

AGREEMENT AND PLAN OF DISSOLUTION

THIS AGREEMENT AND PLAN OF DISSOLUTION (“Dissolution Agreement”) is made and entered into this _____ day of _____ 2021, by and among the **CONSOLIDATED BELL MOUNTAIN RANCH METROPOLITAN DISTRICT** (“CBMR”), a quasi-municipal corporation and political subdivision of the State of Colorado, and **BMR METROPOLITAN DISTRICT** (“BMR”), a quasi-municipal corporation and political subdivision of the State of Colorado, (f/k/a BELL MOUNTAIN RANCH MASTER METROPOLITAN DISTRICT), and BMR, acting by and through its **Water Activity Enterprise** (“Enterprise”). CBMR, BMR, and the Enterprise are hereinafter sometimes collectively referred to as the “Parties” or “Districts”, and singularly as a “Party” or “District”.

RECITALS

WHEREAS, the BMR and CBMR are quasi-municipal corporations and political subdivisions of the State of Colorado organized and operating pursuant to Article 1 of Title 32 of the Colorado Revised Statutes and both have the powers, duties and responsibilities, and are subject to the conditions and limitations, provided in said law and in the Constitution and other laws of the State of Colorado; and

WHEREAS, CBMR has statutory and service plan authority to fund, construct, operate, maintain and improve a potable and non-potable water system both within and without its boundaries; and

WHEREAS, BMR has statutory and service plan authority to fund, construct, operate, maintain and improve a potable and non-potable water system both within and without its boundaries including its service area that includes the area within CBMR; and

WHEREAS, the Enterprise has statutory authority to fund, construct, operate, maintain and improve a potable and non-potable water system within its service area which includes the area within CBMR; and

WHEREAS, the Enterprise owns, operates and maintains a water distribution and treatment system (“Water System”) and provides potable water within the boundaries of CBMR for the benefit of the residents and properties located within Bell Mountain Ranch Filings 1-A, 1-B, and Bell Mountain Ranch Filing No. 2, Douglas County, Colorado (“Bell Mountain Ranch Subdivision”); and

WHEREAS, BMR acting by and through its Enterprise provides water service and facilities for the benefit of persons and property located within the Bell Mountain Ranch Subdivision pursuant to a Regional Facilities Agreement entered into between CBMR and BMR acting by and through its Enterprise, on or about December 8, 1988 as amended by

a Restated and Amended Regional Facilities Agreement dated January 13, 2009 (the “Regional Facilities Agreement”); and

WHEREAS, the Board of Directors of CBMR, BMR and the Enterprise have determined that it is in the best interests of the residents and property owners within the Bell Mountain Ranch Subdivision for BMR and its Enterprise to dissolve, and in connection therewith to transfer the Water System and assets of BMR along with its service responsibilities and functions to CBMR so that CBMR can continue to provide water service to the Bell Mountain Ranch Subdivision; and

WHEREAS, for the purpose of continuing water service to the Bell Mountain Ranch Subdivision, CBMR intends to transfer the Water System to the Town of Castle Rock (“Town”) and concurrent therewith, enter into a permanent Water Service Agreement with the Town, whereby Town will provide water service to the Bell Mountain Ranch Subdivision at a level equivalent to or better than the level of service provided by BMR prior to dissolution; and

WHEREAS, Article XIV, Section 18.2(a) of the Colorado Constitution and Section 29-1-203, C.R.S., permit and encourage political subdivisions of the State to make an efficient and effective use of their powers and responsibilities by cooperating and contracting with each other.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the Parties hereto as follows:

ARTICLE I

PURPOSE AND CONDITIONS

1.1 **Purpose of Agreement.** The purpose of this Dissolution Agreement is to set forth the procedure by which: (a) the duties, functions and assets of BMR and its Enterprise (hereinafter collectively “BMR”) are transferred to CBMR; (b) CBMR continues equivalent water service to the Bell Mountain Ranch Subdivision by entering into a permanent Water Service Agreement with the Town; and (c) BMR is dissolved in accordance with and as defined by the laws of the State of Colorado.

1.2 **Conditions Subsequent.** To the extent that the dissolution of BMR: (a) requires further approval through judicial or electoral processes under the provisions of Part 7, Article 1 of Title 32, C.R.S.; and (b) implementation of the Plan of Dissolution described in Article II below is dependent upon the Town and CBMR entering into a perpetual water Service Agreement (“Water Service Agreement”), this Dissolution Agreement is expressly contingent upon such approvals being obtained and such Water

Service Agreement being entered into and the Closing contemplated thereunder occurring (hereinafter collectively referred to as the “Conditions Subsequent”).

1.3 **Effect of Conditions Subsequent.** Except for the payment of costs as set forth in Section 2.4.1 and 2.4.2 below, this Dissolution Agreement shall, at the option of either Party, terminate and be of no further force and effect if the Conditions Subsequent are not fully satisfied on or before May 1, 2022. By way of explanation and not limitation for the Conditions Subsequent to be fully satisfied, the electors of BMR must vote “Yes” on the question of the dissolution of BMR and CBMR and the Town must successfully negotiate and enter into a Water Service Agreement and the Douglas County District Court must enter an order dissolving BMR.

ARTICLE II

PLAN OF DISSOLUTION

2.1 **Agreement Constitutes the Plan.** The Parties agree that this Dissolution Agreement constitutes a plan of dissolution (“Plan of Dissolution”) as required by § 32-1-702, C.R.S., of the Special District Act, and that the Plan provides for the disposition of BMR’s assets, payment of its liabilities, and transfer of its service responsibilities and functions to CBMR in a way that continues water service to the Bell Mountain Ranch Subdivision pursuant to a Water Service Agreement with the Town that is acceptable to BMR and CBMR.

2.2 **Dissolution of BMR.** As soon as is reasonably practical after this Dissolution Agreement is executed by the Parties, and concurrent with CBMR entering into a Water Service Agreement with the Town to be effective upon BMR’s dissolution, the Board of Directors of BMR shall adopt a Resolution calling for BMR’s dissolution. Thereafter, the Board of Directors of BMR shall petition and request an order from the Douglas County District Court for dissolution of BMR pursuant to Part 7 of the Special District Act, requiring a public hearing and an election of the eligible electors of BMR on the question of BMR’s dissolution. This process carried to completion shall hereinafter be referred to as the “Dissolution”.

2.3 **Continuation of Water Service.** The Board of Directors of CBMR shall exercise its best efforts to finalize and enter into a Water Service Agreement with the Town, in substantially the form attached hereto as **Exhibit A**, that provides for water service to be provided to the Bell Mountain Ranch Subdivisions effective upon the transfer of the Water System to the Town which shall occur at the time of closing under the Water Service Agreement (“Closing”). Closing shall occur within the time period provided for in section 3.1.1 below. The process of negotiating and executing the Water Service Agreement carried to completion shall hereinafter be referred to as “Continuation of Water Service”.

2.4 **Documentation and Prosecution.**

2.4.1 **Dissolution.** BMR shall, with the cooperation of CBMR, but at BMR's sole cost and expense produce the documentation necessary or desirable in the opinion of BMR for its Dissolution including agreements, resolutions, notices, election materials and property transfer documents, and shall be principally responsible for the prosecution of the Dissolution. Where necessary, BMR and CBMR shall execute such documents, provide such authorizations, and take such actions as will further assist the efforts of BMR in its prosecution of the procedures contemplated hereby.

2.4.2 **Continuation of Water Service.** CBMR shall, with the cooperation of BMR, and at CBMR's expense, produce the documentation necessary or desirable to finalize a Water Service Agreement that is acceptable to the Town, CBMR and BMR, including the drafting of the Water Service Agreement in cooperation with the Town. Where necessary, BMR and CBMR shall execute such documents, provide such authorizations, and take such actions as will further assist CBMR in finalizing the Water Service Agreement and providing for the Continuation of Water Service to the Bell Mountain Ranch Subdivision.

2.5 **Access to Public Records.** Both BMR and CBMR shall provide to each other and the Town unlimited access to their public records including, but not limited to, attorney files and all accounting records, if any, maintained by either BMR or CBMR, or any of their consultants, officers, directors, agents or employees. Where necessary, BMR and CBMR, or appropriate individuals connected therewith, shall execute such documents, provide such authorizations, and take such actions as are required to allow the full and unrestricted access contemplated by this section.

2.6 **Timetable.**

2.6.1 **Dissolution.** The following timetable for Dissolution shall, as nearly as practical, be followed by the Parties:

(a) This Agreement is adopted by the Parties on or about November 2, 2021, or as soon thereafter as possible, both Parties shall adopt this Agreement and the Water Service Agreement.

(b) On or about November 17, 2021, or as soon thereafter as possible, BMR shall adopt a Resolution authorizing dissolution proceeding and approving a plan for dissolution.

(c) Petition and plan for dissolution of BMR is filed with the Douglas County District Court on or about November 23, 2021.

(d) Within thirty (30) days of the adoption of the Agreement by both Parties, BMR provides to CBMR an inventory.

(e) Within sixty (60) days of the adoption of the Agreement by both Parties, CBMR completes inspection.

(f) On or about January 12, 2022, the Douglas County District Court conducts a hearing on Petition and on Plan for Dissolution and sets a Dissolution election for on or about April 5, 2022, appoints designated election official and designates the polling location, and approves the ballot question.

(g) The ballot question is certified for the Dissolution election on or before February 4, 2022.

(h) No later than February 9, 2022, the designated election official shall have on file at the principal office of BMR or the designated election official office a plan for the conduct of a mail ballot election.

(i) No later than February 18, 2022, the Designated election official shall mail absentee ballots to those eligible electors who are designed as a “covered voter” under the Uniform and Overseas Citizens Absentee Voting Act.

(j) February 24, 2022 is the last day for the Designated election official to order the voter registration and property owner lists.

(k) March 4, 2022, the Designated election official shall have available printed ballots.

(l) March 14, 2022, the Designated election official may begin mailing to each eligible elector a mail ballot package.

(m) No later than March 16, 2022, Designated election official shall publish notice of the election, and post notice in the office of the Designated election official.

(n) March 21, 2022, is the last day to mail the mail ballot package to the electors.

(o) April 5, 2022, election day

(p) April 13, 2022, last day to receive voted absentee ballots from eligible electors.

(q) April 20, 2022, Canvas Board shall certify the official abstract of votes cast at the election.

(r) April 26, 2022, file a Motion and proposed Order with the Douglas County District Court requesting the Court issue an Order dissolving the District.

(s) No later than May 15, 2022, obtain certified copies of the Order of Dissolution, record certified copies in Douglas County, Colorado and file copies of the Order of Dissolution with the Division of Local Government, and Douglas County, Colorado.

(t) Closing to transfer all assets from BMR to CBMR to occur within twenty (20) days of Douglas County Order of Dissolution.

(u) Post Dissolution Order deliveries completed within thirty (30) days of Closing including recordation of the Dissolution Order.

(v) Water Service under the IGA with the Town becomes effective at such time as the Water System is transferred to the Town, which is contemplated to occur at Closing.

The above timetable is recognized as aggressive, and the Parties acknowledge that certain events are out of their control, such as the timing of court orders or approvals, and the above schedule may vary.

2.6.2 **Continuation of Water Service.** The following timetable for negotiation and execution of a Water Service Agreement shall, as nearly practical, be followed by the Parties but, in particular, CBMR:

(a) The Water Service Agreement is presented to the Town Council for approval on or before November 2, 2021.

(b) The Water Service Agreement is executed by both Parties concurrent with BMR and CBMR's signing of the Dissolution Agreement.

ARTICLE III

PLAN FOR DISPOSITION/ TRANSFERS OF ASSETS

3.1 **Inventory.** Within thirty (30) days from the date this Agreement is executed by both parties, BMR shall provide to CBMR and the Town a written inventory of all BMR Property, both tangible and intangible. By way of explanation and not limitation, the inventory shall include those matters set forth below, as well as a list of all BMR liabilities, both short and long term.

3.1.1 **Real Property, Easements and Water Rights.** BMR shall provide CBMR and the Town with a list of its real property, including easements and water rights, if any. For each parcel of real property, including each deeded easement owned by BMR, BMR shall provide a title insurance commitment issued by a reputable title insurance company acceptable to CBMR in an amount not less than \$25,000, and which may reissue to the Town in accordance with the Water Service Agreement. BMR shall cause the title

insurance company to deliver a policy of title insurance in accordance with each title insurance commitment to CBMR as soon as practical after Closing which will shall occur after the entry of an Order dissolving BMR by the Douglas County District Court (“Dissolution Order”), but prior to the recordation of said Order. Each commitment shall be brought current to a date that is within thirty (30) days following the date of the election of BMR’s dissolution. BMR shall, upon request by CBMR, remove any encumbrances, title defects or obtain acceptable title insurance endorsements to cover such items, as is acceptable to CBMR. CBMR shall be provided, at BMR’s expense, such written evidence of all property rights as may be necessary to ensure continuation of all existing access to BMR’s real property parcels, as well as access to and use of BMR’s easements, as is necessary for the operation, maintenance, repair and replacement of the Water System.

3.1.2 **Equipment.** BMR shall provide CBMR with an inventory of all major pieces of BMR equipment including, but not limited to, a description of all pumps, motors, generators, tanks, etc., which are part of or in use in connection with the Water System.

3.1.3 **Contracts.** BMR shall provide a list to CBMR and the Town of all contracts entered into between BMR and any other party, including all intergovernmental agreements (“BMR Contracts”). Except for those contracts that CBMR desires to, and can assume, and except for those contractual obligations that run with the land, such as may be contained in recorded easements or deeds, BMR shall provide written notice to any and all of its public and private contractors of the cancellation of such contracts, effective as of the date of the Dissolution Order. Should the terms of any contract between BMR and third parties not permit cancellation or be such that CBMR has no desire to assume them, BMR shall have the option to terminate this Agreement. Nothing contained in this Agreement shall be deemed or construed as an assumption by CBMR of any outstanding liability, contractual or otherwise, of BMR and any such assumption by CBMR shall be at the sole discretion of CBMR and accomplished only through specific affirmative action by the Board of Directors of CBMR at a regular or special meeting.

3.1.4 **Tap Permits.** BMR shall provide CBMR and the Town with a written list of all taps and/or water tap permits issued by BMR, which list specifies the property address, current property owner’s name and the size of the tap for which the permit was issued. To the extent available, the list shall be accompanied by the original tap permits or photocopies thereof.

3.1.5 **Financial Accounts.** BMR shall provide CBMR and the Town with a list of all financial accounts, including bank accounts, maintained by BMR and the balance in said accounts, together with a copy of the most recent statement.

3.1.6 **Customer Confirmations.** BMR shall provide CBMR and Town with a written list of all BMR customers that receive water service from BMR, together with each customer’s property address, mailing address and water service connection and meter size.

3.1.7 **Discharge Permits.** BMR shall provide to CBMR and the Town a copy of any and all discharge permits and other documents relating to the operation of BMR's water treatment plant including any Compliance Orders that have been entered into with the Colorado Water Quality Control Division.

3.1.8 **Audits.** BMR shall provide CBMR and the Town with copies of the last two (2) years audits and/or exemptions from audits, as well as copies of BMR's audited financial statements for the last two (2) years ending December 31, 2020.

3.1.9 **Insurance.** BMR shall provide CBMR and the Town with a copy of BMR's property, liability and public officials liability insurance policies in effect for the last two (2) calendar years and the current calendar year.

3.1.10 **Water System.** BMR shall provide CBMR and the Town with a narrative description of all pipes, pipe sizes, valves, valve boxes, pumps, tanks, and other facilities and equipment that comprise BMR's Water System, and any drawings, reports, operation and maintenance manuals, and any other pertinent technical information about the water system.

3.1.11 **List Accounts Receivable.** BMR shall provide CBMR and the Town with a list of BMR's accounts receivable, including a list that identifies each BMR customer, the amount the customer currently owes, and the customer's address and contact information.

3.1.12 **List of Liabilities.** BMR shall provide CBMR and the Town with a list of BMR's current and long-term accounts payable and other financial obligations which list shall identify the amount that is owed by BMR and the payee's address and contact information.

3.2 **Inspections.** BMR shall allow the employees or other representatives of CBMR and the Town to make such inspections as CBMR and/or the Town may deem necessary or appropriate of BMR property, assets and liabilities including, but not limited to, BMR's Water System, including equipment, records, accounts, technical drawings and maps, and customer lists (collectively hereinafter referred to as "BMR Property"). Unless otherwise agreed, BMR shall, at its sole cost and expense, correct any defects in any BMR Property identified by CBMR or Town within a time period specified by CBMR, but in no event later than the date of the election on BMR's Dissolution. If CBMR and the Town do not notify BMR of defects in BMR Property that either the Town or CBMR want corrected within sixty (60) days of the date of this Agreement, BMR Property shall be deemed acceptable to both CBMR and the Town. It shall be a condition precedent to BMR proceeding with the Dissolution that both CBMR and the Town are satisfied with the BMR Property and the condition thereof including, but not limited to, the Water System and that CBMR agrees to accept the same and that CBMR and the Town have come to agreement to the final terms and conditions of a Water Service Agreement. If CBMR or the Town are

not satisfied for any or no reason with any of the BMR Property, including, but not limited to, its Water System, and either CBMR or The Town have so provided notice to BMR in accordance with the terms of this Agreement, CBMR may terminate this Agreement and withdraw from the Dissolution.

3.3 Ownership and Transfer of BMR Property. Except as to any property or asset that CBMR, in consultation with the Town does not want to accept from BMR, the Parties agree that at the time of Closing, but in no event later than the recordation of the Dissolution Order, CBMR shall become the successor-in-interest and owner of all property of whatsoever kind or nature owned by BMR as of the date of the Dissolution Order, and the Dissolution Order shall so provide. To facilitate CBMR's tracking and management of BMR property, the Parties agree to follow the procedure set forth in this Article III, but any failure to do so with respect to any item or items of property shall not in any way defeat or divest CBMR's ownership thereof.

3.3.1 Conveyance of Real Property Interests and Water Rights, If Any. At Closing, BMR shall execute and deliver to CBMR a Bargain and Sale Deed in form attached hereto as **Exhibit B** conveying to CBMR all real property interests owned by BMR and water rights, if any, including, but not limited to, all water pipeline easements, as listed on BMR's written inventory. Such real property interests shall be conveyed free and clear of all liens and encumbrances, except for easements, rights-of-way and restrictions of record as disclosed to CBMR by BMR in writing. In the event it is discovered there is any defect in title to any BMR real property interest, including any encroachment upon any easements, BMR agrees to cooperate in correcting such defect or eliminating such encroachment prior to the recordation of the Dissolution Order.

3.3.2 Transfer of Personal Property. At Closing, BMR shall execute an appropriate Bill of Sale transferring to CBMR all of BMR's tangible and intangible property, except contract rights, including, but not limited to, water pipes, valves, equipment, storage tanks, books, records, minutes, bank accounts, etc., using the form of Bill of Sale attached hereto as **Exhibit C**, or such other transfer document as is acceptable to and approved in advance by CBMR.

Certain BMR files may be stored at the offices of CliftonLarsonAllen ("Manager") and other files may be stored at BMR's accountant's office, Simmons and Wheeler. It is agreed that unless demand is made for their possession, said files may remain in storage at CliftonLarsonAllen and Simmons and Wheeler at no cost to CBMR until such time as CBMR requests such files, which request shall be made no later than the date the Dissolution Order is recorded. Upon the entry of the Order of Dissolution, BMR shall notify both CliftonLarsonAllen and Simmons and Wheeler that CBMR is the successor-in-interest to BMR and is entitled to receive any and all documents that CBMR may, from time to time, upon request.

3.3.3. **Assignment of Contracts.** CBMR shall assume and agree to perform all BMR contractual obligations that will not be terminated or treated as being terminated on or before the date of Closing. At Closing, BMR shall assign to CBMR, using the form of Assignment and Assumption Agreement attached hereto as **Exhibit D** all of BMR's contracts listed on the contract inventory provided to CBMR pursuant to section 3.2.3 above.

3.3.3.1 **Cancellation of Certain Agreements.** BMR shall provide to CBMR at Closing, written evidence that BMR contracts that are not assignable have been canceled by BMR.

3.3.4 **Financial Accounts.** At Closing, BMR shall execute and deliver to CBMR all documentation necessary to transfer ownership of all BMR bank and other financial accounts to CBMR.

3.5 **Post Dissolution Order Deliveries.**

3.5.1 **Billing Confirmations.** No later than twenty (20) days after the Closing under the Water Service Agreement, BMR as authorized in the Dissolution Order, BMR shall provide CBMR and the Town with written evidence that all third-parties that received services from BMR or from whom BMR has the right to receive payment, have been billed for service provided up to and including the date of Closing, and that said receivables have been collected by BMR in full; provided, however, that if any receivables have not been collected, BMR shall prepare a list of the outstanding receivables identifying the party billed by name and address and stating the amount owed, the date said amount was due, and providing CBMR with an estimate as to when the receivable will be paid and/or the likelihood that the receivable will be paid. All receivables, that are paid from and after the date of Closing shall become the property of CBMR.

3.5.2 **Audit and Financial Information.** At the time of Closing, BMR shall provide CBMR and the Town with written evidence that BMR has engaged an auditor to audit the books, records and financial affairs of BMR for calendar year 2021 and 2022 up to the date of Closing. The auditor shall deliver the completed audit to CBMR and to the State Auditor's Office as required by law. At Closing, if not already in the possession of the auditor, BMR shall deliver to CBMR, with copies to the Town, all financial books, records and documents required by an auditor to conduct an audit of BMR's financial statements and affairs for calendar year 2021, up to and including its date of dissolution.

3.5.3 **Notification to Customers.** Immediately following Closing, BMR, in consultation with CBMR and the Town, shall notify all of its customers of its dissolution, and specifically inform its customers that going forward they will be receiving water service bills from the Town and that payment should be remitted directly to the Town.

3.5.4 **Insurance Policies and Coverage.** At Closing, BMR shall assign and transfer to CBMR, all of BMR's right, title and interest, in and to BMR's existing property and liability insurance policies.

3.5.5 **Authorization – Clerk of the Court.** Should BMR fail or refuse to execute any documents necessary to record appropriately the transfer of any item or property, whether real or personal, the Clerk of the Douglas County District Court shall be authorized by the Dissolution Order to act as an attorney-in-fact for BMR and execute any such documents upon a request by CBMR.

ARTICLE IV

CONTINUATION OF WATER SERVICE

4.1 **Water Service Agreement.** If an Order dissolving BMR is entered by the Douglas County District Court, Water Service to the Bell Mountain Ranch Subdivision shall be continued as required by § 32-1-702(4)(b)(I), C.R.S., by the Town in accordance with the Water Service Agreement, which Agreement by this reference is incorporated into this Plan of Dissolution. Pursuant to the Water Service Agreement, water service shall be provided by the Town as of the date of Closing. As of said date, water service to the Bell Mountain Ranch Subdivision (the area previously served by BMR) will be continued by CBMR and Town in accordance with the Water Service Agreement and such service shall be substantially similar and equivalent to, if not better than, the level of water service provided by BMR prior to its dissolution.

The Water System is not currently connected to the Town's water distribution system and as more particularly described in the Water Service Agreement, the Town shall design and cause to be constructed the pipeline and related facilities ("Improvements") necessary to connect the Town's distribution system to the Water System. It is expected that construction of the Improvements will not be completed until on or about March 1, 2023. Accordingly, from and after the date the Dissolution Order is recorded, and as more particularly set forth in the Water Service Agreement, the Town shall own, operate, maintain and repair the Water System as it is currently configured with the understanding that the Water System will be improved by the Town and caused to be connected to the Town's water distribution system as soon as is reasonably practicable.

4.2 **CBMR Not a Water Provider.** It is recognized by BMR and CBMR that CBMR is not a provider of water and that it will be conveying all of its water rights and water system to the Town for the purpose of enabling the Town to provide water service to the Bell Mountain Ranch Subdivision. Unless caused by a material failure of CBMR to perform its obligations under the Water Service Agreement, the failure of the Town to provide water service will not result in any liability or obligation on behalf of CBMR to those persons and property previously served by BMR. CBMR recognizes, however, the

need for continuity for water service and covenants and agrees to use its best efforts to provide for such continuity of service.

ARTICLE V

PLAN FOR PAYMENT OF FINANCIAL OBLIGATIONS

5.1 **Payment of Financial Obligations.** BMR entered into a loan agreement with the Colorado Resources and Power Development Authority (“CWRPDA”) on October 22, 2010, in the original principal amount of \$1,034,840.00. The principal outstanding balance under the loan agreement is as of November 1, 2021 is \$568,735.77 which will be prepaid in full upon thirty (30) days advance notice to CWRPDA.

As soon as practical after this Dissolution Agreement has been executed by all parties, BMR shall notify CWRPDA of BMR’s intention to prepay the outstanding balance in full and thereafter, in accordance with such notice, BMR shall fully pay and discharge the loan agreement and obtain a statement or certification from CWRPDA that the loan has been paid in full and BMR’s promissory note given in connection with said loan has been cancelled.

5.2 **Payment of Current Financial Obligations.** It is agreed and represented by BMR that currently it has no bonded indebtedness or other financial obligations of any kind or nature other than the loan to the CWRPDA, the payment of which will extend beyond the date of Closing. BMR agrees that all BMR financial obligations of whatsoever kind or nature shall be paid and satisfied in full by BMR as soon as possible after entry of an Order of Dissolution but in all events prior to the date the Dissolution Order is recorded in the public records of Douglas County, Colorado.

5.3 **Remaining Funds.** To the extent not needed to pay and fully discharge any and all of BMR’s financial obligations and debt specified herein or discovered in the administration hereof, all remaining funds of BMR shall be transferred to CBMR and accounted for separately for a period of one year. Such funds shall be applied by CBMR, first to pay to any BMR liabilities or financial obligations that through inadvertence were not paid or discovered prior to the recordation of the Dissolution Order or that the parties agree are post-closing obligations of CBMR that are to be paid from said funds. Any remaining BMR Funds thereafter shall be used by CBMR to reduce the balance then owed to the Town under the Water Service Agreement and recoverable from the surcharge to be billed to customers receiving water service under the Water Service Agreement.

5.4 **Authority to Assess Fees.** If, subsequent to the date of BMR’s Dissolution, any claim, demand, cause of action or liability of any kind whatsoever is asserted, discovered or imposed against CBMR as a result of, or that in anyway arises out of, any contract, act or omission of BMR that occurred prior to BMR’s dissolution (hereinafter “Liability”), CBMR shall have the right in the reasonable exercise of its discretion to settle,

discharge or satisfy the Liability and to treat the funds advanced for that purpose including, but not limited to, court costs and reasonable attorney fees, as additional dissolution costs under this Agreement. CBMR shall have the right to recover such additional dissolution costs through a surcharge or fee that CBMR may bill annually or in such installments as it determines appropriate, to the persons and property who receive water service under the Water Service Agreement. The authority of CBMR to impose such a surcharge or fee shall terminate at such time as the Liability has been paid in full.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 **Representations and Warranties.** BMR, acting by and through its Board of Directors in their official capacity and to the best of said Board's actual knowledge, information and belief, and without undertaking any independent investigation, represents as follows:

6.2 **Inventory.** The inventory and contract list that will be provided to CBMR will be full and complete and list all known BMR property including, but not limited to, all easements, contracts, bank accounts, accounts receivable, and known liabilities. With respect to any operating or other documents kept in the normal course of business, such as technical documents, maps, tap permits, and correspondence relating to BMR water distribution system, said list and said documents that are to be delivered to CBMR pursuant to section 3.2 above shall be complete and accurate and shall be delivered to CBMR no later than thirty (30) days after the date of the Dissolution Order.

6.3 **Tap List.** By way of explanation and not limitation, the tap list that will be provided to CBMR will list all water taps issued and connected to BMR water distribution system, as reflected upon the records of BMR, and, insofar as BMR is aware, accurately specifies as to each tap, the property address served, the owner's name, and the size of the water tap issued.

6.4 **Absence of Undisclosed Liabilities.** No known liabilities or claims exist, or have been asserted against BMR, as of the date of this Agreement, except to the extent disclosed to CBMR in accordance with this Agreement, which includes a potential liability to the Colorado Department of Public Health and Environment under BMR's Water Treatment Plan Discharge Permit. If the Colorado Department of Public and Environment asserts any liability against CBMR for events that occurred during the time that BMR was the holder of the Permit, CBMR shall have the remedies available to it set forth in section 5.4 above.

6.5 **No Litigation.** BMR is not a party to any litigation or other legal or administrative action and is unaware of any potential claim or litigation that may be brought against it in the future.

6.6. **Duly Appointed Board.** The members of the Board of Directors of BMR have been duly elected and they represent that the officers executing this Agreement are duly constituted to do so.

6.7 **No Known System Failures.** There are no known material failures or deficiencies in BMR water distribution system as of the date of this Agreement. What about the Arapahoe well – I think that needs to be acknowledged here]

6.8 **No Indebtedness.** Except as otherwise identified herein, BMR has no indebtedness including, but not limited to, any outstanding general obligation or revenue bonds.

6.9 **No Unauthorized Taps.** BMR represents that there are no known unauthorized taps or other violations of BMR's Rules and Regulations, or of BMR Total Service Contract, of which BMR is aware.

ARTICLE VII

MISCELLANEOUS

7.1 **Right to Terminate.** Notwithstanding any other provision contained in this Agreement to the contrary, each Party shall have the right to unilaterally terminate this Agreement and withdraw from the Dissolution proceeding at any time, if the terminating Party reasonably determines that the Dissolution does not promote the health, welfare and safety of the terminating Party's residents and/or property owners.

7.2. **BMR Directors Not to Remain in Office.** Within sixty (60) days after the entry of the Dissolution Order, but not prior to the time BMR has performed all obligations required to be performed following entry of such Dissolution Order, but prior to recordation of the Dissolution Order, and pursuant to a prior resolution of the Board of Directors, all Directors of BMR shall resign from their office as Directors of BMR and no Directors of BMR shall remain in office on behalf of BMR. Said resignation shall be filed with the Douglas County District Court with a copy delivered to CBMR.

7.3 **Entire Agreement.** This Agreement supersedes any former agreement executed between the Parties hereto and constitutes the entire agreement of the Parties.

7.4 **Amendments.** This Agreement may be amended only by a writing duly signed by the Parties hereto.

7.5 **Severability.** Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstance shall not affect the validity of the remainder of this Agreement.

7.6 **No Waiver.** No waiver by any Party to this Agreement, of any covenant, term, condition or agreement contained herein shall be deemed or construed as a waiver of any other covenant, term, condition or agreement; nor shall a waiver of any breach thereof be deemed to constitute a waiver of any subsequent breach, whether of the same or a different provision of this Agreement.

ADOPTED AND APPROVED by the Board of Directors of BMR and CBMR by resolution and said Boards have authorized the execution of this Agreement by the persons named and whose signature below.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

BMR DISTRICT

By: _____
Russell Grant, President

Attest:

Frank Strand, Secretary

**CONSOLIDATED BELL MOUNTAIN
RANCH METROPOLITAN DISTRICT**

By: _____
Russell Grant, President

Attest:

Frank Strand, Secretary

EXHIBIT A

(Without Exhibits)

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN
OF CASTLE ROCK AND THE CONSOLIDATED BELL MOUNTAIN
RANCH METROPOLITAN DISTRICT FOR WATER SERVICE AND
IMPROVEMENTS**

THIS INTERGOVERNMENTAL AGREEMENT (the “IGA”) is made and entered into this _____ day of _____, 2021 to be effective as of the ____ day of _____, 2021 (“Effective Date”), by and between the **TOWN OF CASTLE ROCK**, a home rule municipal corporation of the State of Colorado, acting by and through the Town of Castle Rock Water Enterprise (the “Town”) and the **CONSOLIDATED BELL MOUNTAIN RANCH METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“CBMRMD”) (each individually a “Party” and collectively, the “Parties”).

WITNESSETH

WHEREAS, the Town operates an integrated municipal water supply system (the “Town’s Water System”), providing potable water service within the Town’s corporate limits, and to certain extraterritorial properties; and

WHEREAS, CBMRMD is a quasi-municipal corporation and political subdivision of the State of Colorado, organized and operating pursuant to Article 1 of Title 32 of the Colorado Revised Statutes; and

WHEREAS, CBMRMD has the powers, duties and responsibilities, and is subject to the conditions and limitations provided in said Article and in the Constitution and other laws of the State of Colorado; and

WHEREAS, CBMRMD has statutory and service plan authority to fund, construct, operate, maintain, repair, and improve a potable water system, both within and without its boundaries that are coterminous with Bell Mountain Ranch Filings 1A and 1B, and Bell Mountain Ranch Filing No. 2, Douglas County, Colorado (collectively the “Bell Mountain Ranch Subdivisions” or “Service Area”); and

WHEREAS, currently water service is provided within the Bell Mountain Ranch Subdivisions by the BMR Metropolitan District (“BMRMD”) pursuant to that certain Restated and Amended Regional Facilities Agreement dated January 13, 2009, between CBMRMD and BMRMD; and

WHEREAS, due to the passage of time, and changed circumstances, and for the purpose of achieving economies of scale, BMRMD intends to dissolve and transfer its assets, service function and responsibilities to CBMRMD; and

WHEREAS, concurrent with BMRMD' s dissolution, the Town will acquire from CBMRMD, among other assets, the water treatment plant, water storage tanks and distribution system previously owned by BMRMD in exchange for the Town's perpetual commitment to provide water service to the Bell Mountain Ranch Subdivisions in accordance with this IGA; and

WHEREAS, it is a principal purpose of this IGA to provide the Bell Mountain Ranch Subdivisions with a long-term renewable water supply and, for that purpose, the Town has purchased one thousand (1,000') acre-feet of additional Water Infrastructure Supply Efficiency ("WISE") renewable water, part of which was previously reserved for other areas of unincorporated Douglas County, which water will be supplied, subject to availability, to help meet the Service Area's annual water demand of approximately one hundred forty-four (144') acre-feet; and

WHEREAS, pursuant to this IGA, the Town will acquire from CBMRMD sufficient Denver Basin water rights and related property including the Water System, as hereinafter defined, and sufficient additional customer revenue, which combined with the WISE water and the Town's other water resources, will enable the Town to operate the Water System and subsequently construct additional water facilities and related improvements ("Improvements") necessary to connect the Water System to the Town's Water Facilities; and

WHEREAS, pursuant to this IGA, the Bell Mountain Ranch Subdivisions will receive Water Service from the Town in the same manner and to the same service level standards as properties within the municipal limits of the Town, subject to a ten percent (10%) extraterritorial surcharge on all fees and charges, except as herein provided; and

WHEREAS, the Town's provision of Water Service to the Bell Mountain Ranch Subdivisions is premised on the Town's comprehensive water service and management regulations, as the same now exist and may hereafter be amended from time to time, being applicable to and fully enforceable within the Bell Mountain Ranch Subdivisions; and

WHEREAS, CBMRMD will assist, if necessary, the Town in the enforcement of the Town's Water Service Regulations, and further, if necessary, CBMRMD will adopt and enforce the same rules and regulations within the Bell Mountain Ranch Subdivisions; and

WHEREAS, CBMRMD is entering into this IGA with the understanding that the residents and customers within the Bell Mountain Ranch Subdivisions will enjoy the same privileges and responsibilities with respect to Water Service as the Town's residents and customers, subject only to such exceptions as are authorized by this IGA; and

WHEREAS, the Bell Mountain Ranch Subdivisions abut the Town's municipal boundaries and are in relatively close proximity to existing and planned Town Water Facilities; and

WHEREAS, accordingly, the Parties have determined that it is mutually advantageous for the Town to provide Water Service to the Bell Mountain Ranch Subdivisions in accordance with the terms and conditions contained in this IGA upon the transfer of the Water System, Water Rights, and other property described herein to the Town; and

WHEREAS, the constitution and laws of the State of Colorado permit and encourage cooperative efforts by local governments to make the most efficient and effective use of their powers, responsibilities and resources and to enter into cooperative agreements on such matters as are addressed in this IGA.

NOW, THEREFORE, in reliance on the matters set forth above and in consideration of the mutual promises contained in this IGA, the Parties agree and covenant as follows:

ARTICLE I DEFINITIONS

1.01 Defined Terms. The following words when capitalized in the text, shall have the meanings indicated:

- A. Board: the Board of Directors of CBMRMD.
- B. BMRMD: the BMR Metropolitan District
- C. Bell Mountain Ranch Subdivisions: means the Property as defined in subparagraph S below.
- D. CBMRMD: the Consolidated Bell Mountain Ranch Metropolitan District.
- E. CBMRMD Regulations: the Water Regulations adopted by CBMRMD.
- F. Charter: the Home Rule Charter of the Town, as amended.
- G. Code: the Castle Rock Municipal Code, as amended.
- H. Conservation Regulations: those Water Regulations of the Town that address water use and conservation, including limits on the amount, frequency and duration of lawn irrigation and the installation of irrigated turf, and the prescription of water savings measures and devices. Reference to Conservation Regulations shall mean the Conservation Regulations in effect at the time of application of the term under this IGA.
- I. C.R.S.: the Colorado Revised Statutes, as amended.
- J. Council: the Castle Rock Town Council, the governing body of the Town.
- K. Development Plan: the land use development plans and regulations approved for the Property by Douglas County, inclusive of the following recorded documents in the records:
 - i. Bell Mountain Ranch Subdivision Filing No. 1A, Douglas County

- Reception No. DC9601921;
- ii. Bell Mountain Ranch Subdivision Filing No. 1A, 1st Amendment, Reception No. 01032383;
 - iii. Bell Mountain Ranch Subdivision Filing No. 1A, 2nd Amendment, Reception No. DC00044248;
 - iv. Bell Mountain Ranch Subdivision Filing No. 1B, 2nd Amendment, Reception No. DC9829016;
 - v. Bell Mountain Ranch Subdivision Filing No. 1B, 1st Amendment, Reception No. DC00026662; and
 - vi. Bell Mountain Ranch Filing No. 2 (a.k.a. Stevens Ranch), Reception No. 2018022022 in the records of Douglas County, Colorado.
- L. Dissolution Agreement: the Agreement and Plan for Dissolution entered into between CBMRMD and BMRMD dated on or about November 2, 2021.
- M. Facilities: the water production, treatment, storage, transmission and distribution infrastructure required to serve the Property.
- N. Facilities Plan: the plan attached as **Exhibit A** depicting the location of certain existing and future Town Facilities.
- O. Fees: the capital recovery and connection fees and charges imposed under the Town Regulations from time to time as a condition to connection to the Town's Water System, including System Development Fees and Renewable Water Resource Fees.
- P. Final Finance Charge: means the monthly payments as calculated in accordance with Section 9.04 (e) of this IGA.
- Q. Interim Finance Charge: means the monthly payments as calculated in accordance with Section 9.04 (a) of this IGA.
- R. IGA: this Intergovernmental Agreement between the Town of Castle Rock and CBMRMD for Water Service and any amendments and supplements thereto.
- S. Owner: means the record owner(s) of any lot or other parcel of ground located within the Property.
- T. Property: means the Bell Mountain Ranch Filings 1A and 1B and Bell Mountain Ranch Filing No. 2
- U. Records: the public records maintained by the Douglas County Clerk and Recorder.
- V. Renewable Water Resource Fees: the capital recovery fees imposed under the Town Regulations from time to time for development of additional renewable water resources, currently codified in 4.04.150 of the Code.
- W. Service Area: The area within the Bell Mountain Ranch subdivisions previously served by BMRMD and CBMRMD, which area is coterminous with the area in the Development Plan to be served by the Town as specified in this Agreement.

- X. Service Charges: the periodic charges imposed on customers under the Water Regulations for water service, including surcharges for payment delinquencies and violation of Conservation Regulations.
- Y. SFE: an acronym for single-family-equivalent, a standard measure of the water use by a single-family residence established under the Code, generally used to assess the relative water demand attributable to various land uses.
- Z. Streetscape: pedestrian and landscape improvements in the right-of-way generally between the curb and right-of-way line, including sidewalks, street trees, medians and irrigation.
- AA. System Development Fees: the charges imposed under Town Regulations from time to time as a condition to the right to connect to the municipal water system, currently codified in section 13.12.080 of the Code.
- BB. Town: the Town of Castle Rock, a home rule municipal corporation.
- CC. Town Water Facilities: the Water Facilities developed and financed by the Town from the System Development Fees, and which comprise and are part of the Town's Water System, as the same now exists or hereafter be enlarged from time to time, including, but not limited to water production, treatment, storage, transmission and distribution facilities.
- DD. Town Regulations: the Charter, ordinances, resolutions, rules and regulations of the Town, including the Code and the provisions of all public works and building codes, as the same may be amended from time to time. Reference to Town Regulations shall mean the Town Regulations in effect at the time of application of the term under this IGA.
- EE. Water Dedication Requirements: the requirements under the Code prescribing dedication of water rights to the Town as a condition to obtaining the right to connect to the municipal water system.
- FF. Water Improvements: the water line that will connect the Town Water Facilities to the CBMRMD Water System, and which consists of approximately 7,400 linear feet of twelve-inch (12") line and related pump station all as more particularly described in the Water Improvements Description provided as **Exhibit B** and which will be described in more detail in Construction Plans to be prepared by the Town's design engineer and approved by the Town and CBMRMD.
- GG. Water Regulations: the comprehensive regulatory scheme in the Town Regulations governing all aspects of the provision of municipal water service, including Fees, Service Charges, Public Works Regulations inclusive of infrastructure permitting, construction, inspection and acceptance, backflow prevention, water use management practices and Conservation Regulations. Reference to the Water Regulations shall mean the Water Regulations in effect during the term of this IGA.
- HH. Water Rights: those rights to the Denver Basin water generally underlying the Service

Area and acquired by the Town through this IGA and more particularly described on **Exhibit C**.

- II. Water Service: the provision of potable water service for domestic use, inclusive of fire flows and irrigation.
- JJ. Water System: the BMRMD water system acquired by CBMRMD, including all pipes, pumps, tanks, treatment plants, valves, hydrants, meters, wells, other infrastructure, land, personal property and any other components comprising the complete water system used to provide water service to customers within the Service Area.

Certain other terms are defined in the text of this IGA and shall have the meaning indicated therein.

1.02 Cross-Reference. Any reference in the text to a section or article number, with or without further description shall mean such section or article in this IGA.

ARTICLE II GENERAL PROVISIONS

2.01 Interpretation and Construction. This IGA shall be applied and interpreted to further the following fundamental concepts, unless expressly provided to the contrary in the text:

(a) the Bell Mountain Ranch Subdivisions, hereinafter referred to as the “Service Area”, shall receive Water Service to the same level and standards and subject to the same requirements as properties and customers within the Town except for a ten-percent (10%) extraterritorial surcharge on all fees and charges and any other exceptions specifically set forth in this IGA:

(b) the provision of Water Service will be governed by the Water Regulations as they evolve during the term of this IGA; provided, however, that the Water Regulations shall at all times be applied to the Service Area and properties within the municipal limits of the Town on a uniform and in a non-discriminatory manner; and

(c) to the extent necessary, CBMRMD will promptly adopt and enforce the Water Regulations within its territorial boundaries which includes the Service Area, as a separate regulatory scheme of CBMRMD.

2.02 Service Commitment. This IGA is entered into for the express and intended purpose of committing the Town to furnish permanent Water Service and all of the Water Improvements, as hereinafter defined, necessary to serve existing development within the Service Area, which currently consists of 321 single-family residential connections, two irrigation connections, and up to a one-inch (1”) connection reserved for a future community

center. In reliance upon and to enable the Town to perform the Town's service commitment to CBMRMD within the Service Area ("Service Commitment"), CBMRMD will, at Closing convey and transfer to the Town, the Water System and all of CBMRMD's other property described in Article III that is necessary for the operation and maintenance of the Water System.

The Town shall provide Water Rights and Water Service sufficient to serve the existing lots within the Service Area, and any future development thereof, as currently configured, and in addition thereto shall make available, if necessary, in the future, up to five (5) one-inch single family equivalent water taps, subject to payment of all applicable Town System Development, Renewable Water Resource, and other applicable fees including a ten-percent (10%) extraterritorial surcharge based on the current fees at the time Water Service is requested. By way of explanation and not limitation, the preceding sentence means that except for the water taps hereby reserved for the Service Area, no additional connections will be provided to serve existing lots within the Service Area that are subdivided in the future, without the prior express written consent of the Town, which may be withheld in the sole discretion of the Town.

2.03 Reservation of Powers. Except as provided in this IGA or as necessary to give effect to the intent and purpose of this IGA, Town and CBMRMD reserve all of their respective powers and authority as independent governmental entities; provided, however, that nothing in this IGA shall preclude, impair, or subordinate the Town's right of enforcement of the Water Regulations or collection of the Fees and Service Charges.

2.04 Limited Purpose. The Town's Water Service obligation hereunder is subject to, and shall be performed in accordance with the Water Regulations component of the Town Regulations and is limited to the Service Commitment and Service Area as defined herein. Except for those fire and emergency medical services provided by the Town on behalf of the Castle Rock Fire Protection District to a portion of the Service Area, the Town will not provide other municipal services to the Service Area, nor is CBMRMD or any Owner subject to other Town Regulations or the payment of other fees, charges and exactions the Town imposes on development within its municipal limits.

2.05 Water Dedication Requirement. The Town's Water Dedication Requirement for the Service Area will be satisfied by the conveyance of the Water Rights to the Town as set forth in Article III below.

2.06 Effective Date. The Town's Service Commitment shall become effective as of the date of Closing; provided, however, that either Party shall have the option prior to Closing to terminate and cancel this IGA if the estimated cost of constructing the Water Improvements exceeds \$2,500,000.00, or if as of May 1, 2022 the Douglas County District Court has not issued the BMRMD Dissolution Order as hereinafter defined.

ARTICLE III
TRANSFER OF WATER SYSTEM AND CBMRMD PROPERTY

3.01 CBMRMD Property Defined. As used in this IGA, CBMRMD Property means collectively the parcels of real property identified below as the CBMRMD Tracts, the easements identified below as the CBMRMD Easements, the water rights identified below as the CBMRMD Water Rights, the buildings, structures, equipment including pipes, valves and related appurtenances identified below as the CBMRMD Infrastructure, and the tangible and intangible assets identified below as the CBMRMD Miscellaneous Property.

A. CBMRMD Tracts. CBMRMD Tracts means the real property Tracts, both existing and future as legally described on **Exhibit D** attached hereto and incorporated herein by this reference, together with CBMRMD's interest in all reversions, remainders, easements, rights-of-way, hereditaments, appertaining to or otherwise benefitting or used in connection with said Tracts.

B. CBMRMD Easements. CBMRMD Easements means the permanent easements, both existing and future as described on **Exhibit E** attached hereto and incorporated herein by this reference.

C. CBMRMD Water Rights. CBMRMD Water Rights means all of the water and water rights in and to the ground water underlying the Bell Mountain Ranch Subdivisions owned by CBMRMD described on **Exhibit C** as attached hereto and incorporated herein by this reference.

D. CBMRMD Infrastructure. CBMRMD Infrastructure means, to the extent not described above, all buildings, structures, improvements, pipes, valves, and related appurtenances located on or within any CBMRMD Tracts or on or within any of the CBMRMD Easements now owned by CBMRMD and previously owned and used by BMRMD for the purpose of providing Water Service to the Service Area as more particularly described on **Exhibit F** as attached hereto and incorporated herein by this reference.

E. CBMRMD Miscellaneous Property. CBMRMD Miscellaneous Property means to the extent not described above, and excluding any bank accounts, cash or cash equivalents, all CBMRMD personal property, tangible or intangible, including to the extent assignable, all contracts, including all rights and obligations thereunder, used in connection with the operation and maintenance of the Water System, water treatment plant discharge permit rights and obligations, licenses, well permits, well permit approvals, water court decrees and any other permit, approval, or authorizations whether granted by the state or any other governmental agency used in connection with the operation and maintenance of the Water System, as more particularly described on **Exhibit G**, as attached hereto and incorporated herein by this reference.

Whether or not specifically identified in this Section 3.01, it is the intention of the Parties that the Town shall succeed to any and all rights and shall assume any and all

obligations of CBMRMD and its predecessor BMRMD related to or in any way arising out of the provision of Water Service within the Service Area whether heretofore, now or hereafter arising, and if necessary, both Parties agree to execute any and all further documents necessary to effectuate their intention as stated herein.

3.02 Transfer and Conveyance of CBMRMD Property. The transfer and conveyance of CBMRMD Property shall occur on a date and at a time that is mutually agreed upon by the Town and CBMRMD (“Closing”), but in no event earlier than the date an Order is entered by the Douglas County District Court dissolving BMRMD (“BMRMD Dissolution Order”), but not later than the date the BMRMD Dissolution Order is recorded upon the real estate records of Douglas County, Colorado. The Closing will be held at the offices of the Title Company as hereinafter defined, or at such other location as mutually agreed upon by the Town and CBMRMD or if the Parties so agree, by means of an escrow-type Closing with the Title Company acting as the closing agent.

3.03 Actions At and Before Closing. At least five (5) days before Closing, an execution copy of the closing instructions (“Closing Instructions”) and other documents listed below shall be exchanged by the Parties for final review and approval. The following actions will occur at Closing in a sequence described in the Closing Instructions that will be mutually agreed upon by the Town and CBMRMD at least three (3) days before the Closing:

(a) CBMRMD shall execute and deliver to the Town one or more special warranty deed(s), in the form attached hereto as **Exhibit H** conveying the CBMRMD Tracts to the Town, free and clear of all liens and encumbrances, except for Permitted Exceptions.

(b) CBMRMD shall execute and deliver to the Town one or more Assignment of Easements in the form attached hereto as **Exhibit I**, conveying the CBMRMD Easements to the Town, free and clear of all liens and encumbrances, except for Permitted Exceptions.

(c) CBMRMD shall execute and deliver to the Town a special warranty deed, in the form attached hereto as **Exhibit J**, conveying the CBMRMD Water Rights to the Town, free and clear of all liens and encumbrances, except for Permitted Exceptions and except for the Water Rights that CBMRMD acquired by Quitclaim Deed referred to in paragraph 3 of **Exhibit C**, which Water Rights underlie the real property now known as Bell Mountain Ranch Filing No. 2 and which will be conveyed to the Town by Quitclaim Deed in the form attached hereto as **Exhibit J-1**.

(d) CBMRMD and the Town shall execute a Bill of Sale, Assignment and Assumption Agreement in the form attached hereto as **Exhibit K** transferring and conveying the CBMRMD Infrastructure and the CBMRMD Miscellaneous Property to the Town, and all rights and obligations thereunder, to the extent assignable, free and clear of all liens and encumbrances, except for Permitted Exceptions.

(e) CBMRMD shall deliver a fully-executed No Statements of Opposition Agreement in the form attached hereto as **Exhibit L**.

(f) The Parties shall have received documentation acceptable to each Party which verifies that any and all claims that may arise against either the Board of Directors of CBMRMD or BMRMD will be covered by a public official's liability insurance policy in existence as of the Closing Date covering any and all claims up to and including the Closing Date. The cost of any such insurance shall be paid by CBMRMD and/or BMRMD as such districts shall decide.

(g) CBMRMD and the Town will each execute and deliver to the Title Company an appropriate Settlement Statement.

(h) Each Party will deliver to the other Party and the Title Company such agreements, assignments, conveyances, consents, licenses, instruments, affidavits, certificates and other documents as may be reasonably required by either Party or the Title Company to consummate the transfer and conveyance of the CBMRMD Property in accordance with the terms of this IGA and the Title Commitments.

3.04 Title Insurance. Prior to the execution of this IGA, CBMRMD furnished to the Town a commitment for title insurance issued by Fidelity National Title Insurance Company ("Title Company") File No. 100-N0033568-010-TO2 attached hereto as **Exhibit M** (the commitment and the amount thereof is acceptable to the Town), committing to insure the Town's title to the CBMRMD Tracts ("Title Commitment"). The CBMRMD Tracts insured under the Title Commitment are hereinafter collectively referred to as the "Insured Property". CBMRMD will cause the Title Company to deliver to the Town promptly after the Closing an owner's title insurance policy issued by the Title Company insuring the Town's title to the Insured Property in accordance with the Title Commitment ("Title Policy"). CBMRMD will pay the premium for the Title Policy at Closing. The Title Commitment will not contain owner's extended coverage. The Town, at its discretion, and its sole expense, may obtain owner's extended coverage and any additional endorsements to the Title Commitment and establish a greater amount of insurance for the Insured Property, the additional cost of which shall be paid entirely by the Town at Closing.

(a) **Water Rights Opinion.** In addition to the Title Commitments, CBMRMD shall obtain at its expense a Water Rights opinion from a water rights attorney acceptable to the Town and CBMRMD, stating that CBMRMD has marketable title to the Water Rights that CBMRMD will convey to the Town in accordance with the terms and provisions of this IGA.

3.05 Changes to Title. The Town will have ten (10) business days after the Town's receipt of any amendment to the Title Commitment or the Title Opinion to notify CBMRMD of any objections to any items identified in the amended Title Commitment or amended Title Opinion ("Title Objection Notice"). Any exceptions noted in the amended Title Commitment

or any items impacting marketable title to CBMRMD's Water Rights that are not objected to within such ten (10) business day period will be deemed approved by the Town and will become Permitted Exceptions. CBMRMD will have until thirty (30) business days after receipt of the Town's Title Objection Notice ("CBMRMD's Cure Period") to elect, at its sole option and discretion to: (a) cure any or all items to which the Town has objected; (b) cause such items to be modified in a manner satisfactory to the Town; or (c) elect not to cure any or all such items. If, during CBMRMD's Cure Period, CBMRMD fails to cure to the satisfaction of the Town any title objection in the Title Objection Notice, or elects not to cure, then the Town may elect, as its exclusive remedy with respect to the objections in the Title Objection Notice, either to (a) waive the objections by written notice to CBMRMD and proceed to Closing, or (b) terminate this IGA by giving written notice to CBMRMD within three (3) business days after CBMRMD's Cure Period, in which case the Parties will have no further rights and will be released from all obligations hereunder other than those rights and obligations that expressly survive termination of this IGA. If the Town fails to give timely notice of termination or if the Town proceeds to Closing, the Town will be deemed to have elected to waive all objections and accepted all of the Exceptions to Title including the Permitted Exceptions. The Closing Date established in Section 3.02 shall be extended as reasonably necessary and mutually agreed upon by the Parties to accommodate the notice and cure time periods outlined in this Section 3.05.

3.06 Inspection of Insured Property. The Town acknowledges that the Town and the Town's agents, contractors, employees and permittees (collectively, "Town Permittees") were granted access to all of the CBMRMD Property, including but not limited to the Insured Property prior to the Effective Date, and at any time after the Effective Date continue to have access to the CBMRMD Property including having the right to enter upon the Insured Property for the purpose of inspecting the Insured Property, including making surveys, reports and investigations, conducting soils, water availability and other tests, conducting environmental audits, and undertaking such other investigations of the CBMRMD Property including the Insured Property as the Town shall deem necessary for its intended use of the CBMRMD Property. The Town has not made and will not make any permanent modifications to any CBMRMD Property and will leave the CBMRMD Property in substantially the same condition as existed at the time of entry upon the Insured Property, and/or accessing any of the other CBMRMD Property by the Town or the Town Permittees. The Town's access to the CBMRMD Property including entry on the Insured Property shall be at the sole risk, cost and expense of the Town. The Town shall pay when due all costs and expenses incurred in the performance of any such inspection or conducting such tests and investigations and shall reimburse and hold harmless CBMRMD from any loss from mechanic's liens, claims for nonpayment of such charges or for damages or injuries arising out of the negligent acts, willful misconduct or omissions hereunder by the Town or the Town Permittees relating to the Insured Property and any and all inspections, investigations and testing conducted thereon. Notwithstanding any other provision of this IGA, the obligations of the Town under this Section 3.06 will survive the Closing or the termination of this IGA by the Town or CBMRMD for any reason.

3.07 CBMRMD Documents. The Town acknowledges that prior to and following the Effective Date, the Town has had complete access to, and CBMRMD has made available to the Town and its consultants and representatives, copies of its files and records related to CBMRMD Property including the following documents in the possession or control of CBMRMD: all documents relating to the Water Rights including, but not limited to, all documents conveying an interest in the Water Rights and/or related facilities, all water decrees, well permits, water rights engineering reports, water treatment plant discharge permit, general correspondence, diversion records, and any correspondence with local or state agencies concerning water rights or water supply issues, soils reports, mineral studies, oil, gas and mineral leases, environmental reports and studies, environmental notices received by CBMRMD, plats, permits, development agreements, topographical and other maps, engineering plans and reports, easement agreements, and all other information and documentation pertaining to the CBMRMD Property in the possession of or known to CBMRMD (collectively, the “Property Documents”). The Town acknowledges and agrees that all Property Documents delivered or made available by CBMRMD to the Town are for the Town’s information and use only, and CBMRMD makes no representation or warranty as to the accuracy or completeness of any such Property Documents or the Town’s ability to use any of such Property Documents. The Town acknowledges that it shall be solely responsible for verifying all information contained in the Property Documents, including the completeness, accuracy and applicability of the Property Documents.

3.08 Credit Against Final Finance Charge. In exchange for the CBMRMD Property that CBMRMD will transfer to the Town pursuant to Section 3 or elsewhere in this IGA, CBMRMD will be given a credit against the Final Finance Charge described in Section 9.04 (e), equal to the value of CBMRMD Property transferred to the Town which as to the CBMRMD Tracts and CBMRMD Easements will be based upon an appraisal, and which as to the Water System shall be based upon the depreciated value of the Water System fixed assets as published in CBMRMD’s Financial Statements for calendar year 2021, plus the cost of any Water System Improvements that occurred subsequent to 2020, plus the value of Denver Basin groundwater rights in excess of 364 acre-feet (AF) at \$2,500/AF as shown in **Exhibit N** (“Financial Summary”). The credit will be used to offset the cost of System Development Fees, Renewable Water Resource Fees and Total Construction Costs for the Water Improvements and other construction costs to be paid to the Town by CBMRMD as described in Section 9. The Total Construction Costs for the Water Improvements will be determined by the Parties as set forth in Section 9, a preliminary estimate of which is set forth in **Exhibit O** as attached hereto. If CBMRMD initially transfers an easement to the Town for certain Facilities, but later conveys fee title to the Easement Area, the value of the credit will be updated to include the value of the fee title of the land that is transferred to the Town, as determined by an appraisal agreed to by Town and CBMRMD, and said amount shall be applied to and reduce the total amount owed to the Town under this IGA by the residents and property owners of CBMRMD.

3.09 Conveyance of Future Property. In addition to the CBMRMD Property transferred at Closing and after compliance with applicable Douglas County Subdivision

Regulations, CBMRMD shall cause to be conveyed to the Town, for no additional consideration, the following: (i) fee title to an expanded water tank site and expanded water treatment plant site as more particularly described in **Exhibit D**; (ii) a pipeline easement from Town's existing well for a water pipeline that will extend from the well to the Water Treatment Plant as more particularly described in paragraph 2 of **Exhibit E**; and (iii) an easement for the pipeline in any locations where it crosses CBMRMD property associated with the connection to be built between the Town and Bell Mountain Ranch. In addition to the above described property and easements, CBMRMD shall cause to be conveyed to the Town in consideration for a credit equivalent to the fair market value of the property being conveyed if requested by the Town in the future, either fee title to or an easement for the alternate well sites for the extraction of groundwater as decreed in Water Court Case No. 80CW158 and 84CW385 and being more particularly identified as Alternate Well Sites AW-3, AW-8 and AW-9 in that certain Bell Mountain Ranch settlement agreement ("Settlement Agreement") by and between numerous parties including CBMRMD, BMRMD and the Town's predecessor in interest to the groundwater decreed in Case No. 80CW158 and Case No. 84CW385, which Settlement Agreement was dated February 27, 2009 and recorded in the Douglas County real estate records on March 10, 2010 at Reception No. 2010015114.

In connection with the drilling and location of any and all additional wells within the Bell Mountain Ranch Subdivisions, the Town agrees that it shall comply with all terms and provisions of the Settlement Agreement and the Third Amended Declaration Creating Covenants, Conditions, Restrictions and Easements for the Bell Mountain Ranch Subdivisions attached as Exhibit L to the Settlement Agreement and separately recorded in the Douglas County records on March 10, 2010 at Reception No. 2010015229. The Town further agrees that all future water wells drilled within the Bell Mountain Subdivisions shall be at locations identified as Alternate Well Sites in the Settlement Agreement. The Town shall be entitled to drill up to four (4) wells on each Alternate Well Site.

Using legal descriptions and drawings prepared by the Town, at the Town's expense, such alternate well sites, if owned by CBMRMD shall be conveyed by CBMRMD to the Town for above or below ground facilities. Easements shall be conveyed to the Town by CBMRMD for any surface or subsurface infrastructure that will be installed as part of the Town Facilities on real property owned by CBMRMD. The standards and the nature and extent of the property that will be conveyed to the Town in the future are stated in the Facilities Plan, and generally shall be of the size and configuration reflecting parameters for similar public works constructed in the Town. Any easements and any alternate well sites conveyed in fee, that shall be conveyed in the future, the value of which is not included as a credit against the final Finance Charge as described in paragraph 9.04 (e), shall be applied against the Finance Charge at the time of conveyance to reduce the amount of the Finance Charge then outstanding.

Such property and any easements shall be conveyed to the Town by CBMRMD when reasonably requested by the Town in order to enable the Town to construct infrastructure on or within said property/easements. All property whether it is a fee title or easement interest

that is conveyed shall be conveyed with marketable title, free of liens, encumbrances, and taxes, except for Permitted Exceptions. The Town shall be provided title insurance at CBMRMD's expense in amounts reflecting the fair market value of the property and easements being conveyed. The Town shall pay any and all costs incurred by CBMRMD in complying with Douglas County Subdivision Regulations, as necessary, for purposes of conveying any property or easements as described in this Section 3.09 to the Town.

ARTICLE IV FEES AND SERVICE CHARGES

4.01 Applicability and Extraterritorial Surcharge. For the water and Water Service provided by the Town hereunder, the users within the Service Area shall pay the Fees and Service Charges imposed by the Town within the Town limits under the Water Regulations, including the System Development Charges and Water Resource Fees, plus a ten percent (10%) surcharge ("Water Service Surcharge"). All references in this IGA to Fees and Service Charges applicable to the Service Area shall include the Water Service Surcharge without further reference to the Surcharge except that the Total Construction Cost for the Water Improvements referred to in Section 4.03 below shall not be subject to or include any ten-percent (10%) or other surcharge. The Town may modify the Fees and Charges imposed by the Water Regulations for the delivery of water to the Service Area (but not the Water Service Surcharge) provided the Town shall notify CBMRMD of any proposed increase in any Fees and Service Charges at least thirty (30) days prior to any Town action on such increase and provided further any increased Fees and Service Charges shall not become effective sooner than thirty (30) days after they have been adopted and shall only apply to water delivered by the Town from and after the date the Fees and Charges are effective.

4.02 System Development/Renewable Water Resource Fees. Each user of the water delivered by the Town within the Service Area shall pay to the Town a System Development Fee and a Renewable Water Resource Fee for each single-family equivalent tap which provides service to the user served in the Service Area as calculated in this Section 4.02. The System Development Fees and Renewable Water Resource Fees shall be fixed and assessed at the rate in effect on December 31, 2020. With respect to CBMRMD's 321 residential customers and the proposed community center, the System Development Fee and Renewable Water Resource Fee shall be calculated as if each connection has a ¾" meter (regardless of the size of the actual meter), and is equivalent to one single family equivalent water tap ("SFE") and shall be calculated as follows:

$$(322 \times \$21,287 = \$6,854,414)$$

With respect to CBMRMD's two (2) existing irrigation accounts, the System Development Fee and the Renewable Water Resource Fee shall be based on a 1.5" meter and a 3.33 SFE and shall be calculated as follows:

$$(2 \times \$70,899 = \$141,798)$$

The Water Service Surcharge of ten percent (10%) shall be assessed on the total amount of the System Development Fees and Renewable Water Resource Fees due and payable by CBMRMD as follows:

$$(\$6,996,312 + \$699,621.20 = \$7,696,833.20)$$

The System Development Fee and Renewable Water Resource Fee shall be payable through the Finance Charge over a 30-year period as more particularly described in Section 9.04 below.

4.03 Rate Methodology. The Town's rates for the water delivered within the Service Area shall be established and assessed in a manner that is in accordance with accepted standards and methods utilized in the industry, and that reasonably recover the cost to the Town of providing water service within the Service Area, plus the Water Service Surcharge referred to in Section 4.01 above. Costs recovered through the Interim and Final Finance Charge will not be included in the calculation of the revenue requirements for the Town for water service rates. The Total Construction Cost for the Water Improvements is specific to the Service Area and will not be considered in the establishment of Water Service Rates.

4.04 Payment of Rates. CBMRMD shall require the users within the Service Area to pay the Town's System Development Fee, Renewable Water Resource Fee, and Total Construction Cost for the Water Improvements as captured in the Interim and Final Finance Charges and Water Service Rates as set forth in the Town's Water Regulations. Unless otherwise provided in this IGA, the Town shall have the power to enforce and collect within the Service Area all such rates and charges in the same manner as it employs inside the Town.

ARTICLE V OTHER AGREEMENTS AND COVENANTS

5.01 No Statements of Opposition. CBMRMD hereby agrees that it shall execute an agreement with the Town at Closing that it will not file a statement of opposition or otherwise participate as a party in existing or future water court applications filed by the Town. The terms of such agreement shall be as set forth in the form of agreement attached hereto as **Exhibit L** (the "No Statements of Opposition Agreement"). At Closing, CBMRMD will deliver the No Statements of Opposition Agreement to the Town.

5.02. Post-Closing Assistance. Following the Closing, CBMRMD will provide the Town with such assistance as the Town may reasonably request in the transition of administration and operation of the CBMRMD Property, as more particularly described in Section 8.02 below.

ARTICLE VI WATER CONSERVATION

6.01 Generally. Except as provided in 6.03 below, all Town Water Conservation Regulations (“Conservation Regulations”) shall apply within the Service Area. The Town shall provide the Service Area with monitoring and enforcement of the Conservation Regulations at no additional cost to CBMRMD in the normal course of providing Water Service, in order to assure uniform application of the Conservation Regulations within the Service Area and properties within the Town. Streetscapes shall comply with applicable Conservation Regulations even though the approval for same is granted through Douglas County.

6.02. Conservation Programs and Rebates. The Town shall make available to all users within the Service Area all Town conservation programs and rebates subject to the same standards and requirements as properties and customers within the Town.

6.03 Residential Turf Limitations. Irrespective of any contrary provisions in the Water Regulations in effect during the term of this IGA, the Town acknowledges that the residential lots within the boundaries of the Service Area have been developed in accordance with applicable Douglas County rules, regulations, and policies. CBMRMD agrees, however, not to permit the installation of any additional turf on existing residential lots beyond that which is presently in place or permitted under the Town’s Rules and Regulations. CBMRMD acknowledges that for purposes of rates and especially setting of the water budget for each customer within CBMRMD, the Town will use the same method used for its customers within the Town. This is to say that no additional water budget or special consideration will be provided for additional turf existing within CBMRMD as of the date of this IGA.

In acknowledgement of the fact that the limitations on irrigated turf applicable within Town limits are more restrictive than the limitations currently imposed by CMBRMD with the Service Area, CBMRMD shall encourage residential owners within the Service Area to incorporate Real Time Evapo-transpiration based irrigation controllers on their automated irrigation systems and to utilize sub-surface irrigation for turf areas.

ARTICLE VII BREACH AND REMEDIES

7.01 Default Notice and Cure Rights. In the event CBMRMD commits a material breach of this IGA and the Town gives CBMRMD written notice specifying the particular material breach, CBMRMD shall have such time as provided in the Notice, which time shall be reasonably sufficient to permit CBMRMD to cure the material breach, but in no event less than ninety (90) days. In the event CBMRMD fails to correct such breach within the time provided in the Notice, the Town, without obligation to CBMRMD, or any person or entity claiming by, through or under CBMRMD, may at the sole cost and expense of CBMRMD

take such actions as are reasonably necessary to cure the breach. CBMRMD agrees to reimburse the Town for all expenses incurred by the Town in correcting or curing any such material breach. The Notice provision of this paragraph shall not apply if the Town determines that the material breach may result in an immediate health hazard or harm to persons or property, in which case the Town may immediately cure the breach, upon hand delivery of written notice of material breach and description of the harm likely to result. The term “Material Breach” shall include unauthorized extensions of Water Service; and any other actions or inactions which could cause a health hazard or harm to persons or property.

7.02 Specific Performance. It is agreed that this IGA may be specifically enforced by either Party.

ARTICLE VIII OPERATIONS

8.01 Water Service – Equivalent Standard. From and after the date of Closing, the Town shall own, operate, maintain, repair and replace the Water System and all related Facilities and appurtenances located within the Service Area to the same service level standards as the Town maintains with respect to the Town’s water system located within the Town’s municipal boundaries.

8.02 Transition Period. From and after the date of Closing, the Town shall take full ownership of and responsibility for the operation, maintenance, repair and replacement of the Water System even though it has not yet been physically connected to the Town Water Facilities. A Transition Plan is provided in **Exhibit P** which specifies the steps that CBMRMD and the Town will take in connection with transferring responsibility for the Water System to the Town.

8.03 Operation of Water Treatment Plant. From and after September 1, 2021, or soon thereafter as is reasonably practical, and for the purpose of not violating any of the Radium 226 and 228 limitations, as well as the Whole Effluent Toxicity test limitation in Discharge Permit No. C00048995 for the Water Treatment Plant, all water discharge effluent from the Water Treatment Plant has been and will continue to be captured onsite and hauled by truck to a location where the effluent is discharged into the Town’s Sanitary Sewer Collection System through a designated manhole. From and after the Closing Date, the Town will continue to operate the Water Treatment Plant in the same manner until the Town constructs the twelve-inch (12”) pipeline described in Section 9.02 and thereby connects the Town Water Facilities to the CBMRMD Water System as contemplated in Article IX. It is the intention of the Parties hereto that the twelve-inch (12”) pipeline and the connection to the Town Water Facilities to the CBMRMD Water System will occur no later than October 30, 2023.

At such time as the CBMRMD Water System is connected to the Town Water Facilities the Town at its option, but without any obligation to do so, may terminate Discharge Permit No. C00048995 for the Water Treatment Plant. Until the Town Water Facilities are

connected to the CBMRMD Water System, the Town may assess the cost of collecting and hauling the effluent from the Water Treatment Plant to CBMRMD customers on a per single family equivalent water tap basis. From and after the date the Town Water Facilities are connected to the Water System, the Town shall assess the cost of collecting and hauling any effluent from the Water Treatment Plant to an offsite discharge point among all users of the Town Water Facilities and shall not separately allocate those costs to customers of CBMRMD.

ARTICLE IX IMPROVEMENTS

9.01 Integrated System. Once the Water System is conveyed to the Town, the Water System will become a part of the Town’s Water System. The Town will be responsible for all Colorado Department of Public Health and Environment Regulations applicable to the Water System, and shall assume all obligations relating to the Water Treatment Plant Discharge Permit No. C00048995 including but not limited to: (i) the Town’s public water system identification number for all purposes, including backflow and cross connection control, test monitoring, and reporting purposes; (ii) for compliance with and all testing and applicable reporting requirements under the Colorado Department of Public Health and Environment Discharge Permit for the water treatment plant previously owned and operated by BMRMD. CBMRMD shall have no responsibility for the quality of water delivered by or through the Water System or for testing or reporting of any kind, including, but not limited to, compliance with or reporting under the Colorado Department of Public Health and Environment Discharge Permit for the water treatment plant previously owned and operated by BMRMD.

9.02 Water Improvements. The Town and CBMRMD agree that the Water Improvements as more particularly described and depicted on **Exhibit B**, including, but not limited to a twelve-inch (12”) water pipeline and related pump station, are necessary to connect the Water System to the Town’s Water System (“Water Improvements”) and that the total cost of designing and constructing the Water Improvements, less any costs allocated to the Ridge Estates Subdivision shall be paid by the water users (“Customers”) within the Service Area together with the System Development Fees and Renewable Water Resource Fees described in Section 4.02. The Town and CBMRMD agree that the costs of the water line connecting the water distribution system in Ridge Estates to the water tank that will be built in the Service Area by the Town shall be allocated thirty-percent (30%) to the Ridge Estates Subdivision and seventy-percent (70%) to the customers within the Service Area as reflected on **Exhibit O**. The Town and CBMRMD further agree that the costs listed in **Exhibit N** combined with the System Development Fees and Renewable Water Resource Fees in Section 4.02 provide a fair basis for establishing the Interim Finance Charge to be paid by customers within the Service Area during construction of the Water Improvements and before final total construction costs can be determined. The actual monthly Interim Finance Charge is shown in the amortization schedule in **Exhibit Q**.

9.03 Construction of Water Improvements.

(a) **Design.** The Town will retain a professional engineer licensed in the State of Colorado to design the Water Improvements and prepare construction plans, finalize cost estimates with contingencies, and prepare a set of general qualifications required of a construction contractor to perform the work of constructing the Water Improvements listed in **Exhibit B**. The Water Improvements will include any easement acquisition needed to construct the Water Improvements all as determined by the Town in the reasonable exercise of its discretion. CBMRMD shall have the right to review and approve the final design, construction plans, and any easements deemed necessary for the construction of the Water Improvements, which approval shall not be unreasonably withheld, conditioned or delayed.

(b) **Selection of Contractor.** The Town will select a pre-qualified contractor through a competitive bid selection process to construct the Water Improvements. CBMRMD and the Town shall have the right to review and approve the selected contractor.

(c) **Construction.** Once CBMRMD and the Town have approved the contractor, the Town will execute a contract with the selected contractor, issue a notice to proceed, and be responsible for construction of the Water Improvements to be constructed by the construction contractor.

9.04 Final Finance Charge. CBMRMD and the Town agree that the total actual costs incurred by the Town to construct the Water Improvements together with the System Development Fees and the Renewable Water Resource Fees as outlined in Section 4.02, less the credit provided in Section 3.08 provide a fair and reasonable basis for establishing the Final Finance Charge to be paid by customers within the Service Area over a thirty (30)-year repayment period. The total actual costs incurred by the Town to construct the Water Improvements together with the System Development Fees and Renewable Water Resource Fees as outlined in Section 4.02 shall include the costs of interest for financing provided by the Town to CBMRMD customers. The cost of interest shall be no greater than 2.54% charged on the aggregate unpaid principal balance owed by the Service Area water users for the total actual construction cost combined with Renewable Water Resource Fees and the System Development Fees as outlined in Section 4.02. If it becomes apparent during the public bidding process that the total actual construction cost shall exceed \$2,500,000.00, either party shall have the right to terminate this IGA under Section 2.06; provided, however, CBMRMD shall be responsible for paying any design and engineering costs for the Water Improvements incurred by the Town to that point up to a maximum of \$182,505. Once construction of the Water Improvements has been approved by both parties and construction has started, no further rights of termination are applicable.

(a) **Interim Finance Charge.** After execution of this IGA and until construction has been completed and total actual costs can be calculated, water users within the Service Area shall pay \$76.79 per account on a monthly basis (“Interim Finance Charge”) as shown on **Exhibit N**.

(b) **Actual Costs of Construction.** The total actual costs of construction of the Water Improvements will be the construction costs, including any easement acquisition costs and design costs.

(c) **Total Construction Costs.** Total construction costs shall mean all direct costs paid by the Town for designing, permitting, and constructing the Water Improvements, and acquiring any necessary easements for the Water Improvements. By way of explanation, construction costs shall include the direct purchase costs of contracted materials, labor, construction contract payments, and land acquisition costs.

(d) **Credit for Surplus Funds.** CBMRMD may pay to the Town at any time prior to calculation of the Final Finance Charge under paragraph (e) below, all or any portion of any surplus funds it may have available (“Reduction Payment”). The Town will apply any Reduction Payment to reduce the aggregate unpaid principal balance owed by CBMRMD customers within the Service Area for the total actual cost of construction.

(e) **Calculation of Final Finance Charge.** To determine the Final Finance Charge, the total actual cost of construction, calculated under Section 9.04 (c) above, shall be reduced by any Reduction Payment made under Section 9.04 (d) above, and by the total of all Interim Finance Charges paid under Section 9.04 (a) above and the Credit calculated in accordance with Section 3.08 (Credit Against Final Finance Charge). Reduction Payments in the total amount of all principal portions of the Interim Finance Charges and the credit shall be applied to the aggregate unpaid principal balance owed by CBMRMD customers within the Service Area for purposes of calculating the Final Finance Charge. After applying any Reduction Payments and other credits, the Town will divide the resulting amount by the number of licensed premises within the Service Area in order to create a uniform monthly payment (Final Finance Charge) by creating a final amortization schedule for the remainder of the repayment period which will be equal to thirty (30) years minus the time period under which the Interim Finance Charge was in place.

9.05 Prepayment Without Penalty by CBMRMD. Once the Final Finance Charge has been calculated under Section 9.04 (e) above, CBMRMD may prepay at any time all or any portion of the aggregate unpaid principal balance then owed by CBMRMD customers. Such prepayment shall not be subject to any penalties

9.06 Prepayment Without Penalty by Customers. Once the Final Finance Charge has been calculated under paragraph 9.04 (e) above, individual customers within the Service Area may elect to prepay at any time the entire unpaid principal balance applicable to their particular premises. Such prepayment shall not be subject to any penalties. Individual licensed premises that make a prepayment for the principal amount shall not be assessed any further finance charges for the Water Improvements.

9.07 Collection of Interim and Final Finance Charges. The Town will bill water users within CBMRMD’s Service Area for the Interim and Final Finance Charges as part of

If to CBMRMD: Consolidated Bell Mountain Ranch Metropolitan District
c/o CliftonLarsonAllen LLP,
8390 E. Crescent Parkway, Suite 300
Greenwood Village, CO 80111

10.02 Notice of Meetings. CBMRMD shall submit a copy of a written notice of every regular or special meeting of CBMRMD to the Town Clerk at least three (3) days prior to such meeting.

10.03 Assignment. No transfer or assignment of this IGA or of any rights hereunder shall be made by either party, other than Town may assign this IGA to another governmental entity as part of the transfer of all of the Town's Water System to such entity. In the event of such transfer, the entity assuming responsibility for Water Service to the Property shall expressly assume the Town's responsibilities under this IGA

10.04 Amendments. This IGA may be amended only in writing upon consent of the parties. Amendments shall be approved by resolution of the Council and the resolution of the Board.

10.05 No Waiver. The waiver or delay of enforcement of one or more terms of this IGA shall not constitute a waiver of the remaining terms. The waiver or delay in enforcement regarding any breach of this IGA shall not constitute a waiver of any terms of this IGA.

10.06 TABOR Compliance. This IGA does not create indebtedness of any party within the meaning of any constitutional, home rule charter or statutory limitation or provision. The obligations of the parties under this IGA do not create a multiple fiscal year obligation under Article X, Section 20 of the Colorado Constitution.

10.07 Entire Agreement. This IGA contains the entire agreement of the Parties concerning the subject matter and supersedes all prior conversations, proposals, negotiations, understandings, and agreements, whether written or oral.

**CONSOLIDATED BELL MOUNTAIN
RANCH METROPOLITAN DISTRICT,** a
quasi-municipal corporation, and political
subdivision of the State of Colorado

By: _____
Name: Russell J. Grant, President

Attest:

By: _____
Name: Frank Strand, Secretary

TOWN OF CASTLE ROCK, acting by and through the Town of Castle Rock Water Enterprise

By: _____
Name: Jason Gray, Town Mayor

Attest:

By: _____
Name: Lisa Anderson, Town Clerk

Approved as to Form:

By: _____
Name: Michael J. Hyman, Town Attorney

Approved as to Content:

By: _____
Name: Mark Marlowe, Director, Castle Rock Water

EXHIBIT B

BARGAIN AND SALE DEED

THIS DEED, is made and entered into this ____ day of _____, 2022, to be effective as of _____, by and between the **BMR METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“Grantor”), whose address is c/o Josh Miller, CliftonLarsonAllen, LLP, 111 South Tejon Street, Suite 705, Colorado Springs, Colorado 80903 and the **CONSOLIDATED BELL MOUNTAIN RANCH METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“Grantee”), whose address is c/o Josh Miller, CliftonLarsonAllen, LLP, 111 South Tejon Street, Suite 705, Colorado Springs, Colorado 80903.

WITNESSETH:

WHEREAS, Grantor is the owner of certain parcels of real property and easements as more particularly described on **Exhibit 1** as attached hereto and incorporated herein by reference; and

WHEREAS, Grantor and Grantee have entered into an Agreement and Plan for Dissolution dated _____, 2021 (“Dissolution Agreement”), providing, among other things, for the conveyance and transfer by Grantor to Grantee of all of the real property and interests in real property owned by Grantor.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained in the Dissolution Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell, and convey unto the Grantee, its successors and assigns forever, the real property, if any, and real property interests described on **Exhibit 1** as attached hereto and incorporated herein by this reference, with all appurtenances, subject to restrictions, easements, rights of way, and reservations of record, if any.

Executed this ____ day of _____, 20____.

GRANTOR:
BMR METROPOLITAN DISTRICT

By: _____
Russell J. Grant, President

Attest:

Frank Strand, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by Russell J. Grant, as President of the BMR Metropolitan District this _____ day of _____, 20____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

ACCEPTED:

The foregoing Bargain and Sale Deed is accepted by the Consolidated Bell Mountain Ranch Metropolitan District this _____ day of _____, 20____.

**CONSOLIDATED BELL MOUNTAIN
RANCH METROPOLITAN DISTRICT**

By: _____
Russell J. Grant, President

Attest:

Frank Strand, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by Russell J. Grant, as President of the Consolidated Bell Mountain Ranch Metropolitan District, this _____ day of _____, 20____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT 1

List of certain BMR Metropolitan District parcels of real property and easements being conveyed to Consolidated Bell Mountain Ranch Metropolitan District.

1. Tract T, Bell Mountain Ranch Filing 1A, County of Douglas, State of Colorado
2. Tracts H, I, K and V, Bell Mountain Ranch Filing 1B, County of Douglas, State of Colorado.
3. All easement rights of the BMR Metropolitan District under the Subdivision Plats and related documents for Bell Mountain Ranch Filing 1A, Bell Mountain Ranch Filing 1B and Bell Mountain Ranch Filing No. 2, County of Douglas, State of Colorado (collectively the "Plats"), with respect to the operation, maintenance, repair, replacement and expansion of water distribution pipelines and related appurtenances, including but not limited to valves, valve boxes, vaults, fire hydrants, meters, meter pits, etc., whether or not located within utility easements identified on said Plats.
4. Any and all tributary, non-tributary and not non-tributary groundwater located beneath the above-described Tracts and owned by Grantor, if any.

EXHIBIT C

BILL OF SALE

THIS BILL OF SALE, is made and entered into this ____ day of _____ 2021, to be effective as of _____, by and between the **BMR METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“BMR”), whose address is c/o: Josh Miller, CliftonLarsonAllen, LLP, 111 South Tejon Street, Suite 705, Colorado Springs, Colorado 80903 and the **CONSOLIDATED BELL MOUNTAIN RANCH METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“CBMR”), whose address is c/o: Josh Miller, CliftonLarsonAllen, LLP, 111 South Tejon Street, Suite 705, Colorado Springs, Colorado 80903

RECITALS

WHEREAS, BMR and CBMR have entered into an Agreement and Plan of Dissolution dated _____ 2021, (“Dissolution Agreement”), providing, among other things, for the transfer and conveyance by BMR to CBMR all of BMR’s tangible assets, including but not limited to, BMR’s water system. All capitalized terms not defined herein shall have the meanings ascribed in the Dissolution Agreement.

CONVEYANCE

KNOW ALL MEN BY THESE PRESENTS, that BMR in consideration of the mutual promises and agreements contained in the Dissolution Agreement, and other good and valuable consideration, the receipt of which are hereby acknowledged, has bargained and sold, and by these Presents does grant, bargain, sell and convey unto CBMR, its successors and assigns, all right, title and interest of BMR in and to the following:

- A) All piping and equipment located in BMR’s Arapahoe well originally constructed in 2000, renovated in 2013, including the installation of a new well pump;
- B) All of BMR’s equipment in its Denver well originally constructed in 2012 with a replacement pump and other upgrades added in 2017;
- C) All of BMR’s water treatment, storage and distribution system (“Water System”), including but not limited to, all pipes, valves, fittings and related facilities, inventory, spare parts, supplies and other tangible personal property owned by BMR in connection with its Water System, including but not limited to, those items described on **Exhibit 1** as attached hereto (consisting of 1 page);

D) All cash in BMR's checking account at First Bank of Colorado the last four numbers of which are 3231;

E) All cash in BMR's ColoTrust General Account the last four numbers of which are 8001, and it's ColoTrust Capital Project Account the last four numbers of which are 8002;

F) All books, records, construction drawings, maps, technical documents, manuals, rules and regulations relating to BMR's Water System;

G) Any and all other tangible personal property owned by BMR, including but limited to all books, correspondence, files and other documents and other items of tangible personal property not transferred elsewhere pursuant to the Dissolution Agreement.

TO HAVE AND TO HOLD the same unto CBMR, its successors and assigns, forever.

IN WITNESS WHEREOF, BMR has executed this Bill of Sale this _____ day of _____, 2021 to be effective as of _____, 2021

BMR METROPOLITAN DISTRICT

By: _____
Russell J. Grant, President

Attest:

Frank Strand, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by Russell J. Grant, as President of the BMR Metropolitan District this _____ day of _____, 20____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

ACCEPTED:

The foregoing Bill of Sale is accepted by the Consolidated Bell Mountain Ranch Metropolitan District this _____ day of _____, 20____.

CONSOLIDATED BELL MOUNTAIN RANCH METROPOLITAN DISTRICT

By: _____
Russell J. Grant, President

Attest:

Frank Strand, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by Russell J. Grant, as President of the Consolidated Bell Mountain Ranch Metropolitan District, this _____ day of _____, 20____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT 1

(Water System pipes, valves, fittings etc.)

<u>Item</u>	<u>Number</u>	<u>Units</u>	<u>Remarks</u>
12x16 reducer	12	Ea	
8x6 reducer	98	Ea	
Fire Hydrants	110	Ea	
6" Valve	110	Ea	
6" PVC pipe	2,365	LF	
8" Valve	89	Ea	
8" PVC pipe	63,596	LF	
12" Valve	30	Ea	
12" PVC pipe	12,668	LF	
Service Line*	305	Ea	Privately owned and not being conveyed to CBMR
PRV w/vault	7	Ea	
Water meters	320	Ea	
Storage Tank 1	210,000	Gal	
Storage Tank 2	90,000	Gal	
Clearwell Tank	30,000	Gal	
Building	2,400	Sf	60' x 40'
Process Equip	1	LS	8 Ea deionator tanks with piping & controls
Generator	2	Ea	250 hp
Booster Pump	4	Ea	25 hp & 50 hp
* Service Line is connection from main to valve stop serving residents.			
Notes: 1. Does not include Stevens Ranch parcel components. 2. Does not include the Arapahoe & Denver wells. 3. List is not inclusive of all components.			

EXHIBIT D

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is made and entered into this ___ day of _____, 2021, to be effective on the ___ day of _____, 2021 (“Assignment Date”), by and between the **BMR METROPOLITAN DISTRICT** (“BMR”), a quasi-municipal corporation and political subdivision of the State of Colorado, as Assignor, and the **CONSOLIDATED BELL MOUNTAIN RANCH METROPOLITAN DISTRICT** (“CBMR”), a quasi-municipal corporation and political subdivision of the State of Colorado, as “Assignee”.

RECITALS

WHEREAS, BMR and CBMR have entered into an Agreement and Plan of Dissolution dated _____ (“Dissolution Agreement”), providing, among other things, for the assignment by BMR to CBMR and the assumption by CBMR of all BMR contractual obligations that are not terminated on or before BMR’s dissolution. All capitalized terms not defined herein shall have the same meanings ascribed in the Dissolution Agreement.

WHEREAS, Assignee agrees to accept assignment of the agreements and to fully perform the duties and assume all obligations under the agreements which are more fully described below (“Agreements”).

NOW THEREFORE, Assignor and Assignee agree as follows:

1. As of the Assignment Date, Assignor hereby assigns to Assignee all of Assignor’s right, title and interest, and delegates all of its obligations and responsibilities under the Agreements listed on **Exhibit 1**.
2. As of the Assignment Date, Assignee hereby accepts assignment of all of Assignor’s obligations, responsibilities and duties under the Agreements, and all of Assignor’s right, title and interest in and to the Agreements.
3. Assignor and Assignee agree to cooperatively work with one another to effectuate the transfer of all BMR related information, records, or data as may be reasonably be requested by the Assignee in order to minimize any potential disruption in services or the performance of Assignee’s obligations under the Agreements being assigned.
4. Effective as of the Assignment Date, Assignee shall be substituted for Assignor under each of the Agreements listed on **Exhibit 1**. Assignee shall perform all of Assignor’s obligations under the Agreements as if it were the original contracting party.

5. This Assignment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one in the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Assignment and Assumption Agreement to be executed by their duly authorized representatives to be effective as of the Assignment Date.

ASSIGNOR:
BMR METROPOLITAN DISTRICT, a
quasi-municipal corporation, and political
subdivision of the State of Colorado

By: _____
Name: Russell J. Grant, President

Attest:

Frank Strand, Secretary

ASSIGNEE:
**CONSOLIDATED BELL MOUNTAIN
RANCH METROPOLITAN DISTRICT**, a
quasi-municipal corporation, and political
subdivision of the State of Colorado

By: _____
Name: Russell J. Grant, President

Attest:

Frank Strand, Secretary

EXHIBIT 1