





**LOAN CONTRACT AMENDMENT NO. 2**

<b><u>State Agency</u></b> Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	<b><u>Amendment No. #2 Contract Number</u></b> CMS 191527 CT2019-2099
<b><u>Borrower and Address</u></b> Ogilvy Irrigating and Land Company	<b><u>Original Contract Number</u></b> CMS 112083 CT 2019-2099
<b><u>Current Contract Maximum Amount</u></b> \$3,284,520.00	<b><u>Contract (Original) Performance (Project) Beginning Date:</u></b> February 15, 2019
<b><u>Project Name</u></b> Seeley Reservoir Dredging	<b><u>Contract (Original unless changed) Performance (Project) End Date (this end date includes any CWCB approved extensions)</u></b> February 15, 2026 or upon the date of CWCB's Notice of Substantial Completion of the Project
<b><u>Reason for Modification</u></b> This amendment increases the Total Loan Amount.	<b><u>Loan Contract Terms</u></b> 1.70% for 30 years <b><u>Loan Contract Repayment Schedule</u></b> Loan not in repayment at this time

**THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT**

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

<b>BORROWER</b> Ogilvy Irrigating and Land Company  (Signature) Name: <u>Scott R. Cockroft</u> Title: <u>President</u> Date: <u>6-18-24</u> <b>ATTEST:</b>  (Signature) Name: <u>Cristian Wacker</u> Title: <u>Board Director</u> Date: <u>6-18-24</u>	<b>STATE OF COLORADO</b> Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board  (Signature) Name: Kirk Russell, P.E., Section Chief Date: <u>July 15, 2024   7:42 AM MDT</u>
In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate <b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b>  By: _____ Name: <u>Ion Cotsapas</u> Title: <u>DNR Procurement Director</u> Amendment Effective Date: <u>July 16, 2024   1:39 PM MDT</u>	

**1. PARTIES**

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

**2. TERMINOLOGY**

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

**3. AMENDMENT EFFECTIVE DATE AND TERM**

**A. Amendment Effective Date**

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

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

**4. PURPOSE**

The Borrower was approved for a CWCB loan contract, in May, 2018, for the Seeley Reservoir Dredging project. The amount of the current loan contract is increased by \$1,010,000.00 from \$2,274,520.00 to \$3,284,520.00. The total loan amount is hereby modified accordingly.

**5. MODIFICATIONS**

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

- A.** The Original Contract Maximum loan contract amount shown on the Signature and Cover Page for this Amendment is hereby deleted and replaced with the Current Contract Maximum Amount of \$3,284,520.00. The loan terms shall remain at 1.70% for 30 years.
- B.** Amendment to Promissory Note, Appendix A, in the revised loan amount and incorporated herein, shall replace and supersede the Original Promissory Note attached to the Original Loan Contract as Appendix 3.
- C.** Amendment to Security Agreement, Appendix B, in the revised loan amount and incorporated herein, shall supplement and operate in conjunction with the Original Security Agreement, attached to the Original Loan Contract as Appendix 5.
- D.** Amendment to Deed of Trust, Appendix C, in the revised loan amount and incorporated herein, shall supplement and operate in conjunction with the Original Deed of Trust, attached to the Original Contract as Appendix 6. The Amendment to Deed of Trust (Appendix C) shall be recorded with the Weld County Clerk and Recorder.

**6. RESOLUTION**

The Borrower has adopted a Board of Director's Resolution, irrevocable for the term of this loan, authorizing the Borrower to enter into this contract amendment to borrow the additional loan amount, to establish and collect assessments sufficient to pay the annual loan payments, to pledge said assessments for repayment of the loan, and to execute documents necessary to convey a security interest in said assessments and collateral, if necessary, to the CWCB, and attached as Appendix D.

**7. ATTORNEY OPINION LETTER**

Prior to the execution of this Amendment by the CWCB, the Borrower shall submit to the CWCB a letter from its attorney stating that it is the attorney's opinion that (1) the person(s) signing for the Borrower was duly elected or appointed and has authority to sign such documents on behalf of the Borrower and to bind the Borrower; (2) the Borrower's governing body has validly adopted a resolution approving this Amendment; (3) there are no provisions

in the any state or local law that prevent this Amendment from binding the Borrower; and (4) this Amendment will be valid and binding against the Borrower if entered into by the CWCB.

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

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

**Appendix A, Amendment No. 2 to Loan Contract CT2019-2099**  
**Amendment to Promissory Note**

Date: 5/17/2024  
Borrower: Ogilvy Irrigating and Land Company  
Total Loan Amount: \$3,284,520.00  
Interest Rate: 1.70% per annum  
Term: 30 years or until loan is paid in full  
Loan Contract No.: CT 2019-2099  
Annual Loan Payment: \$140,673.57  
Payment Initiation Date: (to be filled in at Substantial Completion of Project)  
Maturity Date: (to be filled in at Substantial Completion of Project)

For Value Received, the Borrower promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the Loan Contract and this Amendment to Promissory Note (Note).

1. This Note, in the **revised loan amount of \$3,284,520.00**, shall replace and supersede the Original Promissory Note, attached as Appendix 3 to the Original Loan Contract, in the amount of \$2,274,520.00.
2. Principal and interest shall be payable in equal Annual Loan Payments, as set forth above, with the first payment due and payable one year from Payment Initiation Date, and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the Annual Loan 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 Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the Loan Contract between the CWCB and the Borrower. The Loan Contract creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement and Deed of Trust ("Security Instruments") of even date and amount and cover certain revenues and/or accounts of the Borrower. The Loan Contract and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.
8. If any annual payment is not paid when due or any default under the Loan Contract or the Security

Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the Borrower written notice of any alleged default and an opportunity to cure within sixty (60) days of receipt of such notice before the Borrower shall be considered in default for purposes of this Promissory Note.

9. 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.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

Attest:

By Cristian Wacker  
Signature

Name Cristian Wacker

Title Board Director

Date 6-18-24

Borrower:

By Scott R. Cockroft  
Signature

Name Scott R. Cockroft

Title President

Date 6-18-24

**Appendix B, Amendment No.2 to Loan Contract CT2019-2099  
Amendment to Security Agreement**

Debtor: Ogilvy Irrigating and Land Company  
Secured Party: Colorado Water Conservation Board  
Revised Loan Amount: \$3,284,520.00  
Term: 30 years or until loan is paid in full  
Interest Rate: 1.70% per annum  
Loan Contract Number: CT2019-2099

1. The Parties have amended the Original Loan Contract and Promissory Note to increase the total loan amount by \$1,010,000.00 from \$2,274,520.00 to \$3,284,520.00 and hereby amend the original Security Agreement, Appendix 5, to the Original Loan Contract to document the change.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.

Attest:

By

Cristian Wacker  
Signature

Name Cristian Wacker

Title Board Director

Date 6-18-24

Borrower:

By

Scott R. Lockhart  
Signature

Name Scott R. Lockhart

Title Resident

Date 6-18-24

**Appendix C, Amendment No.2 to Loan Contract CT2019-2099  
Amendment to Deed of Trust**

Date: May 17, 2024  
Grantor (Borrower): Ogilvy Irrigating and Land Company  
Beneficiary (Lender): Colorado Water Conservation Board  
Lender Address: 1313 Sherman Street, Room 718, Denver,  
Colorado, 80203  
Total Loan Amount: \$3,284,520.00  
Loan Contract Number: CT2019-2099  
Recorded Date of Original Deed of Trust: February 26, 2019  
County of Recording ("County"): Weld  
Deed of Trust Recording Information: Reception Number 4469384 (3 pages)  
Pledged Property: No change to property pledged per original Deed of  
Trust  
Reason for Amendment to Deed of Trust: Increase the total loan amount by \$1,010,000.00 from  
\$2,274,520.00 to \$3,284,520.00

This Amendment to Original Deed of Trust is between the Grantor and the Public Trustee of Weld County, State of Colorado.

The Original Deed of Trust was recorded, in Weld County, to secure repayment of the indebtedness evidenced by the Loan Contract and Promissory Note between the Grantor and the Beneficiary.

Grantor and Beneficiary have agreed to amend the Original Loan Contract and Deed of Trust to increase the Total Loan Amount by \$1,010,000.00 from \$2,274,520.00 to \$3,284,520.00.

NOW THEREFORE, the Beneficiary and Grantor agree that:

1. This Amendment to Deed of Trust, Appendix C, Amendment No. 1 to Contract Number CT2019-2099, *shall supplement and operate* in conjunction with the Deed of Trust attached to the Original Contract as Appendix 6, recorded in Weld County, Reception Number 4469384, recorded on February 26, 2019 and incorporated herein by reference.
2. The Grantor has executed an amended Promissory Note, in the amount of \$3,284,520.00 to secure the repayment of the indebtedness, evidenced by Loan Contract Number CT2019-2099, Amendment No.2, to be repaid to the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB") the beneficiary herein, whose address is 1313 Sherman Street, Room 718, Denver, CO 80203, payable in annual installments, in accordance with said Promissory Note, or until the loan is paid in full.
3. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment to Deed of Trust and any of the provisions of the Original Deed of Trust the provisions of this Amendment to Deed of Trust shall in all respects supersede, govern, and control.
4. Any provisions of the Original Deed of Trust not expressly modified herein remain in full force and effect.

5. Executed on the date first written above.

Grantor:

By

Scott R. Cockroft  
Signature

Name

Scott R. Cockroft

Title

President

Date

6-18-24

ATTEST:

By

Cristian Wacker  
Signature

Name

Cristian Wacker

Title

Board Director

Date

6-18-24

**NOTARY REQUIRED**

State of Colorado

)

County of

Weld

)

) ss.

The foregoing instrument was acknowledged before me on June 18, 2024, by

Scott R. Cockroft (Name) as President (Title)

and

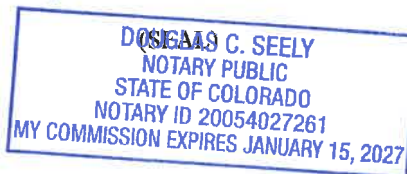
Cristian Wacker (Name) as Director (Title)

of Ogilvy Irrigating. Witness my hand and official seal.

& Land Company

Daylen C. Seely  
Notary Public

My commission expires on 1/15/2027



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



## Appendix D

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE OGILVY IRRIGATING AND LAND COMPANY**

At a meeting of the Board of Directors ("Board") of the Ogilvy Irrigating and Land Company ("Company"), held on June 4, 2024, which meeting was duly and properly called and at which a quorum was present, the following resolution was made and adopted by a unanimous affirmative vote of all of the directors present and is intended to ratify its prior decision to remove additional material from Seeley Lake and to authorize the modification of the existing loan contract the Company has with the Colorado Water Conservation Board authorizing the form and execution of the loan contract amendment and appendices thereto as security for the repayment of the amounts specified in the attached Loan Contract Amendment No. 2.

### **RECITALS**

WHEREAS, the Company has been working with its contractor, Four C Sons ("Contractor"), on a project to dredge approximately 575,000 cubic yards (approximately 350-acre feet) from Seeley Lake ("Lake") to attempt to restore the lake to its original decreed capacity ("Project"); and

WHEREAS, as part of the funding for the Project, the Company secured a loan and a grant with the Colorado Water Conservation Board ("CWCBC"); and

WHEREAS, the loan amount that was originally approved per CWCBC Loan Contract #CT2019-2099 ("Loan Contract") was \$2,274,520.00; and

WHEREAS, during the course of the Project it became evident to the Contractor and the Company that it would be beneficial to dredge additional material from the Lake beyond the 575,000 cubic yards originally anticipated, and

WHEREAS, in view of time constraints, the Board of the Company verbally agreed and authorized the Contractor to remove the additional material from the Lake; and

WHEREAS, Contractor has now removed approximately an additional 150,000 cubic yards of material from the Lake ("Additional Material"); and

WHEREAS, to help and pay for the added cost of removing and otherwise dealing with the Additional Material, the Board is seeking to modify the Loan Contract to add \$1,010,000.00 to the amount of the loan to bring the total loan amount to \$3,284,520.00; and

WHEREAS, the Company now desires to ratify its decision to instruct the Contractor to remove the Added Material and to approve a modification to the Loan Contract and to authorize the execution of Loan Contract Amendment No. 2; and

WHEREAS, recognizing the potential conflict of interest involved, Scott and Brad Cockcroft have recused themselves from voting on issues concerning the Project, including the vote on this Resolution and signing any documents on behalf of the Company as part of the Project,

and this Resolution is also intended to provide authorization for Vince Davidson to execute this Resolution on behalf of the Board.

### RESOLUTION

RESOLVED as follows:

- 1) To ratify the prior oral determination of the Board to authorize the Contractor to remove, deposit and otherwise deal with the Additional Material.
- 2) To modify the terms of the Loan Contract to increase the loan amount by \$1,010,000.00 from \$2,274,520.00 to \$3,284,520.00.
- 3) To execute all necessary documents, including the Loan Contract Amendment No. 2 and all Amended Appendices, including but not limited to the Amended Promissory Note, Amended Security Agreement and Amended Deed of Trust to convey a security interest to the CWCB.
- 4) To levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the Loan Contract, as amended, and to pledge assessment revenues and the Company's right to receive said revenues for the repayment of the loan.
- 5) To make the annual payments required by the Amended Promissory Note that is part of the Loan Contract Amendment No. 2.
- 6) To pledge the annual shareholders assessments for debt service and the property of the Company described in Appendix 4 of the Original Contract.
- 7) To take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.
- 8) To authorize Vince Davidson to execute this Resolution on behalf of the Board and the Company.

DATED this 4<sup>th</sup> day of June, 2024.

I hereby certify that the foregoing resolution of the Board of Directors of The Ogilvy Irrigating and Land Company was duly adopted by said board, as above set forth.

By: Vince Davidson  
Title: Director

ATTEST:

By: Daphne C. Gray  
Title: Secretary

**Certificate Of Completion**

Envelope Id: E2B76FC5019F4119ADC333D7C4B9353C

Status: Completed

Subject: DNR Pre-Review/Approval: CMS 191527 LOAN AMEND #2, Ogilvy Irrigating and Land Co./Seeley Reservoir

Source Envelope:

Document Pages: 10

Signatures: 2

Envelope Originator:

Certificate Pages: 5

Initials: 0

Kaylee Salazar

AutoNav: Enabled

kaylee.salazar@state.co.us

Envelope Stamping: Enabled

IP Address: 165.127.23.2

Time Zone: (UTC-07:00) Mountain Time (US &amp; Canada)

**Record Tracking**

Status: Original

Holder: Kaylee Salazar

Location: DocuSign

7/1/2024 10:46:22 AM

kaylee.salazar@state.co.us

Security Appliance Status: Connected

Pool: FedRamp

Storage Appliance Status: Connected

Pool: DNR

Location: DocuSign

**Signer Events****Signature****Timestamp**

DNR PRE-REVIEW

**Completed**

Sent: 7/1/2024 10:55:21 AM

dnr\_edo\_reviewcontract@state.co.us

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DNR

Signed: 7/11/2024 10:41:39 AM

Security Level: Email, Account Authentication (None)

Using IP Address: 35.150.113.0

**Electronic Record and Signature Disclosure:**  
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Kirk Russell



Sent: 7/11/2024 10:41:40 AM

kirk.russell@state.co.us

Viewed: 7/11/2024 11:01:18 AM

CWCB, Finance Section Chief

Signed: 7/15/2024 7:42:12 AM

Security Level: Email, Account Authentication (None)

Signature Adoption: Uploaded Signature Image

Using IP Address: 73.14.186.48

**Electronic Record and Signature Disclosure:**

Accepted: 7/11/2024 11:01:18 AM

ID: e2f6b484-0374-4bab-b0d3-2ab5538ae50d

Kaylee Salazar

**Completed**

Sent: 7/15/2024 7:42:13 AM

kaylee.salazar@state.co.us

Viewed: 7/15/2024 5:15:38 PM

Security Level: Email, Account Authentication (None)

Using IP Address: 165.127.23.2

Signed: 7/15/2024 5:15:41 PM

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Ion Cotsapas



Sent: 7/15/2024 5:15:43 PM

dnr\_edo\_allcontroller@state.co.us

Viewed: 7/16/2024 1:39:10 PM

DNR Procurement Director

Signed: 7/16/2024 1:39:14 PM

DNR Procurement Director

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 165.127.23.2

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**In Person Signer Events****Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp**

Intermediary Delivery Events	Status	Timestamp
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Joshua Godwin joshua.godwin@state.co.us Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	COPIED	Sent: 7/16/2024 1:39:16 PM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/1/2024 10:55:21 AM
Certified Delivered	Security Checked	7/16/2024 1:39:10 PM
Signing Complete	Security Checked	7/16/2024 1:39:14 PM
Completed	Security Checked	7/16/2024 1:39:16 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [lilo.santos@state.co.us](mailto:lilo.santos@state.co.us)

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- ii. send us an email to [lilo.santos@state.co.us](mailto:lilo.santos@state.co.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

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- Until or unless you notify DNR as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by DNR during the course of your relationship with DNR.