

DRINKING WATER REVOLVING FUND

LOAN AGREEMENT

BETWEEN

**COLORADO WATER RESOURCES AND POWER
DEVELOPMENT AUTHORITY**

AND

**TOWN OF _____, COLORADO, ACTING BY AND THROUGH ITS
_____ ENTERPRISE**

DATED

**DRINKING WATER REVOLVING FUND DESIGN AND ENGINEERING LOAN
AGREEMENT**

THIS LOAN AGREEMENT is made and entered into as of this ____ day of _____ 2016 by and between **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), a body corporate and political subdivision of the State of Colorado, and the **TOWN OF _____, COLORADO, ACTING BY AND THROUGH ITS _____ ENTERPRISE** (the "Governmental Agency").

WITNESSETH THAT:

WHEREAS, the United States, pursuant to the federal Safe Drinking Water Act of 1996, assists state and local participation in the financing of the costs of drinking water system projects and said federal Drinking Water Act requires each state to establish a drinking water revolving fund to be administered by an instrumentality of the State.

WHEREAS, the Authority was created to initiate, acquire, construct, maintain, repair, and operate or cause to be operated certain water resource projects, and to finance the cost thereof;

WHEREAS, Section 37-95-107.8, Colorado Revised Statutes, has created a Drinking Water Revolving Fund to be administered by the Authority;

WHEREAS, the Governmental Agency has completed the necessary steps to finance all or a portion of the cost of certain design and engineering expenses;

WHEREAS, the Colorado Legislature has approved a Project Eligibility List that includes the water resource project proposed by the Governmental Agency to be financed hereunder;

WHEREAS, the Governmental Agency has made timely submission of a Project Needs Assessment to the Authority for financing under the Drinking Water Revolving Fund to finance a portion of the design and engineering cost of a certain water resource project, and the SRF committee has reviewed the Governmental Agency's Project Needs Assessment and recommended funding from available funds in the Drinking Water Revolving Fund in an amount not to exceed the amount of the loan commitment set forth in Exhibit B hereto to finance 80% of the design and engineering costs of the project, provided the remaining 20% of the design and engineering costs are paid by the Governmental Agency. However, these 20% matching funds shall be reimbursed if the Governmental Agency executes a loan under the Drinking Water Revolving Fund to complete the Project for which the design and engineering costs were paid;

WHEREAS, the Governmental Agency will issue its bond to the Authority to evidence said loan and its obligations hereunder to the Authority;

NOW THEREFORE, for and in consideration of the award of the loan by the Authority, the Governmental Agency agrees to perform its obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as a part hereof, as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

"Act" means the "Colorado Water Resources and Power Development Authority Act," being Section 37-95-101 et seq. of the Colorado Revised Statutes, as the same may from time to time be amended and supplemented.

"Authority" means the Colorado Water Resources and Power Development Authority, a body corporate and political subdivision of the State of Colorado duly created and validly existing under and by virtue of the Act.

"Authorized Officer" means, in the case of the Governmental Agency, the person whose name is set forth in Paragraph (7) of Exhibit B hereto or such other person or persons authorized pursuant to a resolution or ordinance of the governing body of the Governmental Agency to act as an Authorized Officer of the Governmental Agency to perform any act or execute any document relating to the Loan, the Governmental Agency Bond, or this Loan Agreement, whose name is furnished in writing to the Authority.

"Commencement Date" means the date of commencement of the term of this Loan Agreement, as set forth in Paragraph (1) of Exhibit B attached hereto and made a part hereof.

"Cost" means those costs that are eligible to be funded and that are reasonable, necessary and allocable to the Project and are associated with the Project Needs Assessment.

"Event of Default" means any occurrence or event specified in Section 5.01 hereof.

"Federal Capitalization Agreement" means the instrument or agreement established or entered into by the United States of America Environmental Protection Agency with the Authority to make capitalization grant payments pursuant to the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f et seq.)

"Governmental Agency" means the entity that is a party to and is described in the first paragraph of this Loan Agreement, and its successors and assigns.

"Governmental Agency Bond" means the bond executed and delivered by the Governmental Agency to the Authority to evidence the Loan and its obligations to the Authority pursuant to the Loan, the form of which is attached hereto as Exhibit D and made a part hereof.

"Loan" means the loan made by the Authority to the Governmental Agency to finance or refinance a portion of the design and engineering Cost of the Project pursuant to this Loan Agreement. For all purposes of this Loan Agreement, the principal amount of the Loan at any time shall be the amount of the Loan Commitment set forth in Paragraph (4) of Exhibit B attached hereto and made a part of this Loan Agreement.

"Loan Agreement" means this Loan Agreement, including the Exhibits attached hereto, as it may be supplemented, modified, or amended from time to time in accordance with the terms hereof.

"Loan Closing" means the date upon which the Loan herein shall be closed, as set forth in Section 3.06.

"Loan Term" means the term of this Loan Agreement provided in Paragraph (5) of Exhibit B attached hereto and made a part hereof.

"Principal Forgiveness" means forgiveness upon Loan Closing of the Governmental Agency's obligation to repay 100% of the principal amount of the Loan, to be effectuated as provided in paragraph (6) of Exhibit B, attached hereto and made a part hereof.

"Project" means the project of the Governmental Agency described in Paragraph (1) of Exhibit A attached hereto and made a part hereof, all or a portion of the design and engineering Cost of which is financed or refinanced by the Authority through the making of the Loan under this Loan Agreement.

"Project Loan Account" means the Project Loan Account established within the Drinking Water Revolving Fund.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

ARTICLE II

REPRESENTATIONS AND COVENANTS OF GOVERNMENTAL AGENCY

SECTION 2.01. Representations of Governmental Agency. The Governmental Agency represents for the benefit of the Authority:

(a) Organization and Authority.

(i) The Governmental Agency is a governmental agency as defined in the Act and as described in the first paragraph of this Loan Agreement.

(ii) The Governmental Agency has full legal right and authority to execute and deliver this Loan Agreement; to execute, issue, and deliver the Governmental Agency Bond; and to carry out and consummate all transactions contemplated by this Loan Agreement and the Governmental Agency Bond. The Project is on the drinking water project eligibility list approved by the General Assembly of the State of Colorado pursuant to the Act and is a project that the Governmental Agency may undertake pursuant to Colorado law, and for which the Governmental Agency is authorized by law to borrow money.

(iii) The proceedings of the Governmental Agency's governing members and voters, if a referendum is necessary, approving this Loan Agreement and the Governmental Agency Bond, and authorizing their execution, issuance, and delivery on behalf of the Governmental Agency, and authorizing the Governmental Agency to undertake and complete the Project, or to cause the same to be undertaken and completed, have been duly and lawfully adopted and approved in accordance with the laws of Colorado, and such proceedings were duly approved and published, if necessary, in accordance with applicable Colorado law, at a meeting or meetings that were duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout.

(iv) This Loan Agreement has been, and the Governmental Agency Bond when delivered at the Loan Closing will have been, duly authorized, executed, and delivered by an Authorized Officer of the Governmental Agency; and, assuming that the Authority has all the requisite power and authority to authorize, execute, and deliver, and has duly authorized, executed, and delivered, this Loan Agreement, this Loan Agreement constitutes, and the Governmental Agency Bond when delivered to the Authority will constitute, the legal, valid, and binding obligations of the Governmental Agency in accordance with their respective terms; and the information contained under "Description of the Loan" on Exhibit B attached hereto and made a part hereof is true and accurate in all material respects.

(b) Full Disclosure.

There is no fact that the Governmental Agency has not disclosed to the Authority in writing on the Governmental Agency's Project Needs Assessment or otherwise that materially adversely affects the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency, or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(c) Pending Litigation.

Except as disclosed to the Authority in writing, there are no proceedings pending, or, to the knowledge of the Governmental Agency threatened, against or affecting the Governmental Agency, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(d) Compliance with Existing Laws and Agreements.

The authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond by the Governmental Agency, the observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements thereunder, and the consummation of the transactions provided for in this Loan Agreement and in the Governmental Agency Bond; the compliance by the Governmental Agency with the provisions of this Loan Agreement and the Governmental Agency Bond; and the undertaking and completion of the Project; will not result in any breach of any of the terms, conditions, or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon, any property or assets of the Governmental Agency pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement, or other instrument (other than the lien and charge of this Loan Agreement and the Governmental Agency Bond) to which the Governmental Agency is a party or by which the Governmental Agency, or any of the property or assets of the Governmental Agency may be bound, and such action will not result in any violation of the provisions of the charter or other document pursuant to which the Governmental Agency was established, or of any laws, ordinances, resolutions, governmental rules, regulations, or court orders to which the Governmental Agency, or the properties or operations of the Governmental Agency are subject.

(e) No Defaults.

No event has occurred and no condition exists that, upon authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond, or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Governmental Agency is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party, or by which it, may be bound, which violation would materially adversely affect the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(f) Governmental Consent.

The Governmental Agency has obtained all approvals required to date by any governmental body or officer for the making, observance, and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond, or for the undertaking or completion of the Project and the financing or refinancing thereof; and the Governmental Agency has complied with all applicable provisions of law requiring any notification, declaration, filing, or registration with any governmental body or officer in connection with the making, observance, and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond, or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval, or authorization of, or filing, registration, or qualification with, any governmental body or officer that has not been obtained is required on the part of the Governmental Agency as a condition to the authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(g) Compliance with Law.

The Governmental Agency:

(i) is in compliance with all laws, ordinances, governmental rules, and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Governmental Agency to conduct its activities or to undertake or complete the Project, or the condition (financial or otherwise) of the Governmental Agency or the System; and

(h) Use of Proceeds.

The Governmental Agency will apply the proceeds of the Loan from the Authority as described in Exhibit B attached hereto and made a part hereof (i) to finance all or a portion of the Cost; and (ii) where applicable, to reimburse the Governmental Agency for a portion of the Cost, which portion was paid or incurred in anticipation of reimbursement by the Authority.

SECTION 2.02. Particular Covenants of the Governmental Agency.

(a) Reimbursement for Ineligible Costs.

The Governmental Agency shall promptly reimburse the Authority for any portion of the Loan that is determined not to be a Cost of the Project and that would not be eligible for funding from draws under the Drinking Water Revolving Fund. Such reimbursement shall be promptly repaid to the Authority upon written request of the Authority.

(b) No Lobbying.

No portion of the Loan shall be used for lobbying or propaganda as prohibited by 18 U.S.C. Section 1913 or Section 607(a) of Public Law 96-74.

(c) Records; Accounts.

During the Loan Term, the Governmental Agency shall keep accurate records and accounts, separate and distinct from its other records and accounts (the "General Records"). Such Records shall be maintained in accordance with generally accepted accounting principles, and Records and General Records shall be made available for inspection by the Authority at any reasonable time.

(d) Notice of Material Adverse Change.

During the Loan Term, (i) the Governmental Agency shall promptly notify the Authority of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Governmental Agency relating to its System, or its ability to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement; (ii) the Governmental Agency shall promptly notify the Authority of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Governmental Agency relating to its ability to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(e) Hiring Requirements.

The Governmental Agency agrees to comply with the requirements found at Title 8, Article 17, and Title 8, Article 17.5, Colorado Revised Statutes.

(f) Continuing Representations.

The representations of the Governmental Agency contained herein shall be true at the time of the execution of this Loan Agreement and the Governmental Agency covenants not to take any action that would cause them not to be true at all times during the Loan Term.

(g) Capacity Development.

The Governmental Agency covenants to maintain its technical, financial, and managerial capability to ensure compliance with the requirements of the Safe Drinking Water Act of 1996 under Section 1452(a)(3)(A)(i).

(h) Additional Covenants and Requirements.

Additional covenants and requirements are included on Exhibit F attached hereto and made a part hereof. The Governmental Agency agrees to observe and comply with each such additional covenant and requirement included on Exhibit F.

ARTICLE III

LOAN TO GOVERNMENTAL AGENCY; AMOUNTS PAYABLE; GENERAL AGREEMENTS

SECTION 3.01. The Loan. The Authority hereby agrees to loan and disburse to the Governmental Agency in accordance with Section 3.02 hereof, and the Governmental Agency agrees to borrow and accept from the Authority, the Loan in the principal amount equal to the Loan Commitment set forth in Paragraph (4) of Exhibit B attached hereto and made a part hereof as such Loan Commitment may be revised to reflect a reduction in the Cost of the Project prior to the Project Completion; provided, however, that the Authority shall be under no obligation to make the Loan if (i) the Governmental Agency does not deliver its Governmental Agency Bond to the Authority on the Loan Closing, or (ii) an Event of Default has occurred and is continuing under this Loan Agreement. The Governmental Agency shall use the proceeds of the Loan strictly in accordance with Section 2.01(h) hereof.

SECTION 3.02. Disbursement of the Loan. The Authority has created in the Drinking Water Revolving Fund a Project Loan Account from which 80% of the design and engineering Costs of the Project shall be paid. Amounts shall be transferred into the Project Loan Account and disbursed to the Governmental Agency upon receipt of a “Request for Reimbursement”, as described below, executed by an Authorized Officer, and approved by the Authority and the State Department of Public Health and Environment; provided that the Disbursement of the Loan may be withheld if the Governmental Agency is not complying with any of the covenants and conditions in the Loan Agreement. To receive reimbursement under this agreement, the Governmental Agency shall submit a signed “Request for Reimbursement” and all applicable invoices and receipts for payments made by the Governmental Agency. The acceptable form for a “Request for Reimbursement” is included hereto as **Exhibit G**. Upon receipt of the “Request for Reimbursement” and the required invoices and receipts, the Authority will reimburse the Governmental Agency an amount equal to 80% of the total invoices provided with the “Request for Reimbursement”; the remaining 20% paid by the Governmental Agency and not reimbursed by the Authority shall be the Governmental Agency’s matching funds. The 20% matching funds shall be reimbursed if the Governmental Agency executes a loan under the Drinking Water Revolving Fund to complete the Project for which the design and engineering costs were paid.

SECTION 3.03. Governmental Agency Bond. The Governmental Agency shall execute and issue the Governmental Agency Bond to the Authority to evidence the Loan and its obligations to the Authority pursuant to the Loan.

SECTION 3.04. Loan Repayment – Principal Forgiveness. This Loan is issued as a 100% Principal Forgiveness Loan pursuant to the current Capitalization Grant, and the principal amount of the Loan shall be forgiven, as set forth in Paragraph (6) of Exhibit B attached hereto and made a part hereof.

SECTION 3.05. Disclaimer of Warranties and Indemnification. The Governmental Agency acknowledges and agrees that (i) the Authority makes no warranty or representation, either express or implied as to the value, design, condition, merchantability, or fitness for particular purpose, or fitness for any use, of the Project or any portions thereof, or any other warranty or representation with respect thereto; (ii) in no event shall the Authority or its agents be liable or responsible for any direct, incidental, indirect, special, or consequential damages in connection with or arising out of this Loan Agreement, or the Project, or the existence, furnishing, functioning, or use of the Project, or any item or products or services provided for in this Loan Agreement; and (iii) to the extent authorized by law, the Governmental Agency shall indemnify, save, and hold harmless the Authority against any and all claims, damages, liability, and court awards, including costs, expenses, and attorney fees incurred as a result of any act or omission by the Governmental Agency, or its employees, agents, or subcontractors pursuant to the terms of this Loan Agreement, provided, however, that the provisions of this clause (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the Colorado Governmental Immunity Act (Section 24-10-101, et seq. C.R.S.), or under the laws of the United States or the State of Colorado.

SECTION 3.06. Loan Closing. The Loan shall be closed and become effective as follows:

(a) The Governmental Agency will deliver each of the following items to the Authority:

- (i) executed counterparts of this Loan Agreement;
- (ii) the executed Governmental Agency Bond in the form attached hereto as Exhibit D.
- (iii) copies of the resolutions or ordinances of the governing body of the Governmental Agency authorizing the execution and delivery of this Loan Agreement and the Governmental Agency Bond, certified by an Authorized Officer of the Governmental Agency;
- (iv) an opinion of the Governmental Agency's counsel substantially in the form set forth in Exhibit E-1 hereto (such opinion or portions of such opinion may be given by one or more counsel); provided, however, that the Authority may in its discretion permit variances in such opinion from the form or substance of such Exhibit E-1 if such variances are not to the material detriment of the interests of the Authority; and
- (v) such other certificates, documents, opinions and information as the Authority may require.

(b) Upon receipt of the foregoing documents, the Authority shall obligate the amount of the Loan Commitment set forth in Paragraph (4) of Exhibit B, and make the amount of the Loan available for the Project in accordance with the terms of this Loan Agreement.

ARTICLE IV

ASSIGNMENT

SECTION 4.01. Assignment by Governmental Agency. Neither this Loan Agreement nor the Governmental Agency Bond may be assigned or delegated by the Governmental Agency for any reason, unless the following conditions shall be satisfied: (i) the Authority shall have approved said assignment in writing; (ii) the assignee shall be a governmental agency as defined by the Act, and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Governmental Agency's duties, covenants, agreements, and obligations under the Loan Agreement; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations, or agreements of the Governmental Agency under the Loan Agreement; and (iv) the Authority shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority with, or condition of any grant received by the Authority from, the United States of America relating to the Federal Capitalization Agreement or any capitalization grant received by the Authority or the State under the Safe Drinking Water Act.

No assignment or delegation shall relieve the Governmental Agency from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Governmental Agency shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

ARTICLE V

DEFAULTS AND REMEDIES

SECTION 5.01. Event of Default. If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) failure by the Governmental Agency to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement and the Governmental Agency Bond, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Governmental Agency; provided, however, that if the failure stated in such notice is correctable, but cannot be corrected within the applicable period, the Authority may consent to an extension of such time if corrective action is instituted by the Governmental Agency within the applicable period and diligently pursued until the Event of Default is corrected;

(b) any representation made by or on behalf of the Governmental Agency contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect; or

(c) (i) a petition is filed by or against the Governmental Agency under any federal or state bankruptcy or insolvency law, or other similar law in effect on the date of this Loan

Agreement or thereafter enacted, unless in the case of any such petition filed against the Governmental Agency such petition shall be dismissed within thirty (30) days after such filing, and such dismissal shall be final and not subject to appeal; or (ii) the Governmental Agency shall become insolvent, or bankrupt or make an assignment for the benefit of its creditors; or (iii) a custodian (including, without limitation, a receiver, liquidator, or trustee of the Governmental Agency or any of its property) shall be appointed by court order, or take possession of the Governmental Agency, or its property or assets, if such order remains in effect, or such possession continues, for more than thirty (30) days.

SECTION 5.02. Notice of Default. The Governmental Agency shall give the Authority prompt telephonic notice of the occurrence of any Event of Default referred to in Section 5.01 at such time as any senior administrative or financial officer of the Governmental Agency becomes aware of the existence thereof. Any telephonic notice pursuant to this Section 5.02 shall be confirmed by the Governmental Agency in writing as soon as practicable.

SECTION 5.03. Remedies on Default. Whenever an Event of Default referred to in Section 5.01 hereof shall have occurred and be continuing, the Authority shall have the right to withhold disbursement of Loan funds remaining, and take such other action at law or in equity as may appear necessary to enforce the performance and observance of any duty, covenant, obligation, or agreement of the Governmental Agency hereunder, including, without limitation, appointment ex parte of a receiver of the System.

SECTION 5.04. Attorney's Fees and Other Expenses. In the Event of Default, the Governmental Agency shall on demand pay to the Authority the reasonable fees and expenses of attorneys, and other reasonable expenses (including, without limitation, the reasonably allocated costs of in house counsel and legal staff) incurred by the Authority in the enforcement of the performance or observation of the duties, covenants, obligations, or agreements of the Governmental Agency.

SECTION 5.05. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement, or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy, or power accruing upon any Event of Default shall impair any such right, remedy, or power, or shall be construed to be a waiver thereof, but any such right, remedy, or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

SECTION 5.06. Default by the Authority. In the event of any default by the Authority under any covenant, agreement, or obligation of this Loan Agreement, the Governmental Agency's remedy for such default shall be limited to injunction, special action, action for specific performance, or any other available equitable remedy, designed to enforce the performance or observance of any duty, covenant, obligation, or agreement of the Authority hereunder, as may be necessary or appropriate. The Authority shall on demand pay to the Governmental Agency the reasonable fees and expenses of attorneys, and other reasonable expenses, in the enforcement of such performance or observation.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when hand-delivered or mailed by registered or certified mail, postage prepaid, to the Governmental Agency at the address specified on Exhibit B attached hereto and made a part hereof, and to the Authority, at the following address:

Colorado Water Resources and Power
Development Authority
1580 Logan Street, Suite 620
Denver, Colorado 80203
Attention: Executive Director

Such address may be changed by notice in writing.

SECTION 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of, and shall be binding upon, the Authority and the Governmental Agency, and their respective successors and assigns.

SECTION 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable, or otherwise affect, any other provision hereof.

SECTION 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented, or modified without the prior written consent of the Authority and the Governmental Agency.

SECTION 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

SECTION 6.06. Applicable Law and Venue. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, including the Act. Venue for any action seeking to interpret or enforce the provisions of this Loan Agreement shall be in the Denver District Court.

SECTION 6.07. Consents and Approvals. Whenever the written consent or approval of the Authority shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Authority unless otherwise provided by law, or by rules, regulations or resolutions of the Authority.

SECTION 6.08. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit, or describe, the scope or intent of any provisions or sections of this Loan Agreement.

SECTION 6.09. Further Assurances. The Governmental Agency shall, at the request of the Authority, authorize, execute, acknowledge, and deliver, such further resolutions, conveyances, transfers, assurances, financing statements, and other instruments, as may be necessary or desirable for better assuring, conveying, granting, assigning, and confirming, the rights and agreements, granted or intended to be granted, by this Loan Agreement and the Governmental Agency Bond.

SECTION 6.10. Recitals. This Loan Agreement is authorized pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling. Specifically, but not by way of limitation, this Loan Agreement is authorized by the Governmental Agency pursuant to Title 37, Article 45.1 C.R.S., Title 32, Article 1, C.R.S. and Title 11, Article 57, Part 2, C.R.S and shall so recite in the Governmental Agency Bond. Such recitals shall conclusively impart full compliance with all provisions and limitations of such laws and shall be conclusive evidence of the validity and regularity of the issuance of the Governmental Agency Bond, and the Governmental Agency Bond delivered by the Governmental Agency to the Authority containing such recital shall be incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Authority and the Governmental Agency have caused this Loan Agreement to be executed, sealed and delivered, as of the Commencement Date set forth on Exhibit B hereto.

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

(SEAL)

By: _____
Executive Director

ATTEST:

By: _____
Assistant Secretary

**TOWN OF _____, COLORADO, ACTING
BY AND THROUGH ITS _____ ENTERPRISE**

(SEAL)

By: _____
Mayor/President

ATTEST:

By: _____
Town Clerk/Secretary

IN WITNESS WHEREOF, the Authority and the Governmental Agency have caused this Loan Agreement to be executed, sealed and delivered, as of the Commencement Date set forth on Exhibit B hereto.

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

(SEAL)

By: _____
Executive Director

ATTEST:

By: _____
Assistant Secretary

**TOWN OF _____, COLORADO, ACTING
BY AND THROUGH ITS _____ ENTERPRISE**

(SEAL)

By: _____
Mayor/President

ATTEST:

By: _____
Town Clerk/Secretary

EXHIBIT A

DESCRIPTION OF THE PROJECT

(1) **Description of the Project**

The project consists of

EXHIBIT B

DESCRIPTION OF THE LOAN

- (1) Commencement Date:
- (2) Name and Address of Governmental Agency:
- (3) Estimated Design and Engineering Cost of the Project: \$
- (4) Maximum Principal Amount of Loan Commitment: \$
- (5) Loan Term: The Loan Term shall be from the date of Loan Execution until the date when the Water Quality Control Division of the Colorado Department of Health and Environment issues certification that all required documents have been submitted and the Governmental Agency has met all Project and Loan requirements but shall not exceed 18 months from the Execution Date.
- (6) Principal Forgiveness: At Loan Closing, the Authority shall forgive 100% of the principal amount of the Loan.
- (7) Authorized Officers: (please list at least two people who will be authorized to take action on this loan, including requisitioning funds)
- (8) Estimated Project Completion Date:
- (9) Execution Date:

EXHIBIT C

REPAYMENT SCHEDULE – NOT APPLICABLE

EXHIBIT D

GOVERNMENTAL AGENCY BOND

FOR VALUE RECEIVED, the undersigned **TOWN OF _____, COLORADO, ACTING BY AND THROUGH ITS _____ ENTERPRISE** (the "Governmental Agency"), hereby evidences the issuance of a loan from the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority") in the principal amount of _____ and 00/100 Dollars (\$____), or such lesser amount as shall be loaned to the Governmental Agency pursuant to the Loan Agreement dated as of____, 2016, by and between the Authority and the Governmental Agency (the "Loan Agreement"), and the obligations of the Governmental Agency under and pursuant to the Loan Agreement.

This Governmental Agency Bond is issued pursuant to the Loan Agreement and is subject to Principal Forgiveness as set forth in the Loan Agreement and issued in consideration of the loan made thereunder (the "Loan"). All of the definitions, terms, conditions, and provisions of the Loan Agreement are, by this reference thereto, incorporated herein as a part of this Governmental Agency Bond.

Pursuant to the Loan Agreement, disbursements to the Governmental Agency shall be made in accordance with written instructions upon the receipt by the Authority of requisitions from the Governmental Agency executed and delivered in accordance with the requirements set forth in Section 3.02 of the Loan Agreement.

This Governmental Agency Bond is entitled to the benefits, and is subject to the conditions, of the Loan Agreement.

This Governmental Agency Bond does not constitute a debt or an indebtedness of the Governmental Agency within the meaning of any constitutional or statutory limitation or provision, and shall not be considered or held to be a general obligation of the Governmental Agency.

If an "Event of Default" as defined in Section 5.01 of the Loan Agreement occurs, the remedies on default set forth in Section 5.03 of the Loan Agreement shall be available to enforce the obligations of the Governmental Agency that are evidenced by this Governmental Agency Bond.

This Governmental Agency Bond is issued under the authority of and in full conformity with the Constitution and laws of the State of Colorado, including without limitation, Article X, Section 20 of the Constitution, Title 31, Article 35, Part 4, C.R.S.; Title 37, Article 45.1; certain provisions of Title 11, Article 57, Part 2, C.R.S. (the "Supplemental Public Securities Act"), and pursuant to the Loan Agreement. Pursuant to §11-57-210, of the Supplemental Public Securities Act, this recital is conclusive evidence of the validity and regularity of the issuance of the Governmental Agency Bond after its delivery for value. Pursuant to §31-35-413, C.R.S., this recital conclusively imparts full compliance with all the provisions of said statutes, and this Governmental Agency Bond issued containing such recital is incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Governmental Agency has caused this Governmental Agency Bond to be duly executed, sealed and delivered, as of this ___ day of _____ 2016.

(SEAL)

**TOWN OF _____, COLORADO,
ACTING BY AND THROUGH ITS
_____ ENTERPRISE**

ATTEST:

By: _____
Mayor/President

By: _____
Town Clerk/Secretary

EXHIBIT E-1

OPINION OF GOVERNMENTAL AGENCY COUNSEL

[LETTERHEAD OF COUNSEL TO GOVERNMENTAL AGENCY]

[DATED : Closing Date]

Colorado Water Resources and
Power Development Authority

Gentlemen:

[insert "I am an attorney" or "We are attorneys"] admitted to practice in the State of Colorado and [insert "I" or "we"] have acted as counsel to **TOWN OF _____, COLORADO, ACTING BY AND THROUGH ITS _____ ENTERPRISE** (the "Governmental Agency"), of the State of Colorado, which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), and have acted as such in connection with the authorization, execution and delivery by the Governmental Agency of its Loan Agreement and Governmental Agency Bond (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Colorado and the [charter/by-laws/proceedings relating to organization] of the Governmental Agency. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

- (a) the Loan Agreement, dated as of _____ (the "Loan Agreement") by and between the Authority and the Governmental Agency;
- (b) the proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);
- (c) the Governmental Agency Bond, dated as of _____ (the "Governmental Agency Bond") issued by the Governmental Agency to the Authority to evidence the Loan(as defined in the Loan Agreement);
- (d) the proceedings of the governing body of the Governmental Agency relating to the issuance of the Governmental Agency Bond and the execution, issuance and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the "Loan Documents");

(e) all outstanding instruments relating to the bonds, notes or other indebtedness of or relating to the Governmental Agency.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "we are"] of the opinion that:

(1) The Governmental Agency is a "governmental agency" within the meaning of the Authority's enabling legislation and is a (_____) of the State of Colorado with the full legal right and authority to execute the Loan Documents.

(2) The Governmental Agency has the full legal right and authority to carry on the business of the System (as defined in the Loan Agreement) as currently being conducted and as proposed to be conducted, and to undertake and complete the Project.

(3) The proceedings of the Governmental Agency's governing body authorizing the Governmental Agency to undertake and complete the Project were duly and lawfully adopted and approved in accordance with [applicable resolution] applicable Colorado law at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(4) The proceedings of the Governmental Agency's governing body approving the Loan Documents and authorizing their execution, issuance and delivery on behalf of the Governmental Agency have been duly and lawfully adopted and approved in accordance with [the applicable resolution] applicable Colorado law, at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(5) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, the authorization, execution and delivery of the Loan Documents by the Governmental Agency, the observation and performance by the Governmental Agency of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Governmental Agency or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust, ordinance, order, or other agreement to which the Governmental Agency is a party or by which it, the System, or its property or assets is bound.

(6) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery and performance of the Loan Documents and the undertaking and completion of the Project, other than licenses and permits relating to the construction and acquisition of the Project which [insert "I" or "we"] expect the Governmental Agency to receive in the ordinary course of business, have been obtained or made.

(7) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Governmental Agency or of the validity, legality or enforceability of the Loan Documents or the undertaking or completion of the Project, except as disclosed in writing to the Authority, which if adversely determined, could (i) materially adversely affect (a) the financial position of the Governmental Agency, (b) the ability of the Governmental Agency to perform its obligations under the Loan Documents, (c) the security for the Loan Documents, or (d) the transactions contemplated by the Loan Documents or (ii) impair the ability of the Governmental Agency to maintain and operate the System.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. [insert "I" or "We"] express no opinion as to any matter not set forth in the numbered paragraphs herein.

[insert "I" or "We"] hereby authorize Carlson, Hammond, & Paddock, L.L.C., General Counsel to the Authority, to rely on this opinion as if [insert "I" or "we"] had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT F

ADDITIONAL COVENANTS AND REQUIREMENTS

(1) Cost Overruns. Any cost overruns associated with the Project will be the responsibility of the Governmental Agency and any additional costs to defend against contract claims will not be reimbursed through this or any future funding.

(2) Audit Requirements. For each year in which the Governmental Agency requests a disbursement from the Project Loan Subaccount, the Governmental Agency shall conduct its annual audit in accordance with the federal Single Audit Act, 31 U.S.C. 7501 et seq.

(3) Federal and State Law. The Governmental Agency will comply with the requirements of all federal and state laws applicable to the Loan and the Project.

EXHIBIT G
DWRF D&E Form of Requisition

TOWN OF _____, COLORADO, ACTING BY AND THROUGH ITS _____
ENTERPRISE (the “Governmental Agency”)

Please submit to the following addresses:

Email To: cdphe_grantsandloans@state.co.us (preferred method)

Or Mail To: Colorado Department of Public Health and Environment
Grants and Loans Unit WQCD-OA-B2
Attn: Project Manager
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Or Fax To: 303-782-0390 (Call CDPHE Project Manager to confirm delivery)

Cc: CDPHE Project Manager [insert project manager email](#)

Cc: E-mail requisition form (Exhibit G) to the Colorado Water Resources and Power Development Authority at requisitions@cwprda.com

This requisition is made in accordance with Section 3.02 of the Loan Agreement executed by the Colorado Water Resources and Power Development Authority on _____, 2016. Terms defined in the Loan Agreement and not otherwise defined herein shall have the same meanings when used herein.

The Governmental Agency hereby states as follows:

1. This is Requisition No _____.
2. The amount requisitioned hereunder is _____.
3. The person, firm or corporation to whom the amount requisitioned is due, or to whom a reimbursable and advance has been made, is _____.
4. The payee of the requisitioned amount is _____.
5. The manner of payment to the payee is to be wire transferred to:

Bank:
ABA No.:
Account No.:
Account Name:
Contact:

6. Attached hereto is the appropriate documentation demonstrating that the amount requisitioned hereunder is currently due or has been advanced by the Governmental Agency.
7. The amount hereby requisitioned is a proper Cost of the Project to be paid only from amounts deposited in the Project Account established for the Governmental Agency in the **Drinking Water Revolving Fund**.

8. On the date hereof, there does not exist any Event of Default under the Loan Agreement nor any condition which, with the passage of time or the giving of notice, or both, would constitute an Event of Default thereunder.
9. Estimate of total project completion percentage: _____%
10. The undersigned is an Authorized Officer of the Governmental Agency duly authorized in the Loan Agreement to submit the Requisition.
11. The Governmental Agency reaffirms that all representations made by it in the Loan Agreement are true and accurate as of the date of this requisition, and that it shall continue to observe and perform all of its duties, covenants, obligations and agreements thereunder, at all times during the entire term of said Loan Agreement.

Dated: _____.

**TOWN OF _____, COLORADO,
ACTING BY AND THROUGH ITS _____ ENTERPRISE**

By: _____.

Title: _____ & Authorized Officer

Print Name: _____

You should receive all payments no later than 10 working days after receipt of requisition unless otherwise notified.

1. The undersigned approves the disbursement of the requisitioned amount from the Project Loan Account established in the **Drinking Water Revolving Fund** Project Account.

COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

By: _____
Finance Director

Dated: _____

For Colorado Department of Public Health and Environment, Water Quality Control Division purposes only:

Payment approved by _____

Dated: _____