaser will deliver to CWCB three (3) duly executed originals of the Water Provider Agreement between CDNR and Purchaser for the Dominion Water Storage (the "Dominion Water Provider Agreement") substantially in the form attached hereto as Exhibit 3.

3.4.3.3.1. CWCB will secure signatures from CDNR for the Dominion Water Provider Agreement upon receipt of the three (3) originals from Purchaser. CWCB will deliver to Purchaser a scanned copy of the duly executed Dominion Water Provider Agreement excluding State Controller signature.

3.4.3.4. CWCB Water Provider Agreement Amendment. CWCB shall deliver a duly executed amendment to the CWCB Water Provider Agreement with CDNR, duly executed by CWCB and CDNR to reflect the transfer of the Dominion Storage Space substantially in the form previously approved by Purchaser (the "CWCB Water Provider Agreement Amendment") attached hereto as Exhibit 4.

3.4.4. Phase 4. Phase 4 will be complete when the parties each possess the Dominion Water Provider Agreement and the CWCB Water Provider Agreement Amendment duly executed by the State Controller.

3.4.4.1. Upon completion of Phase 3, CWCB will deliver the original copies of the Dominion Water Provider Agreement and the CWCB Water Provider Agreement Amendment to the State Controller for approval and signature.

3.4.4.2. CWCB will deliver to Purchaser one (1) original duly executed Dominion Water Provider Agreement duly executed by the State Controller and a scanned copy of the CWCB Water Provider Agreement Amendment duly executed by the State Controller.

3.4.5. Phase 5. Phase 5 will be complete upon full completion of the following. Upon fully completion of Phase 5, Closing will be complete.

3.4.5.1. Dominion Escrow Agreement. Purchaser will deliver a duly executed escrow agreement substantially in the form attached hereto as Exhibit 5 (the "Dominion Escrow Agreement"). CRMC and the party identified as the escrow agent in the Dominion Escrow Agreement will provide counterpart executed original of the Dominion Escrow Agreement.

3.4.5.1.1. Purchaser will deliver to CWCB a scanned copy of the Dominion Escrow Agreement.

3.4.5.1.2. Purchaser will deliver to CRMC and Escrow Agent an original copy of the Dominion Escrow Agreement.

3.4.5.2. Request for Loan Disbursement. Purchaser will deliver to CWCB a written request for disbursement of loan funds to Purchaser's escrow account pursuant to §10 of Appendix 1 to the Loan Contract.

3.4.5.3. Notice of Project Substantial Completion. CWCB will deliver a "Notice of Project Substantial Completion" as provided for under §11 of Appendix 1 to the Loan Contract.

3.4.5.4. Loan Documents. CWCB will: (A) insert in the Promissory Note (i) the "Payment Initiation Date" and (ii) the "Maturity Date"; and (B) insert in the Collateral Agreement (attached as Appendix 5) the "Date" and the Date of the Water Provider Agreement referenced as part of the Collateral as provided for under the Loan Contract and deliver copies of those documents to Purchaser.

3.4.5.5. Request for Membership Certificate. CWCB will deliver to CRMC the original Certificate of Membership for the CWCB's Units in the CRMC along with an instruction letter addressed to CRMC requesting issuance of a new certificate for 500 of CWCB's CRMC Units in the name of Purchaser and a new certificate for the remainder of CWCB's CRMC Units in the name of CWCB. CWCB will deliver to Purchaser a scanned copy of the instruction letter.

3.4.5.6. CRMC Estoppel. CWCB will deliver an estoppel duly executed by CRMC or other evidence acceptable to Purchaser that the CWCB is the holder in good standing of CWCB's CRMC Units, that all assessments and other charges due with respect to such Units are paid in full and that CWCB has

satisfied all conditions required under CRMC's governing documents and then-applicable membership interest transfer policies to permit the transfer of 500 CRMC Units to Purchaser and will issue certificates evidencing such 500 CRMC Units in Purchaser's name subject only to the following: (a) receipt of copies of the CWCB Water Provider Agreement Amendment and the Dominion Water Provider Agreement; (b) receipt of a copy of the Dominion Escrow Agreement; (c) delivery of the Participation Fee and the Transfer Fee to CRMC.

3.4.5.7. Fee Disbursement. Purchaser shall deliver to CRMC the following sums:

3.4.5.7.1. \$228,500 attributable to the "Participation Fee" provided for under that certain Chatfield Storage Reallocation Project Participation Fee Agreement with an effective date of May 10, 2018 in such amounts and in checks made to such parties as set forth on the schedule attached hereto as Schedule 1; and

3.4.5.7.2. \$750 attributable to CRMC's transfer fee for the transfer of 500 CRMC Units to Purchaser and the issuance of a certificate for the same (the "Transfer Fee").

3.4.5.8. Management Agreement Amendment.

3.4.5.8.1. Purchaser will deliver to CRMC a duly executed amendment effecting the addition of Purchaser as a "Party" to the Chatfield Reservoir Management Agreement dated October 15, 2015 and amended June 29, 2019 (the "Management Agreement Amendment").

3.4.5.8.2. CRMC will deliver to Purchaser and CWCB a counterpart of the Management Agreement Amendment executed by the other Parties thereto. Counterpart signatures and a fully executed Management Agreement Amendment are not required for Closing to be completed.

3.4.6. Purchaser's failure to close the purchase shall not constitute a forfeiture or waiver of Purchaser's right to purchase the Dominion Storage Space pursuant to this Agreement, subject to the CWCB's right to terminate this Agreement pursuant to Paragraph 4 herein, or any other exercise of law or equity allowing for the termination of this Agreement.

4. Termination. This Agreement may be terminated under the conditions provided in this Paragraph.

4.1. Termination. Either Party to this Purchase Agreement may terminate this Agreement by providing notice to the other Party in advance of Closing.

4.2. Costs. If Closing has been scheduled and a title company, escrow company, or other third party has been arranged to conduct the Closing, Purchaser shall remain obligated to pay the costs of the hired company.

5. Effect of Partial Assignment of Rights.

5.1. Use. Upon acceptance of the CWCB's partial assignment of all rights attributable to the Dominion Storage Space acquired pursuant to this Agreement, Purchaser shall succeed to all rights of the CWCB with respect to the Dominion Storage Space acquired by the Purchaser, including, without limitation, the rights to utilize the Dominion Storage Space and to store Purchaser's water rights in Chatfield Reservoir.

5.2. Withdrawal. Purchaser shall have the right to withdraw water from Chatfield Reservoir stored in the Dominion Storage Space, to request releases by the Colorado State Engineer's Office to be made through the Chatfield Reservoir outlet works or through the ditch outlet works pursuant to paragraph II.B.2 of the Water Storage Agreement, and through any pump stations or other diversion structures serving Chatfield Reservoir.

5.3. Water Storage Agreement. Except as provided herein and as provided in the documents providing for the partial assignment of all rights attributable to the Dominion Storage Space acquired pursuant to this Agreement, Purchaser acknowledges that it does not succeed to any rights or obligations in the Water Storage Agreement, and that its use of the Dominion Storage Space acquired pursuant to this Agreement is subject to the limitations of the Water Storage Agreement, including but not limited to those in paragraph II.B.1, II.B.2, and II.C.

5.4. CWCB Warranties Regarding Water Provider Agreement. The CWCB has had exclusive ownership of the Dominion Storage Space since entering a Water Provider Agreement with CDNR on October 15, 2015. During Closing, Purchaser will enter into the Dominion Water Provider Agreement in a form reasonably acceptable to Purchaser and in a form substantially similar to all other Water Provider Agreements. In connection therewith, CWCB provides the following affirmations, representations and warranties with respect to the CWCB Water Provider Agreement have been fulfilled:

5.4.1. The CWCB has remained current in its payments of all obligations set forth in section IV of the CWCB Water Provider Agreement.

5.4.2. The CWCB has not been in a state of default under the CWCB Water Provider Agreement at any time since its execution.

5.4.3. Pursuant to section VI. Paragraph J. of the CWCB Water Provider Agreement, the CWCB received notice from CDNR that the Total Project Costs were estimated to exceed the original One Hundred Thirty-Four Million

Dollar (\$134,000,000) estimate by more than ten percent (10%) and that the CWCB had the right to terminate the Water Provider Agreement and relinquish its pro rata share of the Storage Space. The estimate at the time of the notice was one hundred seventy-one million dollars (\$171,000,000). The CWCB declined to exercise its right to relinquish its ownership interest and fully funded its escrow account with the appropriate pro rata share of the estimated increase in Total Project Costs in accordance with the CWCB Water Provider Agreement. Accordingly, Purchaser shall not have a right to terminate the Dominion Water Provider Agreement pursuant to section VI. Paragraph J. of the Dominion Water Provider Agreement.

5.4.4. Pursuant to section III, Paragraph D.1 of the CWCB Water Provider Agreement, the CWCB has provided notice of this Purchase Agreement to the other Water Providers to afford them the opportunity to exercise their right of first refusal. The time for all Water Providers to exercise their right of first refusal has passed and none have exercised the right.

6. Other

6.1. Notice. Whenever any notice is required to be provided under this Agreement, such notice shall be provided to the parties in writing or by electronic mail at the following addresses, or such other addresses as may be designated by a party through written notice. Notices shall be deemed received when personally delivered, when transmitted electronic mail, three (3) days after being deposited in a U. S. Postal Service depository, to be sent by certified mail, return receipt requested by the addressee, with all required postage prepaid, or one (1) business day after having been sent by overnight courier. Initial addresses for notices are as follows:

Purchaser:

Dominion Water & Sanitation District
Attention: Mary Kay Provaznik
District Manager
9250 East Costilla, Suite 210
Greenwood Village, Colorado 80112
maryk@dominionwsd.com

With copy to:

Brownstein Hyatt Farber Schreck, LLP
Attention: Ronda Sandquist
410 Seventeenth Street, Suite 2200
Denver, CO 80202

E-mail: rsandquist@bhfs.com

CWCB:

Colorado Water Conservation Board
Attention: Rebecca Mitchell, Director
1313 Sherman Street
Denver, CO 80203
Telephone: 303-866-3441
E-mail: rebecca.mitchell@state.co.us

6.2. Effect of Water Storage Agreement. The parties recognize and agree that this Agreement is made pursuant to and in reference to the Water Storage Agreement, and is subject to its terms. In case of any conflict between the terms of this Agreement and the Water Storage Agreement, the Water Storage Agreement shall control.

6.3. Authorization. The individuals executing this Agreement on behalf of their respective entities are authorized by those entities to execute this Agreement and, by their signatures, certify that all steps or actions required to ensure such authorization have been taken.

6.4. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties as to the subject matter hereof, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to its subject matter unless expressly set forth in this Agreement.

6.5. Amendment. Modification of this Agreement by the parties may be made only by a writing duly authorized and executed by every party hereto.

6.6. No Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Agreement, except by a signed written instrument of the party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated as such in its terms. Each such waiver shall operate only as to the specific term or condition waived, and shall not constitute a waiver of such term or condition for the future as to any act other than that specifically waived.

6.7. Assignment. Neither party may assign this Agreement or the rights, benefits, burdens, or obligations hereunder to any other person or entity, unless such assignment is of the entirety of this Agreement, and is made with the prior written approval of the other party, which approval may be granted or withheld by

such party in its sole and absolute discretion. Any assignee under an assignment approved by both parties shall assume in writing all obligations and burdens imposed by this Agreement upon the assigning party. Any purported assignments not approved in advance in writing by the non-assigning party shall be void. This Section 6.7 shall not apply to any transfers of rights in the Dominion Storage Space following Closing.

6.8. No Merger. The rights and obligations of the parties hereunder shall not be merged into any deeds of conveyance, and shall be fully enforceable until such time as any and all terms and conditions of this Agreement are completely fulfilled.

6.9. Third Party Beneficiaries. There are no third party beneficiaries of this Agreement. The parties hereto state and agree that they do not intend that any other person or entity shall have any interest in, or rights or duties under, this Agreement.

6.10. Counterparts. This Agreement may be executed in counterparts and all counterparts so executed shall constitute one agreement binding upon both parties, notwithstanding that both parties are not signatories to the original or to the same counterpart.

6.11. Controlling Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

6.12. Binding Effect. The terms of this Agreement shall be binding upon the respective parties hereto, their successors, and permitted assigns.

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Colorado Water Conservation Board

Rebecca Mitchell 12-20-2019
Director, Rebecca Mitchell Date

Dominion Water & Sanitation District

Name: _____ Date _____
Title: _____

Colorado Water Conservation Board

Director, Rebecca Mitchell

Date

Dominion Water & Sanitation District

Jeffrey LaForte
Name: JEFFREY LAFORTE

Title: PRESIDENT

12/17/2019
Date

SCHEDULE 1
Chatfield Storage Reallocation Project Participation Fee Agreement
Participation Fee Payment Amounts

Water Provider	% Ownership	Participation Fee Amount
Centennial Water & Sanitation District	33.60	\$76,776
Colorado Water Conservation Board	32.99	\$75,382.15
Central Colorado Water Conservancy District	20.75	\$47,413.75
Castle Pines North Metropolitan District	4.88	\$11,150.80
Colorado Parks and Wildlife	4.85	\$11,082.25
Town of Castle Rock	2.24	\$5,118.40
Center of Colorado Water Conservancy District	0.64	\$1,462.40
Castle Pines Metropolitan District	0.05	\$114.25
Total	100.00	\$228,500

Exhibit 1 – Partial Assignment

PARTIAL ASSIGNMENT

**Of Rights and Obligations of the State of Colorado, Acting By and Through
the Colorado Water Conservation Board to the Dominion Water &
Sanitation District**

This Partial Assignment of Rights and Obligations of the State of Colorado, acting by and through the Colorado Water Conservation Board (“CWCB”) to the Dominion Water & Sanitation District, a Title 32 Special District (“Purchaser”) (“Assignment”) is executed, delivered, and consummated by the CWCB pursuant to the terms of the Agreement for Acquisition of Chatfield Reservoir Reallocation Project Shares from the State of Colorado dated _____ (“Purchase Agreement”).

7. Recitals.

7.1. On _____, the CWCB and Purchaser entered into the Purchase Agreement. The recitals in section 1 of the Purchase Agreement inform the parties to this Assignment.

7.2. The Purchase Agreement sets forth the agreement between the CWCB and the Purchaser that the Purchaser will acquire 500 acre-feet in the Reallocation Project (“Subject Space”).

7.3. This Assignment reflects the acquisition by which Purchaser is acquiring the full 500 acre-feet of Subject Space for \$4,150,485.00.

7.4. By this Assignment, CWCB transfers to Purchaser all of its rights, title, and interest, and delegates to the Purchaser all of its corresponding obligations, under the CWCB Water Storage Agreement with respect to the Subject Space assigned herein as required by the Purchase Agreement.

7.5. By this Assignment, CWCB transfers to Purchaser all of its rights, title, and interest, and delegates to the Purchaser all of its corresponding obligations, under the CWCB Membership Certificate in the Chatfield Reservoir Mitigation Company, Inc. (“CRMC”) with respect to the Subject Space assigned herein as required by the Purchase Agreement.

8. Partial Assignment of Rights and Obligations of the CWCB.

8.1. This Assignment shall satisfy the CWCB’s obligation in paragraph [3.4.1.5] of the Purchase Agreement to provide a duly executed partial assignment of the CWCB’s rights and obligations under the Water Storage Agreement with respect to the Subject Space at the Closing.

8.2. For good and valuable consideration, including payment of the Payment Amount as defined in the Purchase Agreement, and the mutual promises and undertakings in the Purchase Agreement, the CWCB hereby assigns to Purchaser all its rights and obligations under the Water Storage Agreement relating to, and comprising, the right to use, 500 acre-feet of Storage Space in the Chatfield Reservoir Reallocation Project.

9. Partial Assignment of Membership Units and Stock Power

9.1. For value received, CWCB, hereby sells, assigns and transfers 500 Units of its interests in the Chatfield Reservoir Mitigation Company, Inc. (the "CRMC"), owned by CWCB, as represented by Unit certificate number[s] [_____] unto Dominion Water & Sanitation District, a Title 32 Special District with an address of 1805 Shea Center Drive, Suite 140, Highlands Ranch, Colorado 80129, which Units are standing in CWCB's name on the books and records of the CRMC. CWCB hereby irrevocably constitutes and appoints the secretary of the CRMC or his/her designee, as attorney-in-fact to transfer the said stock on the books of the CRMC with full power of substitution in the premises.

10. Other

10.1. Any capitalized terms used but not defined in this Assignment shall have the meanings ascribed in the Purchase Agreement.

10.2. The Purchase Agreement shall survive the execution, delivery, and consummation of this Assignment.

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COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Notary Public

Exhibit 2 – Assumption

ASSUMPTION

**Of Rights and Obligations of the State of Colorado, Acting By and Through
the Colorado Water Conservation Board by the Dominion Water &
Sanitation District**

This Assumption of Rights and Obligations of the State of Colorado, acting by and through the Colorado Water Conservation Board (“CWCB”) by the Dominion Water & Sanitation District, a Title 32 Special District (“Purchaser”) (“Assumption”) is executed, delivered, and consummated by the Purchaser pursuant to the terms of the Agreement for Acquisition of Chatfield Reservoir Reallocation Project Shares from the State of Colorado dated _____ (“Purchase Agreement”).

11. Recitals

11.1. On _____, the CWCB and Purchaser entered into the Purchase Agreement. The recitals in section 1 of the Purchase Agreement inform the parties to this Assumption.

11.2. The Purchase Agreement sets forth the agreement between the CWCB and the Purchaser that the Purchaser will acquire 500 acre-feet in the Reallocation Project (“Subject Space”).

11.3. This Assumption reflects the acquisition by which Purchaser is acquiring the full 500 acre-feet of Subject Space for \$4,150,485.00.

11.4. By this Assumption, Purchaser expressly assumes all of the CWCB’s rights, title, interest, and corresponding obligations under the CWCB Water Storage Agreement with respect to the Subject Space assumed herein as required by the Purchase Agreement.

11.5. By this Assumption, Purchaser expressly assumes all of the CWCB’s rights, title, interest, and corresponding obligations, under the CWCB Membership Certificate in the Chatfield Reservoir Mitigation Company, Inc. (“CRMC”) with respect to the Subject Space assumed herein as required by the Purchase Agreement.

12. Assumption of Rights and Obligations Under the CWCB Water Storage Agreement.

12.1. This Assumption shall satisfy the Purchaser’s obligation in paragraph [3.4.1.5] of the Purchase Agreement to provide a duly executed written assumption, by which the Purchaser expressly assumes the rights, title, interest, and obligations

of the CWCB under the Water Storage Agreement with respect to the Subject Space at the Closing.

12.2. For good and valuable consideration, including the transfer and assignment of 500 acre-feet of Storage Space in the Chatfield Reservoir Reallocation Project, and in fulfillment of the mutual promises and undertakings in the Purchase Agreement, the Purchaser hereby assumes from the CWCB all of the CWCB's rights and obligations under the CWCB Water Storage Agreement relating to, and comprising 500 acre-feet of Storage Space.

13. Assumption of O&M-RRR&R Costs and CRMC Assessments Associated with this Acquisition.

13.1. This Assumption shall satisfy the Purchaser's obligation in paragraph [3.4.1.5] of the Purchase Agreement to provide a duly executed written acceptance and assumption of the responsibility to pay to the CRMC the O&M-RRR&R costs and CRMC Assessments associated with the acquisition of the CRMC Units appurtenant to the Storage Space as and when such costs are quantified and become due.

13.2. For good and valuable consideration, including the transfer and assignment of 500 acre-feet of Storage Space and in fulfillment of the mutual promises and undertakings in the Purchase Agreement, the Purchaser hereby accepts, assumes, and agrees to pay to the CRMC the O&M-RRR&R costs and CRMC Assessments for the interest in the Storage Space assigned to Purchaser.

14. Other.

14.1. Any capitalized terms used but not defined in this Assumption shall have the meanings ascribed in the Purchase Agreement

14.2. The Purchase Agreement shall survive the execution, delivery, and consummation of this Assumption.

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Dominion Water & Sanitation District, a Title 32 Special District

Date

Notary Public

Tiffany Ramaekers, Secretary

Exhibit 3 – Dominion Water Provider Agreement

Exhibit 4 – CWCB Water Provider Agreement Amendment

WATER PROVIDER AGREEMENT AMENDMENT NO. 3

SIGNATURE AND COVER PAGE

State Agency Colorado Department of Natural Resources 1313 Sherman St, Room 718 Denver, CO 80203	Original Contract Number CMS 84625 CT2019-2405 Amendment No. 1 Contract Number CMS 111037 CT2019-2405 Amendment No. 2 Contract Number CMS 121954 CT2019-2405
Water Provider Colorado Water Conservation Board 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 3 Contract Number CMS 121954 CT2020-2405
	Contract Performance Beginning Date October 16, 2015
	Contract Expiration Date Not Applicable

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.

WATER PROVIDER COLORADO WATER CONSERVATION BOARD By: _____ Name: <u>Rebecca Mitchell</u> Title: <u>Director</u> Date: _____	STATE OF COLORADO Jared Polis, Governor DEPARTMENT OF NATURAL RESOURCES Dan Gibbs, Executive Director By: _____ Name: Dan Gibbs Title: Executive Director Date: _____
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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: _____

Name: _____

Title: _____

Amendment Effective Date: _____

1. PARTIES

This Amendment (the “Amendment”) to the Original Water Provider Agreement, referenced by the CMS number shown on the Signature and Cover Page for this Amendment (the “WPA”) is entered into by and between the Water Provider, and the State.

2. TERMINOLOGY

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

3. AMENDMENT EFFECTIVE DATE AND TERM

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown with the State Controller’s Signature for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date.

B. Amendment Term

The Parties’ respective performances under this Amendment and the changes to the WPA contained herein shall commence on the Amendment Effective Date shown with the State Controller’s Signature for this Amendment and shall terminate on the termination of the WPA.

4. PURPOSE

Water Provider has assigned 500 acre-feet of storage space in Chatfield Reservoir to the Dominion Water & Sanitation District. This Amendment modifies the WPA to reflect this reduction in Water Provider’s pro rata ownership of storage space in Chatfield Reservoir.

5. MODIFICATIONS

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

- A. Section II, Definition of Terms:** In Paragraph II.C., the percentage “32.990%” is hereby deleted and replaced with “30.5631%.”
- B. Section III, Rights Granted to Water Provider:** In Paragraph III.A., the number “6,796” is hereby deleted and replaced with “6,296.”
- C. Section IV, Water Provider’s Payment Obligations:** In Paragraph IV.D., the amount “\$56,413,392.12” is hereby deleted and replaced with “\$52,262,907.12.”
- D. Section IV, Water Provider’s Payment Obligations:** In Paragraph IV.D.1, the amount “\$56,413,392.12” is hereby deleted and replaced with “\$52,262,907.12” and the number “6,796” is hereby deleted and replaced with “6,296.”

6. LIMITS OF EFFECT AND ORDER OF PRECEDENCE

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

Exhibit 5 – Dominion Escrow Agreement