

**STATE OF COLORADO
INTERGOVERNMENTAL LOAN CONTRACT
COVER PAGE**

State Agency Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Loan Contract Number CMS 149209 CT2020-3348		
Borrower's Name and Address Central Colorado Water Conservancy District, Groundwater Management Subdistrict acting by and through the water activity enterprise 3209 West 28 th Street Greeley, CO 80634 Entity type Governmental	Loan Contract Project Performance Beginning Date The Loan Effective Date Loan Contract Project Performance End Date Five (5) years from the Project Performance Beginning Date or upon the Project Performance End Date stated within CWCB's "Notice of Project Substantial Completion."		
Base Loan Amount (Amount in CORE) \$5,390,500.00 One Percent (1%) Loan Origination Fee \$53,905.00 Total Loan Amount (Includes One Percent (1%) Origination Fee \$5,444,405.00	Loan Effective Date The date the State Controller or an authorized delegate signs this Loan Contract Loan Contract Terms 1.45% for 30 years		
Project Name Hokestra Reservoir Purchase and Improvement Project	Contract Authority Authority to enter into this Contract exists in §37-60-119 (2), C.R.S., §37-60-120, C.R.S., and §37-60-121, C.R.S.		
Contract Purpose The Project is to pay Weld County the outstanding balance for the purchase Hokestra Reservoir in 2018 and Rural Ditch shares and includes improvements to the reservoir.			
Appendices and Order of Precedence The following Appendices are included with this Contract: <ol style="list-style-type: none"> 1. Appendix 1, Project Summary 2. Appendix 2, Sample Option Letter 3. Appendix 3, Promissory Note 4. Appendix 4, Resolutions or Ordinance 5. Appendix 5, Security Agreement 6. Appendix 6, Deed of Trust In the event of a conflict or inconsistency between this Contract and any Appendices such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: <ol style="list-style-type: none"> 1. Colorado Special Provisions in §24 of the main body of this Contract. 2. The provisions of the other sections of the main body of this Contract. 3. Appendix 3, Promissory Note 4. Appendix 5, Security Agreement 5. All other Appendices 			
Principal Representatives <table style="width: 100%;"> <tr> <td style="width: 50%;"> For the State: Cole Bedford Colorado Water Conservation Board 1313 Sherman St., Room 718 Denver, CO 80203 Cole.bedford@state.co.us 303-866-3441 ext. 3234 </td> <td style="width: 50%;"> For Borrower: Randy Ray, Executive Director Central Colorado Water Conservancy District 3209 West 28th Street Greeley, CO 80634 rray@ccwcd.org 970-330-4540 </td> </tr> </table>		For the State: Cole Bedford Colorado Water Conservation Board 1313 Sherman St., Room 718 Denver, CO 80203 Cole.bedford@state.co.us 303-866-3441 ext. 3234	For Borrower: Randy Ray, Executive Director Central Colorado Water Conservancy District 3209 West 28 th Street Greeley, CO 80634 rray@ccwcd.org 970-330-4540
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SIGNATURE PAGE**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

Each person signing this Contract represents and warrants that the signer is duly authorized to execute this Contract and to bind the Party authorizing such signature.


<p align="center">BORROWER</p> <p align="center">Central Colorado Water Conservancy District Groundwater Management Subdistrict acting by and through the water activity enterprise</p> <p>By: <u>Ralph T. Anders</u> (Signature)</p> <p>Name: <u>Ralph Anders</u></p> <p>Title: <u>President</u></p> <p>Date: <u>3/17/2020</u></p>	<p align="center">STATE OF COLORADO</p> <p align="center">Jared Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board (CWCB)</p> <p>By: <u>Kirk Russell</u> (Signature)</p> <p>Name: Kirk Russell, P.E., Section Chief</p> <p>Date: <u>April 28, 2020 12:47 PM PDT</u></p>
<p align="center">ATTEST:</p> <p>By: <u>Randy Ray</u> (Signature)</p> <p>Name: <u>Randy Ray</u></p> <p>Title: <u>Secretary</u></p> <p>Date: <u>3/17/2020</u></p> 	<p align="center">LEGAL REVIEW</p> <p align="center">Phil Weiser, Attorney General</p> <p>By: <u>N/A</u></p> <p>Assistant Attorney General</p> <p>Date: _____</p>
<p>In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center">STATE CONTROLLER</p> <p align="center">Robert Jaros, CPA, MBA, JD</p> <p>By: <u>Maggie Van Cleef</u> (Signature)</p> <p>Name: <u>Maggie Van Cleef</u></p> <p>Title: <u>DNR Purchasing Director</u></p> <p>Effective Date: <u>May 22, 2020 3:57 PM PDT</u></p>	

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1. PARTIES

This Contract is entered into by and between Borrower named on the Cover Page for this Contract (the "Borrower" or "CCWCD"), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Contract (the "State" or "CWCB"). Borrower and the State agree to the terms and conditions in this Contract.

2. TERM AND EFFECTIVE DATE

A. Loan Effective Date

The Loan Effective Date means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the signature page for this Contract. This Contract shall not be valid or enforceable until the Loan Effective Date. The State shall not be bound by any provision of this Contract before the Loan Effective Date, and

shall have no obligation to pay the Borrower for any expense incurred before the Loan Effective Date or after the expiration or sooner termination of this Contract.

B. Project Term

The Parties' respective performances, of the Project, under this Contract shall commence on the Contract Project Performance Beginning Date shown on the Cover Page for this Contract and shall terminate on the Loan Contract Project Performance End Date shown on the Cover Page for this Contract unless sooner terminated or further extended in accordance with the terms of this Contract. **This Project Term does not include the full repayment period for the Loan or this Contract.**

C. Loan Expiration Date

The loan expiration date is the date on which this Contract expires. The loan expiration date is when the *full repayment period for the loan ends*.

D. Project Extension Term - State's Option

The State, at its discretion, shall have the option to extend the Project Performance End Date under this Contract under the same terms specified in the Contract (each such period a "Project Extension Term"). In order to exercise this option, the Borrower shall provide written justification to CWCB and CWCB will provide written authorization for the Project Extension Term.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for breach by Borrower, which shall be governed by **§18**.

i. Method and Content

The State shall notify Borrower of such termination in accordance with **§21**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Borrower shall be subject to the rights and obligations set forth in **§20**.

iii. Payments

If the State terminates this Contract in the public interest, the State shall pay Borrower an amount equal to the percentage of the total reimbursement payable under this Contract that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Base Loan Amount”** means the amount disbursed to the Borrower, which does not include the one percent (1%) Loan Origination Fee.
- B. **“Breach of Contract”** means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Borrower, or the appointment of a receiver or similar officer for Borrower or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Borrower is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.
- C. **“Business Day”** means any day other than Saturday, Sunday, or a Legal Holiday as listed in §24-11-101(1), C.R.S.
- D. **“Contract”** means this agreement, including all attached Appendices, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- E. **“Contract Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.
- F. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- G. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- H. **“Loan Effective Date”** means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract.
- I. **“Loan Origination Fee”** means CWCB’s Origination Fee of one percent (1%), added to the Base Loan Amount in accordance with CWCB Policy No. 16, resulting in the Total Loan Amount shown on the Cover page of this Contract.
- J. **“Parity Indebtedness”** means any existing parity debt and additional indebtedness that may be secured in the future.
- K. **“Party”** means the State or Borrower, and **“Parties”** means both the State and Borrower.
- L. **“Pledged Revenues”** means the revenues that consist solely of the Borrower’s revenues pledged for repayment of this loan, as defined in the Resolution and set forth in the Security Agreement.
- M. **“Project Extension Terms-State Option”** means the time period defined in §2.D.

- N. **“Project Term”** means the time period defined in **§2.B**.
- O. **“Promissory Note”** means the document issued to secure repayment of this loan.
- P. **“Resolution” or “Ordinance”** means the Borrower’s written authority to enter into this Contract.
- Q. **“Security Agreement”** means the document that provides a security interest in a specified revenue pledged to repay this loan.
- R. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Borrower which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Borrower without restrictions at the time of its disclosure to Borrower; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Borrower to the State; (iv) is disclosed to Borrower, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- S. **“State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- T. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- U. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- V. **“Subcontractor”** means third-parties, if any, engaged by Borrower to aid in performance of the Work.
- W. **“Total Loan Amount”** means the total of the Base Loan Amount plus the Origination fee of one percent (1%).

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. AMENDMENTS AND OPTION LETTERS

In the event that the Borrower does not use the full amount authorized, the Parties shall amend this Contract or the State may exercise an Option Letter (attached as Appendix 2) and incorporated herein, to decrease the Total Loan Amount including an adjustment of the Origination Fee to reflect 1% of the actual amount disbursed to the Borrower. An amendment to this Contract shall be executed for the following changes including, but not limited to, a change in Pledged Revenues, an increase in Total Loan Amount, and a decrease in Total Loan Amount with a change in the annual loan payment. Additionally, upon substantial completion of the Project, the following applies:

- A. **Upon substantial completion of the Project** with a decrease in the Total Loan Amount and if the Borrower requests a change in the annual loan payment; the Parties may amend this Contract to modify the annual loan payment accordingly.

- B. **Upon substantial completion of the Project** with a decrease in the Total Loan Amount but no change in the annual payment, which then results in a shortened term of the loan, the State may exercise an option and shall provide written notice to the Borrower in form substantially equivalent to Appendix 2 to decrease the term of the loan. If exercised, the provisions of the Option Letter and supporting documentation shall become part of and be incorporated into this Contract for the total duration of this Contract.

5. CONTRACT AMENDMENT SERVICE FEES

Under certain circumstances, the Borrower may be assessed a service fee for amending the Contract.

- A. A service fee may 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 the Borrower's name, assignment of Contract, substitution of Pledged Revenues, loan payment deferrals in excess of three (3) per loan, and loan consolidation. Amendments in the course of CWCB business will be processed at no additional charge to the Borrower.
- B. The amount charged shall be in accordance with the service 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 service fee for an amendment is one thousand and no/100 dollars (\$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.

6. PROMISSORY NOTE PROVISIONS

The Promissory Note shall identify the Total Loan Amount. The CWCB agrees to loan to the Borrower an amount not to exceed the Total Loan Amount and the Borrower agrees to repay the loan in accordance with the terms as set forth in the Promissory Note, (attached as Appendix 3) and incorporated herein.

7. INTEREST PRIOR TO PROJECT COMPLETION

For all loan funds disbursed by the CWCB to the Borrower prior to the Contract Project Performance End Date, interest shall accrue on the disbursed funds at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to the Project's substantial completion (as determined by the CWCB) and notify the Borrower of such amount. The Borrower shall repay that amount to the CWCB either (1) within thirty (30) days from the date of notification from the CWCB, (2) at the CWCB's discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the Borrower, or (3) at the CWCB's discretion, said interest shall be rolled into the Total Loan Amount due.

8. 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 thirty (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. Any such loan funds so remitted to CWCB shall be applied to the principal payment of amounts due on the Loan.

9. BORROWER'S AUTHORITY TO CONTRACT

The Borrower warrants that it has full power and authority to enter into this Loan 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 (attached as Appendix 4) and incorporated herein, include the authority to enter into this Loan Contract.

10. BOND COUNSEL'S OPINION LETTER

Prior to the final execution of this Contract the Borrower shall submit to the CWCB a letter from its bond counsel stating that it is the attorney'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 Borrower's articles of incorporation or bylaws or any 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 subject to typical limitations related to bankruptcy, police power and creditor's rights generally.
- E. The Borrower was formed as a water authority (or water conservancy district) pursuant to the provisions of C.R.S. 37-45.1-101, et. seq., and is operated as a water activity enterprise pursuant to the provisions of C.R.S. 37-45.1-101, et. seq., and is a government-owned business authorized to issue its own revenue bonds and receiving fewer than 10% of annual revenue in grants from all Colorado state and local governments combined within the meaning of Article X, Section 20 of the Colorado Constitution.

11. PLEDGE OF REVENUES

The Borrower irrevocably (but not exclusively) pledges to the CWCB, for the purpose of repaying the Total Loan Amount, the Pledged Revenues, in such amount as is necessary to make each annual payment due under this Contract. Such pledge of the Pledged Revenues is on parity with the debt identified in Section 5 of Appendix 1 (Schedule of Existing Debt) and any additional indebtedness that may be secured by the Pledged Revenues in the future that is incurred in accordance with Section 11.E., hereof, and together with the Existing Parity Debt, shall be the Borrower's "Parity Indebtedness."

- A. **Segregation of Pledged Revenues.** The Pledged Revenues shall be accounted for and maintained in an account separate from other Borrower revenues at all times. The Pledged Revenues shall be used first to pay debt service on the Total Loan Amount and all other Parity Indebtedness on an equal basis and thereafter may be used for any and all other expenses.
- B. **Establish Security Interest.** The Borrower has duly executed a Security Agreement, (attached as Appendix 5) and incorporated herein, to provide a security interest to the CWCB in the Pledged Revenues. The lien of this Contract on the Pledged Revenues shall have

priority over all other competing claims with respect to the Pledged Revenues, except for the parity lien on the Pledged Revenues of any Parity Indebtedness.

- C. **Assessment 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 5, 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.
- D. **Debt Service Reserve Account or Fund.** To establish and maintain the debt service reserve account or fund, the Borrower shall deposit an amount equal to one-tenth (0.1) of an annual payment into its debt service reserve account or 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. The debt service reserve account or fund requirement is in effect until the loan is paid in full.
- E. **Additional Debts or Bonds.** The Borrower shall not issue any indebtedness payable from the Pledged Revenues or have 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.
 - 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 twelve (12) consecutive months out of the eighteen (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, and the annual debt service on the proposed indebtedness to be issued. The analysis of revenues shall be based on the Borrower's current rate structure or the rate structure most recently adopted. No more than ten percent (10%) of total revenues may originate from tap and/or connection fees;
 - iii. The Borrower acknowledges and understands that any request for approval of the issuance of additional debt must be reviewed and approved by the CWCB 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 promptly submit, to CWCB, a copy of the annual audit report of an audit performed on Borrower's records that relates to this Contract or the Project.
- G. **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.

12. RELEASE AFTER LOAN IS REPAYED

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.

13. 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 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 the Existing Parity Indebtedness which sets forth the position of the lien created by this Contract in relation to any existing lien(s). Documentation establishing the relative priorities of said liens, if necessary, is attached to the Project Summary and incorporated herein.

14. 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.

15. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Borrower shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Borrower shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in Writing by the State. Borrower shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Borrower or any of its Subcontractors will or may receive the following types of data, Borrower or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Contract as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Contract, if applicable. Borrower shall

immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Borrower may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Borrower shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Borrower shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. Use, Security, and Retention

Borrower shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Borrower shall provide the State with access, subject to Borrower's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Borrower shall return State Records provided to Borrower or destroy such State Records and certify to the State that it has done so, as directed by the State. If Borrower is prevented by law or regulation from returning or destroying State Confidential Information, Borrower warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Borrower becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Borrower can establish that none of Borrower or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Borrower shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Borrower shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may, in its sole discretion and at Borrower's sole expense, require Borrower to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Borrower shall provide the State with the results of such audit and evidence of Borrower's planned remediation in response to any negative findings.

E. Data Protection and Handling

Borrower shall ensure that all State Records and Work Product in the possession of Borrower or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

16. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Borrower shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Borrower under this Contract. Such a conflict of interest would arise when a Borrower's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

B. Apparent Conflicts of Interest

Borrower acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Borrower shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Borrower's obligations under this Contract.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Borrower is uncertain whether a conflict or the appearance of a conflict has arisen, Borrower shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

17. INSURANCE

The Borrower is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Loan Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Borrower shall ensure that any Subcontractors maintain all insurance customary for the completion of the work done by that Subcontractor and as required by the State Risk Manager, Department of Personnel and Administration or the GIA.

18. BREACH OF CONTRACT

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within thirty (30) days after the delivery of written notice, the Party may exercise any of the remedies as described in **§19.**, for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in this Contract in order to protect the public interest of the State; or if Borrower is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

19. REMEDIES

A. State's Remedies

i. Loan Default Remedies

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 do any of the following:

- 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. Declare the entire unpaid principal amount of the Promissory Note, accrued interest, and late charges, if any, then outstanding immediately due and payable.
- c. Exercise its rights under any appendices to this Contract, including, but not limited to, the Promissory Note and Security Agreement securing Pledged Revenues.
- d. Take any other action deemed appropriate by the CWCB.

The CWCB shall provide written notice to the Borrower of any such default and shall give the Borrower an opportunity to cure within sixty (60) 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.

B. Borrower's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Borrower, following the notice and cure period in **§19.A.i.d.**, and the dispute resolution process in **§20.**, shall have all remedies available at law and equity.

20. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to the board for review, who will determine a resolution to the dispute.

B. Resolution of Controversies, Not Involving Loan Default

If the initial resolution described in **§20.A.**, fails to resolve the dispute within ten (10) Business Days, Borrower shall submit any alleged breach of this Contract by the State to the Procurement Official of the State Agency named on the Cover Page of this Contract as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of

§§24-109-101.1 through 24-109-505, C.R.S., (the “Resolution Statutes”), except that if Borrower wishes to challenge any decision rendered by the Procurement Official, Borrower’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Borrower pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

21. NOTICES AND REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Contract shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party’s principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Contract. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth on the Cover Page for this Contract. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative by notice submitted in accordance with this section without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

22. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Borrower under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Borrower agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State’s contract management system (“Contract Management System” or “CMS”). Borrower’s performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

23. GENERAL PROVISIONS

A. Assignment

Borrower’s rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Borrower’s rights and obligations approved by the State shall be subject to the provisions of this Contract

B. Binding Effect

Except as otherwise provided in §23.A., all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective successors and assigns.

C. Authority

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

D. Captions and References

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

E. Counterparts

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

F. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

G. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

H. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than Contract amendments, shall conform to the policies issued by the Colorado State Controller.

I. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

J. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Borrower's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

K. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

L. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of this Contract shall survive the termination or expiration of this Contract and shall be enforceable by the other Party.

M. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §23.A., this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.

N. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

O. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

P. Standard and Manner of Performance

Borrower shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Borrower's industry, trade, or profession.

Q. Licenses, Permits, and Other Authorizations.

Borrower shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

R. Indemnification

i. General Indemnification

Borrower shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and

related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Borrower, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Borrower in violation of **§15.**, may be cause for legal action by third parties against Borrower, the State, or their respective agents. Borrower shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Borrower, or its employees, agents, assigns, or Subcontractors in violation of **§15.**

iii. Intellectual Property Indemnification

Borrower shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

24. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

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

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

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

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. 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, contained in these statutes.

D. 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 shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. 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. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Contractor shall 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.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

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.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

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.

J. **VENDOR OFFSET AND ERRONEOUS PAYMENTS.** §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

K. **PUBLIC CONTRACTS FOR SERVICES.** §§8-17.5-101, et seq., C.R.S.

[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 State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., 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 (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., 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 §§8-17.5-101, et seq., C.R.S., 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.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101, et seq., C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

Special Provisions
Version 0919

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APPENDIX 1, PROJECT SUMMARY

Loan Contract Number CT2020-3348

Section 1 –Borrower’s Name

Central Colorado Water Conservancy District, Groundwater Management Subdistrict, acting by and through the water activity enterprise

Section 2 – Project Description

- A. Description of Project: The Borrower applied to the CWCB for a loan to be used for the Hokestra Reservoir Purchase and Improvement Project, located in Weld County, at a total estimated Project cost of \$5.4 million. The Project is for the purchase of Hokestra Reservoir and Rural Ditch shares and includes improvements to the reservoir.
- B. Description of Feasibility Report: Ed Armbruster, P.E., with White Sands Water Engineers, Inc., prepared the Loan Feasibility Report titled, “CWCB Loan Feasibility Study, Hokestra Reservoir Project,” dated October 2019. The feasibility report was prepared in accordance with CWCB guidelines and includes an alternative analysis and construction cost estimates and is incorporated herein by this reference. Based upon the feasibility report, the CWCB determined the Project to be technically and financially feasible.

Section 3 – Authority

This loan is made pursuant to the provisions of §§39-29-109(1)(a)(I), 37-60-119 and 37-60-120, C.R.S., which authorize the CWCB to loan money for water projects from the CWCB Severance Tax Perpetual Base 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 CWCB’s Severance Tax Perpetual Base Fund without prior approval from the General Assembly.

Section 4 - CWCB Approval

At its November, 2019 meeting the CWCB approved a Project Loan from the Severance Tax Perpetual Base Fund, to the Borrower, in an amount up to \$5,390,500.00 for Project Costs. CWCB’s Origination Fee of 1% in the amount of \$53,905.00, in accordance with CWCB Policy No. 16, added to the Base Loan Amount results in a Total Loan Amount of **\$5,444,405.00**, at an interest rate of 1.45% per annum for a repayment term of thirty (30) years.

Section 5 – Schedule of Existing Debt

As of the date of the CWCB loan approval, no other debt, backed by the loan security described in Section 6 below, exists.

Section 6 – Loan Security

The Security for this loan, as evidenced by the executed Security Agreement (Appendix 5) and incorporated herein, shall be: (i) an irrevocable (but not exclusive) pledge, to the CWCB, of water activity enterprise revenues in such amount as is necessary to make each annual payment due under this Contract; (ii) an assessment covenant as evidenced by annual financial reporting and (iii) an undivided one hundred percent (100%) interest in the purchased surface water rights as more particularly described in the attached Deed of Trust (Appendix 6). All Loan Security shall be in accordance with CWCB Policy No. 5.

Section 7 – Additional Conditions and Requirements

None.

Section 8 – “Construction Fund Program” Procedures for Projects

- A. The Borrower shall employ an engineer, registered in the State of Colorado to prepare plans and specifications for the Project.
- B. Engineering contracts and the 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 that effect changes to the construction costs must be approved in writing by CWCB.
- 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 notify CWCB of the bid opening date, time and location. CWCB staff may elect to attend the bid opening.
- E. The Borrower shall contract for the construction of the work with responsible and capable Construction Firms, selected by the Borrower and found acceptable by the CWCB staff. CWCB must approve the award of the construction contract.
- F. The Borrower must provide a copy of the following construction contract documents: executed contractor's proposal, executed construction contract, executed performance bond, executed payment bond, executed notice of award, proposed notice to proceed, sample change order, and sample field order, as well as the advertisement for bid. 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 9 – Eligible Expenses

The Borrower shall initiate disbursement requests by invoice to CWCB, in a form and manner approved by CWCB. The following items are eligible for loan disbursements:

- A. Engineering associated with the feasibility report prepared as a requirement for this loan.
- B. Preparing final designs and specifications for the Project.
- C. Preparing bid and construction contract documents.
- D. Preparing environmental assessment or environmental impact statements, and otherwise complying with the Federal National Environmental Policy Act.
- E. Complying with all federal, state, and local regulatory requirements, including the obtaining of all required permits.
- F. Fish and wildlife mitigation measures required by federal, state, or local laws and regulations.
- G. Actual construction as called for in the design documents and in change orders approved by the CWCB and the Borrower.
- H. Engineering services for construction management, including design and construction management for CWCB approved change orders.
- I. Interest prior to completion of the Project pursuant to Section 7., of the Contract.
- J. 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.
- K. Project related expenses incurred prior to the Effective Date of this Contract in accordance with the approval of this loan.

Section 10 – Disbursement Schedule

For loan payoff: For loan disbursements to payoff existing debt described in Section 5, the Borrower shall provide the CWCB with a request that includes the amount needed to pay in full the existing loan, the loan number and the name and address, of the creditor, and the phone number and name of creditor contact. After review and acceptance of the request, the CWCB will pay to the Borrower the amount set forth in the request. Payment of said request shall be made within thirty (30) days from the CWCB's approval of said request.

For Project expenses: The Borrower shall prepare a periodic progress report that sets forth 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 above, the CWCB will pay to the Borrower the amount set forth in the report or such portion as 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 11 – Time for Performance

Project To Begin: Loan Effective Date.

Project To End: Five (5) years from the Effective Date of this Contract or based upon the date stated within the CWCB Notice of Project Substantial Completion.

APPENDIX 2, SAMPLE OPTION LETTER
(TO BE USED AT SUBSTANTIAL COMPLETION OF PROJECT)

State Agency Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Option Letter Number
Borrower	Original Contract Number CMS CT
	Option Contract Number
	Loan Contract Effective Date
	Loan Contract Expiration Date

1. OPTIONS:

- a. Option to decrease total Contract amount and revise Contract expiration date upon CWCB *Notice of Project Substantial Completion*.

2. REQUIRED PROVISIONS:

- a. The amount of the current Loan Contract Amount is decreased by (\$ amount of change) from \$_____ to \$_____ in consideration of substantial completion of the Project. The Total Loan Amount is hereby modified accordingly.
- b. This change does not include a change to the annual payment and interest rate.
- c. This Option Letter and supporting documentation shall become part of and be incorporated into this Contract for the total duration of the Loan Contract.
- d. This Option Letter shall include the written *Notice of Project Substantial Completion*.
- e. The Contract Maximum Amount table on the Contract Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.

3. OPTION EFFECTIVE DATE:

- a. The effective date of this Option Letter is upon approval of the State Controller or an authorized delegate.

STATE OF COLORADO Jared Polis, Governor Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board	In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Option Effective Date: _____

APPENDIX 3, PROMISSORY NOTE

Date: March 17, 2020

Borrower: Central Colorado Water Conservancy District,
Groundwater Management Subdistrict, acting by and through the water activity
enterprise

Total Loan Amount: \$5,444,405.00

Interest Rate: 1.45% per annum

Term of Repayment: Thirty (30) years

Loan Contract Number: CT2020-3348

Annual Loan Payment: \$225,097.05

Payment Initiation Date*: _____
(To be filled in at Substantial Completion of Project)

Maturity Date*: _____
(To be filled in at Substantial Completion of Project)

* 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 Contract and this Promissory Note.
2. Principal and interest shall be payable in annual equal payments as set forth in "Annual Loan Payment" above, with the first payment due and payable one year from the 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 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of five percent (5%) of the annual payment if the CWCB does not receive the annual payment within sixty (60) calendar days of the due date. At the discretion of the CWCB, and if the Borrower requests in writing with sufficient justification, the late fee may be waived by the CWCB. CWCB will review the request from the Borrower, and may, in its sole discretion, choose to waive the late fee.
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. This Promissory Note is issued pursuant to the Contract between the CWCB and the Borrower. The 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 of even date and amount herewith and cover the Pledged Revenues. The Contract and Security Agreement grant additional rights to the CWCB, including the right to accelerate the maturity of this Promissory Note in certain events.
7. If any annual payment is not paid when due or any default under the Contract or the Security Agreement securing this Promissory 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 seven percent (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 sixty (60) days of receipt of such notice

before the Borrower shall be considered in default for purposes of this Promissory Note.

8. The Borrower hereby agrees 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.
9. This Promissory Note is authorized pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State thereunto enabling. Specifically, but not by way of limitation, the Contract and this Promissory Note are authorized pursuant to and under the authority of Title 31, Article 35; Title 37, Article 45.1; and Title 11, Article 57, Part 2, C.R.S., and in full conformity therewith. Pursuant to Section 11-57-210, C.R.S., and Section 31-35-413, C.R.S., this recital shall be conclusive evidence of the validity and the regularity of the issuance of this Promissory Note and the Promissory Note shall be incontestable for any cause whatsoever after its delivery for value.



By: [Signature]
Signature

Name: Randy Ray
Title: Secretary
Date: 3/17/2020

Central Colorado Water Conservancy District,
Groundwater Management Subdistrict, acting by and
through the water activity enterprise

By: [Signature]
Signature

Name: Ralph Anders
Title: President
Date: 3/17/2020

APPENDIX 4

CERTIFIED RECORD

OF

PROCEEDINGS OF

THE BOARD OF DIRECTORS

OF

**THE GROUNDWATER MANAGEMENT SUBSUBDISTRICT OF
THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT,
ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE,
IN WELD, ADAMS AND MORGAN COUNTIES, COLORADO**

Relating to a resolution authorizing the issuance and delivery of the

**CWCB LOAN CONTRACT NUMBER CT2020-3348
AND RELATED PROMISSORY NOTE
IN THE AGGREGATE AMOUNT NOT TO EXCEED
\$5,444,405**

This cover page is not a part of the following resolution and is included solely for the convenience of the reader.

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STATE OF COLORADO
GROUNDWATER MANAGEMENT SUBDISTRICT OF THE
CENTRAL COLORADO WATER CONSERVANCY DISTRICT
IN WELD, ADAMS AND MORGAN COUNTIES

)
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)
)

As the Secretary of the Board of Directors of the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District in Weld, Adams and Morgan Counties, Colorado (the "Subdistrict"), I do hereby certify that:

1. Attached is a true and correct copy of a resolution (the "Resolution") adopted by the Board of Directors (the "Board") at a regular meeting held on April 21, 2020.
2. The Resolution was duly moved, seconded and adopted at such meeting by the affirmative vote of a majority of the members of the Board.
3. The Resolution was duly approved by the Board, signed by the President of the Board, sealed with the Subdistrict's seal, attested by the Secretary of the Board and recorded in the minutes of the Board.
4. The public meeting at which the Resolution was adopted was noticed, and all proceedings relating to the adoption of the Resolution were conducted, in accordance with all applicable bylaws, rules, regulations and resolutions of the Subdistrict, in accordance with the normal procedures of the Subdistrict relating to such matters, and in accordance with applicable constitutional provisions and statutes of the State of Colorado and all other applicable laws.

WITNESS my hand and the seal of the Subdistrict as of April 21, 2020.


Secretary

[SEAL]



RESOLUTION

A RESOLUTION OF THE GROUNDWATER MANAGEMENT SUBDISTRICT OF THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, AUTHORIZING A LOAN FROM THE COLORADO WATER CONSERVATION BOARD TO FINANCE A PORTION OF THE COSTS OF ACQUIRING AN INTEREST IN THE HOKESTRA RESERVOIR AND RURAL DITCH SHARES, TOGETHER WITH RELATED IMPROVEMENTS, AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL LOAN CONTRACT AND A PROMISSORY NOTE TO DOCUMENT THE LOAN; AND PROVIDING THE FORM OF THE LOAN AND OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District, in Weld, Adams and Morgan Counties, Colorado, is a duly organized and validly existing water conservancy subdistrict, quasi municipal corporation and political subdivision of the State (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of this Resolution); and

WHEREAS, the Subdistrict is acting hereunder by and through its Water Activity Enterprise, which has been duly and regularly established pursuant to Enabling Laws, which enterprise has been and continues to be operated as a "water activity enterprise" within the meaning of Section 37-45.1-102(4), C.R.S., and constitutes a government owned business which is authorized to issue its own revenue bonds and which shall not receive 10% or more of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, the Subdistrict has been presented with the Loan Contract from the CWCB, identified as Contract Number CMS 149209 CT2020-3348, to finance all or a portion of the costs of acquiring an interest in the Hokestra Reservoir and Rural Ditch shares, together with related improvements; and

WHEREAS, the Subdistrict's repayment obligation under the Loan Contract will be evidenced by a Promissory Note to be issued by the Subdistrict to the Colorado Water Conservation Board, which Promissory Note shall constitute a special revenue obligation payable from System Net Revenues (which generally includes all water operations of the Subdistrict) and, after consideration, the Board has determined that the execution of the Loan Contract and the issuance of the Promissory Note to CWCB is to the best advantage of the Subdistrict; and

WHEREAS, no member of the Board has a potential conflict of interest in connection with the authorization, issuance, delivery or use of proceeds of the Loan Contract; and

WHEREAS, the form of the Loan Contract and related appendices have been reviewed by the Subdistrict staff and made available to the Board; and

WHEREAS, the Board desires to authorize the execution of the Loan Contract, the issuance and delivery of the Promissory Note, and the execution of any additional documentation which may be related to the financing;

THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GROUNDWATER MANAGEMENT SUBDISTRICT OF THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT IN WELD, ADAMS AND MORGAN COUNTIES, COLORADO:

Section 1. Definitions. The following terms shall have the following meanings as used in this Resolution:

“Board” means the Board of Directors of the Subdistrict, and any successor body.

“Capital Improvements” means the acquisition of land, easements, facilities and equipment, other than ordinary repairs and replacements, and the construction or reconstruction of improvements, betterments and extensions for use by or in connection with the System.

“Counties” means Weld, Adams and Morgan Counties, Colorado.

“C.R.S.” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“CWCB” means the Department of Natural Resources, Colorado Water Conservation Board, an agency of the State.

“Enabling Laws” means the Water Conservancy Act; Article 45.1 of Title 37 C.R.S.; the Supplemental Public Securities Act and any other statutes or constitutional provisions of the State enabling the action taken by the Subdistrict pursuant to the terms of this Resolution.

“Enterprise” and *“Water Activity Enterprise”* means the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District Water Activity Enterprise, as formally established by resolution of the Board of Directors of the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District.

“Enterprise Fund” means the Water Enterprise Fund, reaffirmed as a proprietary fund of the Subdistrict pursuant to the terms of this Resolution and pursuant to which the Subdistrict accounts for the financial activities of the Enterprise.

“Gross Revenues” means all income and revenues directly or indirectly derived by the Subdistrict from the operation and use of the System, or any part thereof, including, without limitation, any rates, fees and charges for the services furnished by, or the use of, the System, and all income attributable to any past or future dispositions of property or rights or related contracts, settlements or judgments held or obtained in connection with the System or its operations, and including investment income accruing from moneys held to the credit of the Enterprise Fund; provided however, that there shall be excluded from Gross Revenues any Special Assessments, moneys borrowed and used for providing Capital Improvements, any money and securities, and investment income therefrom, in any refunding fund, escrow account

or similar account pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom.

“Loan Contract” means the State public loan, identified by Loan Contract Number CMS 149209 CT2020-3348, as the same may be amended from time to time, by and between the Subdistrict and the State acting by and through the CWCB.

“Net Revenues” means the Gross Revenues after deducting Operation and Maintenance Expenses.

“Note Account” means the “2020 CWCB Promissory Note Account,” established by the provisions hereof for payment of the principal of and interest on the Promissory Note.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the Subdistrict, paid or accrued, for operating, maintaining and repairing the System, including, without limitation, legal and overhead expenses of the Subdistrict directly related to the administration of the System, insurance premiums, audits, charges of depository banks and paying agents, professional services, salaries and administrative expenses, labor and the cost of materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, legal liabilities not based on contract, expenses incurred in connection with Capital Improvements, payments due in connection with any loans, bonds, notes or other multiple fiscal year obligations issued to provide Capital Improvements, and charges for the accumulation of reserves.

“Outstanding Limited Tax Obligations” means the outstanding limited tax obligations of the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District including (i) State loans, acting by and through the CWCB, identified by Loan Contract Number CT2019-3687 and Loan Contract Number CMS 128656 CT2019-324 and (ii) the Limited Tax Water Conservancy Bonds, Series 2019A, issued in the aggregate principal amount of \$16,015,000.

“Parity Obligations” means loans, bonds, notes or other multiple fiscal year financial obligations having a lien upon the Pledged Revenues or any part thereof on a parity with the lien thereon of the Promissory Note.

“Payment Dates” means the dates established pursuant to the Loan Contract for the annual payment of the principal of and interest on the Promissory Note, as set forth therein.

“Pledged Revenues” means the Net Revenues and moneys on deposit in the Reserve Account.

“Pro Rata Portion” means when used with respect to a required credit to the accounts or subaccounts established for the payment of the principal of and interest on the Promissory Note

and any future Parity Obligations, the dollar amount derived by dividing the amount of principal or interest to come due on the next principal or interest payment date by the number of monthly credits required to be made prior to such payment date.

“Project” means any purpose for which proceeds of the Promissory Note may be expended under the Enabling Laws, as referenced in the preambles to this Resolution and more specifically described in Appendix 1 to the Loan Contract.

“Project Account” means the “2020 CWCB Promissory Note Project Account,” established by the provisions hereof for the purpose of paying the Project Costs. The Project Account may include separate subaccounts relating to the respective Loan Contract.

“Project Costs” means the Subdistrict’s costs properly attributable to the Project and permissible as “Eligible Expenses” as set forth in Section 9 of Appendix 1 of the Loan Contract.

“Promissory Note” means the Promissory Note evidencing the Subdistrict’s repayment obligation from the date of substantial completion of the Project, as set forth in Appendix 3 to the Loan Contract.

“Required Reserve Amount” means an amount equal to the annual payment on the Promissory Note, one-tenth of which amount shall be funded annually until fully established and maintained in accordance with Section 11(D) of the Loan Contract.

“Reserve Account” means the “2020 CWCB Reserve Account,” established by the provisions hereof for the purpose of securing repayment of the Promissory Note.

“Resolution” means this Resolution, including any amendments or supplements hereto.

“Special Assessments” means the special assessments levied and collected by the Subdistrict for maintaining and operating the System and for paying the obligations of the Subdistrict for special benefits accruing to property within the municipalities for which use of water is allocated as provided in Section 123 of the Water Conservancy Act, for special benefits accruing to property within public corporations for which use of water is allocated as provided in Section 124 of the Water Conservancy Act, and for special benefits accruing to land for which use of water is allocated as provided in Section 125 of the Water Conservancy Act, or any combination of such assessments as the Board may determine from time to time, which assessments for special benefits are respectively designated in the Water Conservancy Act as “Class B” assessments, as “Class C” assessments and as “Class D” assessments, respectively.

“State” means the State of Colorado.

“Subdistrict” means the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District, acting by and through its Water Activity Enterprise, in Weld, Adams and Morgan Counties, Colorado, and any successor thereto.

“Subordinate Obligations” means loans, bonds, notes or other multiple fiscal year financial obligations having a lien upon the Pledged Revenues or any part thereof junior and subordinate to the lien thereon of the Promissory Note.

"Supplemental Public Securities Act" means Part 2 of Article 57 of Title 11, C.R.S.

"System" means all of the Subdistrict's water facilities and properties, now owned or hereafter acquired, whether situated within or without the Subdistrict boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto.

"Water Conservancy Act" means Article 45 of Title 37, Colorado Revised Statutes, as amended

Section 2. Approval of Loan Contract and Authorization of Promissory Note.

Pursuant to and in accordance with the Enabling Laws, there is hereby authorized and approved the execution of the Loan Contract. There shall be issued by the Subdistrict the Promissory Note in the aggregate principal amount not to exceed \$5,444,405, for the purpose of paying the Project Costs and other costs in connection with the Promissory Note. All covenants, statements, representations and agreements contained in the Loan Contract and the Promissory Note are hereby approved and adopted as the covenants, statements, representations and agreements of the Subdistrict. The accomplishment of the Project is hereby authorized, approved and ordered and it is hereby determined that the Promissory Note matures at such time not exceeding the estimated life of the Project.

Section 3. Security for the Promissory Note.

(a) *Pledge of Net Revenues.* The Promissory Note is payable from the Pledged Revenues and the Pledged Revenues are hereby pledged to the payment of the Promissory Note and the amounts due under the Loan Contract. The Promissory Note shall constitute an irrevocable first lien upon the Pledged Revenues, but not necessarily an exclusive such lien. The Promissory Note shall not constitute a debt or indebtedness of the Subdistrict and nothing herein shall be construed to require the Subdistrict to levy an ad valorem property tax for payment of the Promissory Note.

(b) *Budgeting and Appropriation of Pledged Revenues.* The amounts necessary to pay all costs and expenses incidental to the issuance of the Promissory Note and to pay the principal of and interest on the Promissory Note when due and to fund the Reserve Account are hereby appropriated for said purposes, and such amounts as appropriate for each year shall also be included in the annual budget and the appropriation bills to be adopted and passed by the Board in each year, respectively, until the Promissory Note has been fully paid, satisfied and discharged.

(c) *Flow of Funds.* The Subdistrict shall credit to the Enterprise Fund all Gross Revenues immediately upon receipt. The Subdistrict shall pay from the Enterprise Fund all Operation and Maintenance Expenses as they become due and payable. After such payment or the allocation of Gross Revenues to such payment, the Subdistrict shall apply the Net Revenues in the following order of priority:

FIRST, to the credit of or deposit in the accounts or subaccounts established for the payment of interest on the Promissory Note and Parity

Obligations, if any, the Pro Rata Portion equal to the interest coming due on the next succeeding interest payment date for the respective obligations;

SECOND, to the credit of or deposit in the accounts or subaccounts established for the payment of principal on the Promissory Note and Parity Obligations, if any, the Pro Rata Portion equal to the principal coming due on the next succeeding principal payment date for the respective obligations;

THIRD, to the credit of any reserve accounts established for the payment of the Promissory Note and the Parity Obligations, if any, the amounts required in the resolutions or related documents authorizing and controlling the establishment of such reserve accounts; and

FOURTH, to the credit of any other fund or account as may be designated by the Subdistrict, to be used for any lawful purpose, any moneys remaining in the Enterprise Fund after the payments and accumulations set forth in FIRST through THIRD hereof.

(d) *The Promissory Note Does Not Constitute a Debt.* The CWCB may not look to any general or other fund of the Subdistrict for the payment of the principal or interest on the Promissory Note, except the funds and accounts pledged thereto pursuant to authority of this Resolution, and the Promissory Note shall not constitute a debt or an indebtedness of the Subdistrict within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be a general or limited tax obligation of the Subdistrict.

Section 4. Form of Promissory Note. The Promissory Note shall be in substantially the form set forth in Appendix 3 to the Loan Contract with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the Subdistrict executing the same (whose manual signatures thereon shall constitute conclusive evidence of such approval). The interest rate authorized for the Promissory Note is 1.45% per annum (and the maximum net effective interest rate shall not exceed 2.75% per annum), exclusive of any late charges of 5.0% of the annual payment due which may be imposed pursuant to the terms of the Loan Contract for any late payments. The maturity date shall be not later than thirty (30) years from the payment initiation date, as set forth in the Loan Contract.

Section 5. Water Enterprise Fund and Establishment of Accounts.

(a) *Reaffirmation of Fund; Creation of Accounts.* There is hereby reaffirmed the Enterprise Fund as a proprietary fund of the Subdistrict. There is hereby established within the Enterprise Fund the Note Account, the Reserve Account and the Project Account. The foregoing fund and accounts shall be maintained by the Subdistrict in accordance with the provisions of this Resolution.

(b) *Project Account.* All moneys received from CWCB under the Loan Contract shall be credited to the Project Account, in one or more subaccounts relating to the Loan Contract as determined in the discretion of the Subdistrict's Executive Director, and shall be applied solely to the payment of the Project Costs. Upon the determination

of the Subdistrict's Executive Director that all Project Costs have been paid or are determinable, any balance remaining in the Project Account (less any amounts necessary to pay Project Costs not then due and owing) shall be applied solely in accordance with the terms of the Loan Contract, including without limitation Section 8 thereof.

(c) *Note Account.* Moneys in the Note Account shall be used solely for the purpose of paying the interest on and principal of the Promissory Note. There shall be credited to the Note Account an amount of Pledged Revenues which, when combined with other legally available moneys in the Note Account, will be sufficient to pay the principal of and interest on the Promissory Note when due. In the event of insufficient Pledged Revenues for the payment of amounts due on the Promissory Note and Parity Obligations, if any, moneys shall be applied as provided in the Loan Contract and in the financing documents providing for the Parity Obligations.

(d) *Reserve Account.*

(i) Moneys in the Reserve Account shall be used, if necessary, only to prevent a default in the payment of the principal of or interest on the Promissory Note on any Payment Dates and the Reserve Account is hereby pledged to the payment of the Promissory Note. In the event the amounts credited to the Note Account are insufficient to pay the principal of or interest on Promissory Note when due, the Subdistrict shall transfer from the Reserve Account to the Note Account an amount which, when combined with moneys in the Note Account will be sufficient to make such payments when due.

(ii) Commencing with the first Payment Date, the Subdistrict shall annually credit an amount equal to one-tenth of the Required Reserve Amount on or before each Payment Date until such time as the amount credited thereto is equal to the Required Reserve Amount (i.e., the Reserve Account is to be fully funded within ten years from substantial completion of the Project). In the event that moneys from the Reserve Account are transferred to the Note Account as provided in paragraph (i) of this Subsection, such amount shall be replenished as provided in the Loan Contract. Moneys credited to the Reserve Account may be invested or deposited in lawful securities or obligations and all interest income from the investment or reinvestment of moneys credited to the Reserve Account shall be credited to the Reserve Account until the amount therein is equal to the Required Reserve Amount, at which time as the balance of the Reserve Account shall be maintained in the Required Reserve Amount and such interest income shall be credited to the Note Account.

Section 6. Additional Obligations. No loans, bonds, notes or other multiple fiscal year obligations shall be issued payable from the Pledged Revenues and having a lien thereon which is superior to the lien of the Promissory Note. The Subdistrict may issue Parity Obligations or Subordinate Obligations only upon compliance with the requirements Section 11(E) of the Loan Contract.

Section 7. Enterprise Status. The Board, hereby finds and determines that the Enterprise, as formally established by the Subdistrict, is an “enterprise” within the meaning of Article X, Section 20 of the Colorado Constitution. The Subdistrict has and will continue to maintain the System as an “enterprise” within the meaning Article X, Section 20 of the Colorado Constitution, and the meaning of Title 37, Article 45.1, C.R.S.; provided, however, after the current calendar year the Subdistrict may disqualify the “enterprise” in any year in which said disqualification does not materially, adversely affect the enforceability of the covenants made in the Loan Contract. In the event that the “enterprise” is disqualified and the enforceability of the covenants made by the Subdistrict in the Loan Contract are materially, adversely affected, the Subdistrict covenants to (i) immediately take all actions necessary to qualify System as an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution and (ii) permit the enforcement of the covenants made in the Loan Contract.

Section 8. Various Findings, Determinations, Declarations and Covenants. The Board, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants that:

(a) *No Outstanding Pledged Revenue Obligations.* As of the date of this Resolution, the Subdistrict has no outstanding loans, bonds, notes or other multiple fiscal year obligations with a parity lien on the Pledges Revenues; provided however, in connection with the Outstanding Limited Tax Obligations the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District has pledged “Net Special Assessment Revenue” to the extent necessary to pay the obligations which have historically been and are expected to continue to be paid from an limited tax an ad valorem mill levy. In connection with the Outstanding Limited Tax Obligations the Board covenants to continue to apply all of the available revenues from an limited tax an ad valorem mill levy prior to the allocation of any Net Revenues for the payment of the Outstanding Limited Tax Obligations.

(b) *Compliance with Law.* The issuance of the Promissory Note and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the constitution and laws of the State, including the Enabling Laws, and all conditions and limitations of the Enabling Laws relating to the issuance of the Promissory Note have been satisfied.

(c) *Best Interests.* It is in the best interest of the Subdistrict and its residents that the Promissory Note be authorized, issued and delivered at the time, in the manner and for the purposes provided in this Resolution.

Section 9. Amendment of Resolution. This Resolution may be amended only with the prior written consent of CWCB.

Section 10. Supplemental Public Securities Act.

(a) *Application of Act.* Pursuant to § 11-57-204, C.R.S., the Subdistrict hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the issuance and delivery of the Promissory Note.

(b) *Limitation of Actions.* In accordance with § 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Promissory Note more than thirty days after the date of adoption of this Resolution.

(c) *Recourse against Officers and Agents.* Pursuant to § 11-57-209, C.R.S., if a member of the Board, or any officer or agent of the Subdistrict acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal of or interest on the Promissory Note. Such recourse shall not be available either directly or indirectly through the Board or the Subdistrict, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise.

(d) *Pledged Revenue Lien.* The creation, perfection, enforcement and priority of the pledge of Net Revenues to secure or pay the Promissory Note shall be governed by § 11-57-208, C.R.S., of the Supplemental Public Securities Act and this Resolution. The Pledged Revenues shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the Pledged Revenues shall be on a parity with all other Parity Obligations, and shall have priority over any and all other obligations and liabilities of the Subdistrict. The lien of such pledge shall be valid, binding and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Subdistrict irrespective of whether such persons have notice of such liens.

Section 11. Approval of Related Documents. The Subdistrict's President (or in the President's absence the Subdistrict's Vice President) and Subdistrict shall, and they are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Resolution, including, but not limited to, the execution of the Loan Contract, the Promissory Note, the Security Agreement (as set forth in Appendix 5 to the Loan Contract) and such additional agreements, certificates and affidavits as may be reasonably required. The execution by the Subdistrict's President of any document authorized herein shall be conclusive proof of the approval by the Subdistrict of the terms thereof.

Section 12. Resolution is Contract with Owners of Promissory Note and Irrepealable. After the Promissory Note have been issued, this Resolution shall be and remain a contract between the Subdistrict and CWCB and shall be and remain irrepealable until all amounts due with respect to the Promissory Note shall be fully paid, satisfied and discharged and all other obligations of the Subdistrict with respect to the Promissory Note shall have been satisfied in the manner provided herein.

Section 13. Headings, Table of Contents and Cover Page. The headings to the various sections and subsections to this Resolution, and the cover page and table of contents that appear at front of this Resolution, have been inserted solely for the convenience of the reader, are not a part of this Resolution and shall not be used in any manner to interpret this Resolution.

Section 14. Severability. It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be

invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

Section 15. Repeal of Inconsistent Resolutions, Bylaws, Rules and Orders. All resolutions, bylaws, rules and orders, or parts thereof, that are inconsistent with or in conflict with this Resolution, are hereby repealed to the extent of such inconsistency or conflict.

Section 16. Ratification of Prior Actions. All actions heretofore taken (not inconsistent with the provisions of this Resolution or the Enabling Laws) by the Board or by the officers and employees of the Subdistrict directed toward the issuance of the Promissory Note for the purposes herein set forth are hereby ratified, approved and confirmed.

Section 17. Effective Date. This Resolution shall be in full force and effect immediately upon adoption by the Board.

ADOPTED AND APPROVED this 21st day of April, 2020.

[SUBDISTRICT SEAL]



By Ralph T. Anders
Ralph Anders, President

Attest:

By Randy Ray
Randy Ray, Secretary

APPENDIX 5, SECURITY AGREEMENT

Date: March 17, 2020

Borrower: Central Colorado Water Conservancy District,
Groundwater Management Subdistrict, acting by and through the water activity
enterprise

Secured Party: Colorado Water Conservation Board

Promissory Note: \$5,444,405.00

Terms of Repayment: 1.45% per annum interest for thirty (30) years

Loan Contract Number: CT2020-3348

Pledged Revenues: All pledged revenues from the water activity enterprise in such amount as is necessary to make each annual payment due under this Contract and all of Borrower's right to receive said revenues to repay the loan as described in Pledged Revenues provisions of the Contract and Borrower's Resolutions adopted April 21, 2020.

To secure payment of the loan evidenced by the Promissory Note payable in accordance with the terms of repayment, or until all principal, interest, and late charges, if any, are paid in full, the Borrower grants to Secured Party a security interest in the above described Pledged Revenues.

BORROWER EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Appendix 1, Project Summary, Section 5, the Borrower is the owner of the Pledged Revenues free from any adverse lien, security interest or encumbrances; and that the Borrower will defend the Pledged Revenues 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 the Borrower will not violate any law or agreement governing the Borrower or to which the Borrower is a party.
3. Except in accordance with Section 11.E., of the Loan Contract, to not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the Pledged Revenues 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, the Borrower shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the Pledged Revenues pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature that may be levied or assessed against the Pledged Revenues.
6. That the Borrower's articles of incorporation and by-laws do not prohibit any term or condition of this agreement.

UNTIL DEFAULT Borrower may have possession of the Pledged Revenues, provided that Borrower keeps the Pledged Revenues in an account separate from other revenues of Borrower and does not use Pledged Revenues for any purpose not permitted by the Contract. Upon default, Secured Party shall have the immediate right to the possession of the Pledged Revenues.


BORROWER 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 Contract; or
- 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 the Borrower; or
- c. the making or furnishing of any warranty, representation or statement to Secured Party by or on behalf of the Borrower 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. Secured Party may require the Borrower to deliver or make the Pledged Revenues 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 Borrower written notice of any alleged default and an opportunity to cure within sixty (60) Business Days of receipt of such notice before the Borrower 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 the Borrower. 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 the Borrower consents to venue and personal jurisdiction in said Court.

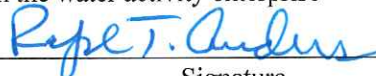
All rights of Secured Party hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of the Borrower shall bind its successors or assigns.

Attest: 

By: 
Signature

Name: Randy Ray
Title: Secretary
Date: 3/17/2020

Central Colorado Water Conservancy District,
Groundwater Management Subdistrict, acting by and
through the water activity enterprise

By: 
Signature

Name: Ralph Anders
Title: President
Date: 3/17/2020

APPENDIX 6, DEED OF TRUST

Date: April 22, 2020
Grantor: Central Colorado Water Conservancy District, Groundwater Management Subdistrict, acting by and through the water activity enterprise
Beneficiary: Colorado Water Conservation Board
County: Weld
Total Loan Amount: \$5,444,405.00
Loan Contract Number: CT2020-3348
Terms of Repayment: 1.45% per annum interest for 30 years
Pledged Property: An undivided seventy percent (70%) interest in the Hokestra Reservoir, including any easements, rights-of-ways or other property or property interests held and used in connection with the access and operation of said reservoir, located in Section 2, Township 2 North, Range 68 West of the 6th Principal Meridian in Weld County.

This indenture is between the Grantor, and the Public Trustee of the above referenced County, State of Colorado (“Public Trustee”).

FACTUAL RECITALS

1. The Grantor has executed a Promissory Note of even date and amount, set forth in the Loan Contract, for a loan in the Total Loan Amount to be repaid to the Beneficiary, with Terms of Repayment and in accordance with the Promissory Note or until loan is paid in full.
2. The Grantor is desirous of securing payment of the Total Loan Amount and interest of said Promissory Note to the Beneficiary.

The Grantor, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said Public Trustee in trust forever, the above described Pledged Property.

To have and to hold the same, together with all appurtenances, in trust nevertheless, that in case of default in the payment of said Promissory Note, or any part thereof, or the interest thereon, or in the performance of any covenants hereinafter set forth or in said Promissory Note or Loan Contract, then upon the Beneficiary filing notice of election and demand for sale, said Public Trustee, after advertising notice of said sale weekly for not less than four weeks in some newspaper of general circulation in said County, shall sell said Pledged Property in the manner provided by law in effect at the time of filing said notice and demand, at public auction for cash, at any proper place designated in the notice of sale. Out of the proceeds of said sale, the Public Trustee shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior encumbrance, with interest thereon and pay the principal and interest due on said Promissory Note, rendering the overplus, if any, unto the Grantor; and after the expiration of the time of redemption, the Public Trustee shall execute and deliver to the purchaser a deed to the Pledged Property sold. The Beneficiary may purchase said Pledged Property or any part thereof at such sale.

The Grantor covenants that at the time of the delivery of these presents, it is well seized of the Pledged Property in fee simple, and has full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid. The Grantor fully waives and releases all rights and claims it may have in or to said Pledged Property as a Homestead Exemption or other exemption, now or hereafter provided by law. The Grantor

further covenants that the Pledged Property is free and clear of all liens and encumbrances whatever and that the Grantor shall warrant and forever defend the Pledged Property in the quiet and peaceable possession of the Public Trustee, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

Until payment in full of the indebtedness, the Grantor shall timely pay all taxes and assessments levied on the Pledged Property; any and all amounts due on account of the principal and interest or other sums on any senior encumbrances, if any; and will keep the Pledged Property insured in accordance with the requirements of the Loan Contract. In the event of the sale or transfer of the Pledged Property, the Beneficiary, at its option, may declare the entire balance of the note immediately due and payable.

In case of default in any of said payments of the principal or interest, according to the terms of said Promissory Note or Loan Contract, by the Grantor, its successors or assigns, then said principal sum hereby secured, and interest thereon, may at once, at the option of the Beneficiary, become due and payable, and the said Pledged Property be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the Public Trustee, an attorney's fee in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the Public Trustee as a part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

It is further understood and agreed, that if a release or a partial release of this Deed of Trust is required, the Grantor, its successors or assigns will pay the expense thereof; that all the covenants and agreements contained herein and in the Promissory Note and Loan Contract shall extend to and be binding upon the successors or assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

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Executed the day and date first written above.

Grantor: Central Colorado Water Conservancy District,
Groundwater Management Subdistrict, acting by and
through the water activity enterprise

By: Ralph T. Anders

Signature

Name: RALPH ANDERS

Title: PRESIDENT

Date: 4/22/2020

Attest:

By: Randy Ray
Signature

Name: Randy Ray

Title: SECRETARY

Date: 4/22/2020

Notary Required

State of Colorado)
County of Weld) ss.

The foregoing instrument was acknowledged before me on April 22, 2020, by

Ralph Anders (Name) as President (Title) and

Randy Ray (Name) as Secretary (Title) of the Central Colorado Water Conservancy
District,

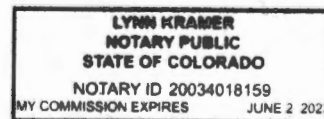
Groundwater Management Subdistrict, acting by and through the water activity enterprise.

Witness my hand and official seal.

Lynn Kramer

Notary Public Signature

My commission expires 6-2-2023
(SEAL)



(Colorado Water Conservation Board will record the Deed of Trust with the County.)