

**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 195421 CT2025-1336
Borrower's Name and Address Town of Ridgway acting by and through its Water Activity Enterprise Entity type Governmental	Loan Contract Project Performance Beginning Date The Loan Effective Date Loan Contract Project Performance End Date Three (3) 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) \$8,000,000.00 One Percent (1%) Loan Origination Fee \$80,000.00 Total Loan Amount (Includes One Percent (1%) Origination Fee) \$8,080,000.00	Loan Effective Date The date the State Controller or an authorized delegate signs this Loan Contract Loan Contract Terms Emergency Loan Terms 0.00% for 3 years to be followed by 3.25% for 27 years
Project Name Beaver Creek Diversion Restoration	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 Purpose of this Project is to rehabilitate the diversion on Beaver Creek to regain access to Town's primary water supply and to withstand future severe weather events.	
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 <p>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:</p> <ol style="list-style-type: none"> 1. Colorado Special Provisions in §0 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 <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> For the State: Joshua Godwin CWCB 1313 Sherman St., Suite 719 Denver, CO 80218 Joshua.Godwin@state.co.us (303) 866-3441 X 3254 </div> <div style="width: 45%;"> For Borrower: Preston Neill Town of Ridgway 201 N. Railroad St. Ridgway, CO 81432 pneill@town.ridgway.co.us (970) 318-0081 </div> </div>	

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.

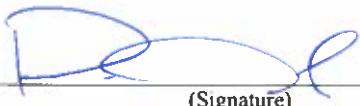



<p>BORROWER Town of Ridgway acting by and through its Water Activity Enterprise</p> <p>By: <u></u> (Signature)</p> <p>Name: <u>Preston Neill</u> Title: <u>Ridgway Town Manager</u> Date: <u>12/3/2024</u></p>	<p>STATE OF COLORADO Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board</p> <p>By: <u></u> (Signature)</p> <p>Name: Kirk Russell, P.E., Section Chief Date: <u>December 20, 2024 11:15 AM MST</u></p>
<p>ATTEST:</p> <p>By: <u></u> (Signature)</p> <p>Name: <u>Karen R. Christian</u> Title: <u>Deputy Clerk</u> Date: <u>12/3/24</u></p>	<p>LEGAL REVIEW Phil Weiser, Attorney General</p> <p>By: <u>N/A</u> 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>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: <u></u> Ion Cotsapas, DNR Procurement Director</p> <p>Effective Date: <u>December 23, 2024 11:06 AM MST</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”), 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 **§19B**.

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 Loan Contract or Loan, 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 Records 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 the 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 Loan Contract or the State may exercise an Option Letter (attached as Appendix 2) and incorporated herein, to decrease the Total Loan Contract Amount including an adjustment of the Origination Fee to reflect 1% of the actual amount disbursed to the Borrower. An amendment to this Loan Contract shall be executed for the following changes including, but not limited to, a change in Pledged Revenues, an increase in the Total Loan Contract Amount, and a decrease in Total Loan Contract 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 (1) that it has full power and authority to enter into this Loan Contract and (2) that 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) 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 Borrower formed a water authority 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;
- B. 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;
- C. 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;
- D. 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
- E. 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.

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, by Borrower, 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 and in the accumulation of all amounts then required to be accumulated in the Borrower's debt service reserve fund;
 - ii. The Borrower provides to the CWCB a Parity Certificate from a 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, the annual debt service on the proposed indebtedness to be issued, and all required deposits to any reserve funds required by this Contract or by the lender(s) of any indebtedness having a lien on the Pledged Revenues. The analysis of revenues shall be based on the Borrower's current rate structure or the rate structure most recently adopted. No more than 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 REPAID

Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the Promissory Note, the CWCB agrees to release and terminate any and all of the CWCB's right, title, and interest in and to the Pledged Revenues.

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. 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.

D. Borrower acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Borrower further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to 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, Security Agreement, and/or any instrument 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 CWCB for review, which 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 §24-102-202 (3), 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 Loan 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 Loan Contract 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.

iv. Accessibility Indemnification

Contractor shall indemnify, save, and hold harmless the state, its employees, agents and assignees (collectively, 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 Contractor's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

S. Accessibility

- i. Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by the Governor's Office Of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

The State may require Contractor's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Contractor's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

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.

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.

APPENDIX 1, PROJECT SUMMARY

Loan Contract Number CT2025-1336

Section 1 –Borrower’s Name

Town of Ridgway acting by and through its Water Activity Enterprise

Section 2 – Project Description

- A. The Borrower applied to the CWCB for a loan to be used for the Beaver Creek Diversion Restoration Project, located in Ouray County, at a total estimated Project cost of \$8,000,000.00. The purpose of the Project is to rehabilitate the diversion on Beaver Creek to regain access to Town’s primary water supply and to withstand future severe weather events.
- B. Preston Neill and Joanne Fagan, P.E., Ridgway’s town manager prepared the Disaster Impact Loan Feasibility Study dated October 1, 2024. Hayes A. Lenhart, P.E. with Wright Water Engineers, Inc. prepared a conceptual plan titled, “Town of Ridgway Water Supply Intake Structure and Transmission System Rehabilitation – Conceptual Plan and Cost Estimate for Design and Construction,” dated September 20, 2024. The feasibility report was prepared in accordance with CWCB guidelines and includes an analysis of alternatives, preliminary engineering design, 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 – Contract 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 4 - CWCB Approval

At its November 21, 2024 meeting the CWCB approved a Project Loan to the Borrower, in an amount up to \$8,000,000.00 for Project Costs. CWCB’s Origination Fee of 1% in the amount of \$80,000.00, in accordance with CWCB Policy No. 16, added to the Base Loan Amount results in a Total Loan Amount of **\$8,080,000.00**, for a repayment term of three (3) years no interest followed by 27 years at an interest rate of 3.25% per annum.

Section 5 – Schedule of Existing Debt

As of the date of the CWCB loan approval, the Borrower has outstanding the following obligations, which constitutes Existing Parity Indebtedness under the Contract, and will require a Parity Certificate:

Lender	Original Balance	Current Balance	Annual Payment	Maturity Date	Collateral
CWRPDA	\$450,000	\$135,000	\$22,500	2030	Water Enterprise Fund Reserve
CWCB (CT2015-0056)	\$606,000	\$492,733	\$30,918	2046	Water Enterprise Fund Reserve
CWRPDA	\$650,000	\$650,000	\$44,706	2044	Water Enterprise Fund Reserve
	Total:	\$1,277,733	\$98,124		

PN

The Lenders and the CWCB have agreed that the CWCB's interest in the pledged revenues resulting from the referenced loan contract shall be on parity with the Lender's existing loans to the Borrower, and in the event of default by the Borrower, the Lenders and the CWCB will divide the available assets on a pro-rata basis.

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 the Pledged Revenues in such amount as is necessary to make each annual payment due under this Contract, on a parity with all Parity Indebtedness; and (ii) an assessment covenant. The CWCB requires that all security for this loan be in accordance with CWCB Policy No. 5.

Section 7 – Additional Conditions and Requirements

None.

Section 8 – “Loan 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

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: Three (3) 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 Insert the Option Number (e.g. "1" for the first option)
Borrower Insert Borrower's Full Legal Name	Original Contract Number Insert CMS number or Other Contract Number of the Original Contract
	Option Contract Number Insert CMS number or Other Contract Number of this Option
	Loan Contract Effective Date
	Loan Contract Expiration Date Month Day, Year

1. OPTIONS:

- a. Option to decrease the total Loan Contract amount and revise the Loan 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.

<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board</p> <p>By: _____</p> <p style="margin-left: 40px;">Name: _____</p> <p style="margin-left: 40px;">Title: _____</p> <p style="margin-left: 40px;">Date: _____</p>	<p style="text-align: center;">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.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____</p> <p style="margin-left: 40px;">Name: _____</p> <p style="margin-left: 40px;">Title: _____</p> <p style="margin-left: 40px;">Option Effective Date: _____</p>
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APPENDIX 3, PROMISSORY NOTE

Date: 11/21/2024
 Borrower: The Town of Ridgway acting by and through its Water Activity Enterprise
 Total Loan Amount: \$8,080,000.00
 Interest Rate: 0.00% interest for the first three (3) years followed by 3.25% for remaining 27 years
 Term of Repayment: 30 years- no payments for first three years followed by 27 years of amortized payments
 Loan Contract Number: CT2025-1336
 Annual Loan Payment Years: \$0.00 first three years of loan, followed by 27 remaining payments, each payment at an annual amount of \$454,062.71

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: ("Security Instrument") of even date and amount herewith and cover the Pledged Revenues. The Contract and Security Instruments 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 Instruments 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.

Borrower:

By: _____

Signature

Name: _____

Title: _____

Date: _____

Attest:

By: _____

Signature

Name: _____

Title: _____

Date: _____

APPENDIX 4

TOWN OF RIDGWAY, COLORADO EMERGENCY ORDINANCE NO. 07 - 2024

AN EMERGENCY ORDINANCE OF THE TOWN OF RIDGWAY, COLORADO, ACTING BY AND THROUGH ITS WATER ENTERPRISE, AUTHORIZING A LOAN FROM THE COLORADO WATER CONSERVATION BOARD TO FINANCE THE BEAVER CREEK DIVERSION RESTORATION PROJECT, AND THE EXECUTION OF A LOAN CONTRACT AND RELATED PROMISSORY NOTE TO DOCUMENT THE LOAN; PROVIDING THE TERMS OF THE LOAN AND OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY

WHEREAS, the Town of Ridgway is a municipal corporation duly organized and operating as a home rule Town under Article XX of the Constitution of the State of Colorado and the Town Charter (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of this Ordinance); and

WHEREAS, Section 3-8 of the Ridgway Charter allows for the adoption of an emergency ordinance when the Town Council determines that the ordinance is necessary to the immediate preservation of the public peace, health and safety and includes such a declaration within the ordinance and is adopted by the affirmative vote of six members of the Town Council; and

WHEREAS, pursuant to Section 8-3 of the Town Charter, Town utilities may be operated as an enterprise or enterprise fund by the Town; and

WHEREAS, the Town is the owner and operator of a public water system, which system has in recent years been operated on a self-supporting basis by the Town with all revenues of the system accounted for in a separate proprietary fund known as the "Water Enterprise Fund", and such system is considered to be a government-owned business and an "enterprise" of the Town; and

WHEREAS, pursuant to Section 10-3 of the Town Charter, any Town owned business, enterprise or enterprise fund is authorized to issue its own revenue bonds or such bonds may be issued on behalf of such business, enterprise or enterprise fund in the name of the Town; and

WHEREAS, pursuant to Section 10-3 of the Town Charter, the Town Council remains the governing body and is to act in accordance with the requirements of the Town Charter and applicable ordinances with respect to the administration of any Town owned business, enterprise or enterprise fund and the issuance of any revenue bonds therefore, except as may otherwise be prescribed by ordinance; and

WHEREAS, the Town is acting hereunder by and through its Water Enterprise, which is an enterprise within the meaning of Article X, Section 20 of the Constitution.; and

WHEREAS, following the Order Declaring a Local Disaster in and for the Town of Ridgway approved by the Town Council on August 14, 2024 and subsequent Town actions relating to the significant moisture, monsoonal events, and other hazards that have caused the failure of the Beaver Creek Diversion and severe damage to public property and disruption to municipal water supply and utility service, there has been developed a plan for restoration and recovery activities commonly referred to as the “Beaver Creek Diversion Restoration Project” and

WHEREAS, the Town has been presented with the State of Colorado Intergovernmental Loan Contract Number CMS 195421 CT2025-1336 to finance all or a portion of the anticipated costs for the Beaver Creek Diversion Restoration Project and has resolved to authorize the emergency loan from the CWCB, an agency of the State; and

WHEREAS, the Town’s repayment obligation under the Loan Contract will be evidenced by the Promissory Note which constitutes a special revenue obligation payable from the Water Enterprise Fund, and the substantially final form of the Loan Contract and related appendices have been reviewed by the Town staff and made available to the Town Council; and

WHEREAS, the Town’s repayment obligation under the Loan Contract will not begin until the lesser of substantial completion of the financed project or three years, and amounts drawn under the Loan Contract will not begin to accrue interest until such date; and

WHEREAS, the Town is in the process of securing grants which are expected to materially reduce the annual loan repayment amounts under the Loan Contract by directly funding a portion of the Project Costs or repaying a portion of the drawn loan funds prior to the date that amortized repayments are to begin; and

WHEREAS, voter approval in advance is not required under Article X, Section 20 of the Colorado Constitution or the Town Charter for the execution of the Loan Agreement or the issuance of the Promissory Note; and

WHEREAS, as of the date of adoption of this Ordinance, other than the CWRPDA 2009 Loan, the CWCB 2013 Loan and the CWRPDA 2024 Loan, the Town has no outstanding multi-year obligations which are payable from and secured by the Net Revenue; and

WHEREAS, the form of the Loan Agreement and the Promissory Note have been presented to the Town and made available upon request to the Town Council; and

WHEREAS, the Town Council 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;

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF RIDGWAY, COLORADO, ORDAINS:

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

“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 which, under Generally Accepted Accounting Principles, are properly chargeable as capital items.

“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.

“CWCB 2013 Loan” means the contract, designated Loan Contract No. C150340 (CT2015-0056), as may be amended from time to time, by and between CWCB and the Town, and related Promissory Note for a stated amount of \$606,000 to evidence a borrowing for the Lake Otonowanda Rehabilitation Project.

“CWRPDA” means the Colorado Water Resources and Power Development Authority, a body corporate and political subdivision of the State.

“CWRPDA 2009 Loan” means the Loan Agreement, dated as of October 19, 2009, between the Town and the CWRPDA, and related Governmental Agency Bond, issued in the aggregate principal amount of \$450,000, to evidence a direct loan to, among other things, finance upgrades and replacement of failing service lines.

“CWRPDA 2024 Loan” means the Loan Agreement, dated as of November 1, 2024 by and between the Town and the CWRPDA, and related Governmental Agency Bond, issued in the aggregate principal amount of \$650,000, to evidence a direct loan to, among other things, finance replacement of aging ductile iron pipe.

“Enabling Laws” means Town Charter, Title 31, Article 35, Part 4, C.R.S. and Title 11, Article 57, Part 2, C.R.S. and all other laws of the State establishing the power of the Town to complete the financing contemplated by this Ordinance.

“Generally Accepted Accounting Principles” means accounting principles, methods and terminology followed and construed for enterprises which are employed in business comparable to the business of the Town, as amended from time to time.

“Gross Revenues” means all income and revenues directly or indirectly derived by the Town from the operation and use of the System, or any part thereof, including without limitation, any rates, fees (including without limitation plant investment fees and availability 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 such moneys; provided however, that there shall be excluded from Gross Revenue: ad valorem property tax revenues granted to the Water Enterprise; any 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 of Colorado 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 Intergovernmental Loan Contract Number CMS 195421 CT2025-1336, as the same may be amended or supplemented from time to time, by and between the Town and the State acting by and through the CWCB.

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

“Note Account” means the “2024 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 Town, paid or accrued, for operating, maintaining and repairing the System, including without limitation legal and overhead expenses of the Town directly related to the administration of the System, insurance premiums, audits, 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, expenses incurred in connection with Capital Improvements, payments due in connection with any bonds or other obligations, and expenses that are otherwise paid from ad valorem property tax revenues granted to the Water Enterprise.

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

“Parity Obligations” means the CWRPDA 2009 Loan, the CWCB 2013 Loan, the CWRPDA 2024 Loan and one or more series of additional bonds, notes, interim securities or other obligations issued by the Town having a lien on the Net Revenue which is on a parity with the lien 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 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 Ordinance and more specifically described in Appendix 1 to the Loan Contract.

“Project Account” means the “CWCB 2024 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 Town’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 Town’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 “CWCB 2024 Reserve Account,” established by the provisions hereof for the purpose of securing repayment of the Promissory Note.

“State” means the State of Colorado.

“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.

“System” means (i) any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property, relating to the collection, treatment, storage and distribution of water that is owned, operated or controlled by the Town, including, without limitation, the Project (ii) any renewal, replacement, addition, modification or improvement to (i) above, and (iii) all real or personal property and rights therein and appurtenances thereto necessary or useful or convenient for the effectiveness of the purposes of the Town in the transmission, treatment, storage and distribution of water.

“Town” means the Town of Ridgway, Colorado, acting by and through its Water Enterprise.

“Town Charter” means the home rule charter of the Town of Ridgway.

“Town Council” means the Town Council of the Town, acting as the governing body of the Water Enterprise.

“Water Enterprise” means the government owned business of the Town for water services which is authorized to issue its own revenue bonds and which receives under 10% of annual revenue in grants from all Colorado state and local governments combined. The Water Enterprise is accounted for by the Town in the Water Enterprise Fund.

“Water Enterprise Fund” means the Town’s proprietary fund which is used to account for the fiscal activities and financial operations of the System, and any additional funds established hereafter for such purpose.

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 Town the Promissory Note in the aggregate principal amount not to exceed \$8,080,000, 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 Town. 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.

(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 Town Council in each year, respectively, until the Promissory Note has been fully paid, satisfied and discharged.

(c) *Flow of Funds.* The Town shall credit to the Water Enterprise Fund all Gross Revenues immediately upon receipt. The Town shall pay from the Water 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 Town 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 ordinances or related documents authorizing and controlling the establishment of such reserve accounts;

FOURTH, to the credit of or deposit in the accounts or subaccounts established for the payment of principal of and interest on Subordinate Obligations; and

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

(d) *The Promissory Note Does Not Constitute a Debt.* The CWCB may not look to the general fund or any other fund of the Town for the payment of the obligation established herein, except the special funds pledged therefore. The obligation established herein shall not constitute a debt or indebtedness of the Town within the meaning or any constitutional, Town Charter or statutory provision or limitation, and shall not be considered or held to be a general obligation of the Town. This obligation shall not be payable in whole or in part from the proceeds of general property taxes, and the full faith and credit of the Town is not pledged for payment thereof.

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 Town executing the same (whose manual signatures thereon shall constitute conclusive evidence of such approval). The interest rate authorized for the Promissory Note is 3.25% per annum (and the maximum net effective interest rate shall not exceed an additional 0.25% 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 no later than twenty-seven (27) years of amortized payments, following up to three years of no interest or payments, 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 Water Enterprise Fund as a proprietary fund of the Town. There is hereby established within the Water Enterprise Fund the Note Account, the Reserve Account and the Project Account. The foregoing fund and accounts shall be maintained by the Town in accordance with the provisions of this Ordinance.

(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 Town Manager, and shall be applied solely to the payment of the Project Costs. Upon the determination of the Town Manager 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 Net 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 Net 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 Town 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 Town shall annually credit an amount equal to one-tenth of the Required Reserve Amount each calendar year 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 this Ordinance and 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. Various Findings, Determinations, Declarations and Covenants. The Town Council, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants that:

(a) *Pledged Revenue 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. As of the date of this Ordinance, the CWRPDA 2009 Loan, the CWCB 2013 Loan and the CWRPDA 2024

Loan are the Town's only outstanding loans, bonds, notes or other multiple fiscal year obligations with a parity lien on the Net Revenues. The Town may issue additional Parity Obligations or Subordinate Obligations only upon compliance with the requirements Section 11(E) of the Loan Contract.

(b) *Parity Obligation Compliance.* The Town has fully funded and is current in the accumulation of reserves required in connection with the outstanding Parity Obligations referenced in paragraph (a) of this Section 6. Additionally, the Town will receive waivers or written approval from the CWRPDA and the CWCB in connection with their respective requirements for the issuance of the Promissory Note as a parity obligation.

(c) *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.

(d) *Enterprise Status.* The Water Enterprise, as formally established by the Town, is an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution. The Town 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 Town 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 Town in the Loan Contract are materially, adversely affected, the Town covenants to immediately take all actions necessary permit the enforcement of the covenants made in the Loan Contract.

(e) *Best Interests.* It is in the best interest of the Town 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 Ordinance.

Section 7. Amendment of Ordinance. This Ordinance may be amended only with the prior written consent of CWCB.

Section 8. Supplemental Public Securities Act.

(a) *Application of Act.* Pursuant to Section 11-57-204, C.R.S., the Town hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the issuance and delivery of the Promissory Note with the exception of Section 11-57-211, C.R.S.

(b) *Limitation of Actions.* In accordance with Section 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 Ordinance.

(c) *No Recourse against Officers and Agents.* Pursuant to Section 11-57-209, C.R.S., if a member of the Town Council, or any officer or agent of the Town 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.

(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 Section 11-57-208, C.R.S. and this Ordinance. 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 Town. 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 Town irrespective of whether such persons have notice of such liens.

Section 9. Approval of Related Documents. The Mayor (or in the Mayor's absence the Mayor Pro Tem) and Town Clerk shall, and they are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Ordinance, 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 appropriate Town official of any document authorized herein shall be conclusive proof of the approval by the Town of the terms thereof.

Section 10. Ordinance is Contract with Owners of Promissory Note and Irrepealable. After the Promissory Note have been issued, this Ordinance shall be and remain a contract between the Town 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 Town with respect to the Promissory Note shall have been satisfied in the manner provided herein.

Section 11. Headings, Table of Contents and Cover Page. The headings to the various sections and subsections to this Ordinance, and the cover page and table of contents that appear at front of this Ordinance, have been inserted solely for the convenience of the reader, are not a part of this Ordinance and shall not be used in any manner to interpret this Ordinance.

Section 12. 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 13. Repeal of Inconsistent Ordinances, Bylaws, Rules and Orders. All ordinances, resolutions, bylaws, rules and orders, or parts thereof, that are inconsistent with or in conflict with this Ordinance, are hereby repealed to the extent of such inconsistency or conflict.

Section 14. Ratification of Prior Actions. All actions heretofore taken (not inconsistent with the provisions of this Ordinance or the Enabling Laws) by the Town Council or by the officers and employees of the Town directed toward the issuance of the Promissory Note for the purposes herein set forth are hereby ratified, approved and confirmed.

Section 15. Emergency Declaration. The Town Council hereby finds that this Ordinance is necessary to the immediate preservation of the public peace, health, and safety and, due to the need to proceed with the Project and provide for the payment of Project Costs and for such reason, declares that an emergency exists. Pursuant to Article III, Section 3-8 of the Town Charter, this Ordinance shall be effective immediately up adoption for the reasons recited herein.

Section 16. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Section 3-8(B) of the Ridgway Charter.

INTRODUCED, HEARD AND FINALLY ADOPTED AS AN EMERGENCY ORDINANCE by the Town Council of the Town of Ridgway, Colorado, this 11th day of December, 2024.

**TOWN OF RIDGWAY, COLORADO,
A HOME-RULE MUNICIPALITY**

By: 

John I. Clark, Mayor

Attest:

By: 

~~Pam Kraft, Town Clerk~~

Karen Christian, Deputy Clerk

Approved As to Form:

By: 

Bo James Nerlin, Town Attorney

APPENDIX 5, SECURITY AGREEMENT

Date: 11/21/2024

Borrower: The Town of Ridgway acting by and through its Water Activity
Enterprise

Secured Party: Colorado Water Conservation Board

Promissory Note: \$8,080,000.00

Terms of Repayment: Thirty (30) years – no payments and 0.00% interest for the first three (3) years followed by twenty-seven (27) years of amortized payments at the interest rate of 3.25%

Loan Contract Number: CT2025-1336

Pledged Revenues: All revenues derived from service charge and usage fee revenues 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 _____.

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 Loan 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 Loan Contract. Upon default, Secured Party shall have the immediate right to the possession of the Pledged Revenues.

CT2025-1336

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 Loan 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.

Borrower:

By:

Signature

Name:

Title:

Date:

Attest:

By:

Signature

Name:

Title:

Date:

CT2025-1336



Kutak Rock LLP
2001 16th Street, Suite 1800, Denver, CO 80202
office 303.297.2400

Thomas M. Peltz
303.292.7807
thomas.peltz@kutakrock.com

December 23, 2024

Colorado Department of Natural Resources
Colorado Water Conservation Board
1313 Sherman Street, Room 718
Denver, Colorado 80203

Re: Intergovernmental Loan Contract for Loan Contract Number CMS 195421
CT2025-1336 for the Town of Ridgway, Colorado, acting by and through its
Water Enterprise

To Whom It May Concern:

We have acted as bond counsel to the Town of Ridgway, Colorado, acting by and through its Water Enterprise (the "Town") for the sole purpose providing the bond counsel opinion required by the State of Colorado Department of Natural Resources Water Conservation Board ("CWCB") in paragraph 10 of the above-referenced Intergovernmental Loan Contract (the "Loan Contract").

The execution by the Town of the Loan Contract, including the documents attached thereto, was approved by the governing body of the Town (the "Town Council") pursuant to Ordinance No. 07-2024 passed and adopted as an emergency ordinance on December 11, 2024 (the "Loan Ordinance").

We have examined the constitution and the laws of the State of Colorado (the "State"), the home-rule charter (the "Town Charter") and municipal code of the Town and such certified proceedings, certificates, documents, opinions and other papers as we deem necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation. We have assumed the due authorization, execution and delivery of the Loan Contract by, and the enforceability of the Loan Contract against, the CWCB.

Based upon the foregoing, we are of the opinion, under existing law and as of the date hereof, that:

- (a) the Water Enterprise has been duly established by the Town, as provided in the Town Charter, and operates as a government-owned business that is authorized to issue its own revenue bonds and receives 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;

KUTAKROCK

December ²³____, 2024
Page 2

(b) the Loan Contract has been duly executed by officers of the Town who are duly elected or appointed and are authorized to execute the Loan Contract and to bind the Town;

(c) the Loan Ordinance authorizing the execution and delivery of the Loan Contract was duly adopted by the Town Council;

(d) there are no provisions in the Colorado Constitution, the Town Charter or any other State or local law applicable to the Town that prevent the Loan Contract from binding the Town; and

(e) the Loan Contract will be valid and binding against the Town if entered into by the CWCB.

The rights of the CWCB under the Loan Contract and the enforceability of the Loan Contract may be limited by the effect of, and by restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally heretofore or hereafter enacted or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, and are further subject as to enforceability to judicial discretion, to the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State, and to the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

We express no opinion herein as to any matter not specifically set forth above. This opinion is given as of the date hereof and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

This opinion may be relied upon solely by the addressee hereto in connection with the execution and delivery of the Loan Contract. This opinion may not be relied upon for any other purpose or by any person other than the addressee.

Sincerely,
Kutak Rock LLP

Thomas Peltz

By: Thomas M. Peltz, Partner

Certificate Of Completion

Envelope Id: BDE0227E-D21C-4D11-8A9B-26D14D2FB035

Subject: Need by 12/31/2024: CMS 195421 Town of Ridgeway/Beaver Creek Diversion CT2025*1336

Source Envelope:

Document Pages: 41

Certificate Pages: 5

AutoNav: Enabled

Envelopeld Stamping: Enabled

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

Status: Completed

Envelope Originator:

Kaylee Salazar

kaylee.salazar@state.co.us

IP Address: 165.127.23.2

Record Tracking

Status: Original

12/19/2024 10:09:15 AM

Security Appliance Status: Connected

Storage Appliance Status: Connected

Holder: Kaylee Salazar

kaylee.salazar@state.co.us

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Signer Events

DNR PRE-REVIEW

dnr_edo_reviewcontract@state.co.us

DNR

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Kirk Russell

kirk.russell@state.co.us

CWCB, Finance Section Chief

Security Level: Email, Account Authentication
(None)

Signature

Completed

Using IP Address: 35.150.119.172

Signature Adoption: Uploaded Signature Image

Using IP Address: 73.14.186.48

Timestamp

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Viewed: 12/19/2024 11:16:43 AM

Signed: 12/19/2024 11:16:46 AM

Sent: 12/19/2024 11:16:48 AM

Viewed: 12/20/2024 11:15:48 AM

Signed: 12/20/2024 11:15:57 AM

Electronic Record and Signature Disclosure:

Accepted: 12/20/2024 11:15:48 AM

ID: 7463ae17-7643-4799-aa7c-a13ca06fdd17

Preston Neill

pneill@town.ridgway.co.us

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

Using IP Address: 172.103.38.29

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Viewed: 12/20/2024 5:00:21 PM

Signed: 12/20/2024 5:00:50 PM

Electronic Record and Signature Disclosure:

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ID: 4e94a37c-d84a-40ca-bcf9-9a52e870365f

Kaylee Salazar

kaylee.salazar@state.co.us

Security Level: Email, Account Authentication
(None)

Completed

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Viewed: 12/20/2024 12:28:56 PM

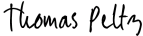
Signed: 12/20/2024 4:11:47 PM

Electronic Record and Signature Disclosure:

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Signer Events	Signature	Timestamp
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Thomas Peltz Thomas.Peltz@kutakrock.com Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 69.63.112.180	Sent: 12/23/2024 11:06:07 AM Viewed: 12/23/2024 11:07:47 AM Signed: 12/23/2024 11:09:22 AM
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Joshua Godwin joshua.godwin@state.co.us Security Level: Email, Account Authentication (None)	<div>COPIED</div>	Sent: 12/23/2024 11:09:23 AM
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	12/20/2024 4:02:45 PM
Certified Delivered	Security Checked	12/23/2024 11:07:47 AM
Signing Complete	Security Checked	12/23/2024 11:09:22 AM
Completed	Security Checked	12/23/2024 11:09:23 AM

Payment Events	Status	Timestamps
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