

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**Notice of Security Interest in a Water Right**  
and a request to be notified of a change in ownership or any proposed  
or final action to amend, transfer, or otherwise modify the water right(s)

Attach pages with additional information. Incomplete forms will be returned.

RECEIVED  
FEB 27 2023  
DEPARTMENT OF  
WATER RESOURCES

Completed  
3/14/23  
DE

1.

| Water Right/Claim No. | Water Right/Claim No. | Water Right/Claim No. | Water Right/Claim No. |
|-----------------------|-----------------------|-----------------------|-----------------------|
| 95-7008               |                       |                       |                       |
|                       |                       |                       |                       |
|                       |                       |                       |                       |
|                       |                       |                       |                       |
|                       |                       |                       |                       |

2. The following **REQUIRED** information must be submitted with this form:

A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**

B) A **FEE of \$25.00 per** water right or adjudication claim.

3. Name and Mailing Address of Person or Company Holding Security Interest

State Of Idaho

Idaho Water Resource Board

PO Box 83720

Boise, ID 83720-0098

Phone 208-287-4800

Email IWRB2@idwr.idaho.gov

4. Name of Water Right Owner/Claimant(s)

Dalton Water Association, Inc

5. Expiration Date of Notification Period

May 20, 2033

6. Is this a Renewal of Request for Notification?

☐ YES

☒ NO

7. Signature(s) of Security Interest Holder(s)

Title, if applicable

Executive Officer, Idaho Water Resource Board

**For Office Use Only**

Received by \_\_\_\_\_ Date \_\_\_\_\_ Receipt No. \_\_\_\_\_ Fee \_\_\_\_\_

Processed by AJ \_\_\_\_\_ Date \_\_\_\_\_ WR \_\_\_\_\_ Date \_\_\_\_\_

SCANNED  
MAY 24 2023

**Contract No. IWRB1010**

**STATE OF IDAHO  
WATER RESOURCE BOARD**



**REVOLVING DEVELOPMENT ACCOUNT LOAN CONTRACT**

**with the**

**DALTON WATER ASSOCIATION, INC.**

**for the**

**WATER LINE UPGRADE PROJECT**

Contract No. IWRB1004

**IDAHO WATER RESOURCE BOARD  
PROMISSORY NOTE**



Made Pursuant to Idaho Water Resource Board Revolving Development Account Loan Contract Agreement with the Consolidate Irrigation Company.

DATED: June 4, 2015

**\$500,000.00**

FOR VALUE RECEIVED, the CONSOLIDATED IRRIGATION COMPANY (Maker) promises to pay to the order of the **IDAHO WATER RESOURCE BOARD** (Board), at its principal place of business, the principal sum not to exceed **\$500,000.00** or so much as shall be outstanding from time to time with interest and maturity at the rate of three and one half percent (3.5%) per annum on the balance remaining from time to time unpaid. The Maker shall make annual payments to the Board as specified in the Revolving Development Loan Contract Agreement dated June 4, 2015 between the Maker and the Board. Maker may repay all or any portion of the principal at anytime, with interest charged only to the date of payment.

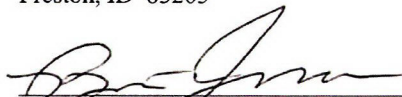
If default is made in any payment of this note, the entire principal and accrued interest shall at once become due and payable without notice at the option of the Board, and thereupon the Maker agrees to pay all costs of collection, including attorney fees. Failure to exercise this option shall not constitute a waiver of the right to declare the entire principal amount of this note and interest due and payable at once at a subsequent time.

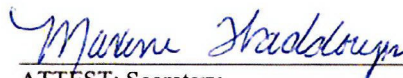
All existing and future security interests contained in contract agreements or water rights assignments between the Maker and the Board secure this note. The Maker agrees that the Board may, without notice or demand, set-off against any credit a balance or other money now or hereafter owed the Maker by the Board any amount unpaid under the note.

Without affecting the liability of any maker, endorser, surety or guarantor, the Board may, without notice, renew or extend the time for payment, accept partial payments, release or impair any collateral which is security for the payment of this note or agree not to sue any party liable. Any maker, endorser, surety or guarantor further agrees that the Board is not required to first resort for payment to any collateral.

This note is secured by a Revolving Development Loan Contract Agreement and an Assignment of Water Rights.

CONSOLIDATED IRRIGATION COMPANY  
33 South 100 East  
Preston, ID 83263

  
\_\_\_\_\_  
Brian Jensen, President  
BRIAN JENSEN

  
\_\_\_\_\_  
ATTEST: Secretary

**STATE OF IDAHO  
WATER RESOURCE BOARD**



**REVOLVING DEVELOPMENT ACCOUNT LOAN CONTRACT AGREEMENT**

LOAN CONTRACT dated September 9, 2016 between the **IDAHO WATER RESOURCE BOARD** (Board) and **DALTON WATER ASSOCIATION, INC.** (Sponsor).

This loan provides financing to construct a water project that has met the criteria of the Board. The loan shall be used for the following purpose(s): Abandonment of an existing 8-inch asbestos cement water main line and installation of a 12-inch PVC water main line as described in Article 2 below.

**INTRODUCTORY PROVISIONS**

Article 1. DEFINITIONS - When used in this contract, the following terms shall have the following meanings:

- a. "Project Feasibility Report" means the engineering reports and supporting data.
- b. "Project" means all works and facilities proposed to be constructed by the Sponsor as described in Article 2 Project Description.
- c. "System" means the water supply, storage, and delivery facilities owned and operated by the Sponsor.
- d. "Loan commitment" means the maximum sum of money that the Board agrees to loan to the Sponsor under this contract as provided in Article 4.
- e. "Year" means fiscal year beginning July 1 and ending June 30 of the year following.
- f. "Quarter" means any period of three months beginning on the first day of July, October, January, or April in any fiscal year.

Article 2. PROJECT DESCRIPTION - The project shall consist of the Sponsor abandoning the existing 8-inch asbestos cement water main line and installing a 12-inch PVC water main line. The funds provided under this contract shall not be used for any other purpose without the prior written approval of the Board.

Article 3. TERM OF CONTRACT - This contract shall remain in effect until the principal amount of the loan, all interest thereon, and any money owed to the Board under this contract has been paid in full but not more than 15 years.

**LOAN PROVISIONS**

Article 4. MAXIMUM LOAN AMOUNT - The Board will loan to the Sponsor in accordance with the provisions of this contract a sum of money not to exceed **ONE MILLION THIRTY-SIX THOUSAND NINE HUNDRED DOLLARS (\$1,036,900.00)** at the rate of interest specified in Article 11.

Article 5. DISBURSEMENT OF FUNDS

a. Disbursements

- (1) Disbursement of the funds will be allowed upon completion of the following items:
  - Sponsor has provided acceptable security for the loan to the Board including but not limited to the Sponsor's water rights and water system facilities
  - Sponsor has established a reserve account in an amount equal to one annual loan payment for the duration of the loan
  - Sponsor has complied with all rules and regulations that apply to the proposed project.

- (2) Disbursements are to be based on construction progress evidenced by bills or invoices submitted to the Sponsor. The Sponsor may submit the bills or invoices to the Board for approval and disbursement.
- b. Construction Payments by Sponsor - The Sponsor may make construction progress payments using these loan funds only on the basis of work in place or materials delivered to the project site, pursuant to the terms of the construction contract or agreement between the Sponsor and the contractor, and for the payment of other costs necessarily incurred for the project's construction.

#### Article 6. WITHHOLDING OF DISBURSEMENTS

a. Conditions for Withholding Payment

- (1) If the Board determines that the project is not being constructed substantially in accordance with the provisions of this contract, or that the Sponsor has failed in any other respect to substantially comply with the provisions of this contract, the Board shall provide written notice of such failure. The Sponsor has fifteen (15) days, or some greater period authorized by the Board in its written notice, from receipt of the written notice, to remedy, to the Board's satisfaction, any failure to comply with this contract. If the Sponsor does not satisfactorily remedy the failure, the Board may withhold from the Sponsor all or any portion of the loan commitment. During the period which the Sponsor has to remedy such failure, the Board is not obligated to disburse to the Sponsor any portion of the loan commitment. The Board shall provide the Sponsor with prompt written notice of any decision to withhold from the Sponsor all or any portion of the loan commitment.
- (2) Ten percent (10%) of the total loan commitment shall be withheld until the project is completed and final project payment is requested by the Sponsor and approved by the Board.
- b. Withholding Entire Commitment - If the Board notifies the Sponsor that it has decided to withhold from the Sponsor pursuant to subdivision (a) of this article all of the loan commitment, this contract shall terminate upon receipt of such notice by the Sponsor and shall no longer be binding on either party.

Article 7. USE OF FUNDS - Any and all money disbursed to the Sponsor under this contract shall be used solely for the payment of costs necessarily incurred by the Sponsor for the construction of the Project, including, but not limited to, the payment of interest during project construction, engineering expenses, legal expenses, land acquisition, materials purchases, payments to contractors, and the costs of acquiring any maintenance of the project.

#### Article 8. TIMING AND MANNER OF PROJECT DESIGN AND CONSTRUCTION

- a. Project Completion Date - The Sponsor shall cause the construction of the Project to be completed no later than **September 30, 2017**, provided that said date may be extended upon written approval of the Board.
- b. The sponsor shall provide monthly reports documenting progress to the Board during project construction.
- c. Inspection of Construction - The Board requires the Board's contracting officer or a designated representative to perform a minimum of 2 inspections. Inspections should coincide with construction of the new well and completion of the project, at a minimum. The Sponsor is required to notify the Board's contracting officer or a designated representative prior to these operations so that the officer or representative can make arrangements to be present. If the Board's officer or designated representative cannot be present, the Sponsor, upon the approval of the Board's officer, must take photos of the installation process at that time and send them to the Board's officer.
- d. Determination of Project Completion - For the purposes of this contract, construction of the project is considered completed or terminated when so determined by the Board, or its contracting officer. Upon the completion of the project and before the final project disbursement is made, the project shall be inspected by the contracting officer or a designated representative. For the project to be found to be complete the entire system must be turned on, if

requested by the inspector, and be fully operable at the time of the inspection. In case the construction is not complete at the time the final project payment is requested, ten percent (10%) of the total funds requested shall be withheld until the project is completed. The Board may require as-built drawings to be submitted.

## REPAYMENT PROVISIONS

### Article 9. STATEMENT OF PRINCIPAL AMOUNT OF LOAN

- a. Remittance of Unexpended Funds - After Sponsor receives written notice from the Board that the Board has either determined that the final disbursement of money has been made to the Sponsor pursuant to Article 5 or decided to withhold from the Sponsor pursuant to Article 6 the balance of the loan commitment where a portion of the loan commitment has been disbursed, the Sponsor shall remit to the Board any unexpended funds that were disbursed to the Sponsor under this contract but not needed to pay project construction costs incurred prior to the date such notice was given. Within a period of thirty (30) days from the date of the Board's written notice, Sponsor must remit any expended funds, or If no such funds exist, Sponsor shall transmit to the Board a written notice to that effect. Unexpended funds remitted to the Board under this subdivision shall be considered repayment of a part of the loan.
- b. Transmission of Statement to Sponsor - Within thirty (30) days after the Sponsor remits to the Board any unexpended funds or transmits its notice that no such funds exist, the Board shall transmit to the Sponsor a written statement setting forth the amount of the loan to be repaid by the Sponsor pursuant to Article 10. The amount to be repaid shall be the total amount disbursed to the Sponsor less any amount disbursed that may have been previously repaid or remitted to the Board by the Sponsor together with any and all accrued interest.

### Article 10. REPAYMENT OF PRINCIPAL AMOUNT OF LOAN

- a. Repayment Terms - The Sponsor shall make **FIFTEEN (15)** annual and approximately equal payments to the Board repaying in full the principal amount of the loan funds disbursed together with interest pursuant to Article 11. The first annual payment is due not later than one year from the date of final disbursement of funds for the Project. The repayment schedule is subject to modification by agreement of the Board and the Sponsor.
- b. Advance Payment Option - The Sponsor shall have the option of paying in advance on any date all or any part of the unpaid portion of the principal amount of the loan; provided, that any interest accrued shall be paid at the same time.

### Article 11. INTEREST PAYMENT

- a. Repayment Terms - The Sponsor shall pay interest to the Board at the rate of **three and one half percent (3.5%)** per annum of the unpaid balance of the amounts of money disbursed to the Sponsor from the date of disbursement of each principal amount.
- b. Computation of Interest - The interest amount due on each disbursement shall be calculated as follows:

$$I = \frac{n}{365} \times (i) \times (p)$$

Where;

I = dollars of interest due

i = interest rate

p = unpaid balance of the disbursement

n = the number of calendar days from, but not including, the date on which a disbursement is made (or the date of the last payment) to and including the date paid. The date of disbursement is defined as the date

the check is mailed from or picked up from the Board's principal place of business. The date paid is the date the loan payment is received and stamped received at the State office of the Department of Water Resources in Boise.

#### Article 12. IMPAIRMENTS TO PAYMENT CAPACITY

- a. Disposal of Water Outside Sponsor's Project - While this contract is in effect, no sale or other disposal of water for use outside the Sponsor's project shall be made by the Sponsor without prior approval by the Board, except for agreements as may be in effect at the time of loan authorization by the Board. Such approval shall depend upon the Board's judgment of the effect of such action upon the Sponsor's capacity to make payments as provided in this contract.
- b. Change in Sponsor's Operation of Project - While this contract is in effect, no change shall be made in the operation of the Sponsor's project which would, in the judgment of the Board, materially impair the Sponsor's capacity to make payments to the Board. The Sponsor agrees to operate and maintain the system to insure its economic and efficient operation.
- c. Dissolution of Sponsor - While this contract is in effect, the Sponsor agrees to maintain its corporate identity and make no attempt to cause its corporate existence to be abolished, and take all reasonable steps to ensure its existence.
- d. Transfer of Project Facilities - While this contract is in effect, the Sponsor shall make no attempt to transfer ownership or operation of the project facilities, or any part of the water system, or any water rights owned by the Sponsor, to another party without prior written approval by the Board.
- e. Other Obligations Against Project or System - While this contract is in effect, the Sponsor shall keep the project and system free and clear of all levies, liens and encumbrances, except for those created under this contract and those that may exist prior to this contract. The Sponsor shall not issue any superior liens, pledge, charge, or encumbrance of or against the project and system without the Board's prior written approval.
- f. Delivery of Water to Cease due to Non-Payment - The Sponsor shall not deliver water to users who are delinquent with their payments, charges, or assessments for water service. The Sponsor shall use any and all means at its disposal to collect delinquent payments, charges, or assessments for water service.

#### **ACCOUNTING AND REPORTING PROVISIONS**

Article 13. ANNUAL FINANCIAL REPORT - While this contract is in effect, the Sponsor shall submit an annual report of its finances on or before the scheduled date of the Sponsor's annual payment.

#### **GENERAL AND OTHER PROVISIONS**

Article 14. INSPECTIONS OF PROJECT BY BOARD - The Board shall have the right to inspect the work being performed and the facilities being constructed at any and all times during the construction of the project. The Board also has the right to inspect the project and its operation and maintenance at any and all times after its completion, prior to repayment and termination of the loan contract. The Sponsor shall notify the Board of the Sponsor's final inspection of the project at least ten (10) days prior to the date for the inspection.

Article 15. BASIC OPERATION AND MAINTENANCE STANDARDS - The Sponsor shall cause the project to be operated in an efficient and economical manner, shall provide for the making of all repairs, renewals, and replacements necessary to the efficient operation of the same, and shall cause the same to be maintained in as good and efficient condition as upon its construction, ordinary and reasonable wear and depreciation excepted.

Article 16. PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT BOARD PERMISSION - The Sponsor shall not sell, lease, transfer, exchange, mortgage, hypothecate or encumber in any manner whatsoever all or any portion of the project or of any real or other property owned by the Sponsor and used in conjunction therewith without prior written permission of the Board.

Article 17. BOARD TO BE HELD HARMLESS FROM PROJECT DAMAGE - The Sponsor agrees to indemnify the State of Idaho, the Idaho Water Resource Board, and their officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part and whether directly or indirectly, the design, construction, operation, repair, maintenance, existence, or failure of the project, or of any of its works or facilities. The Sponsor may be required by the Board to carry a reasonable coverage of liability insurance for this purpose.

Article 18. REMEDIES NOT EXCLUSIVE - The use of either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law. In the event suit for collection of any of the amounts due under this contract is required, the Board shall be entitled to collect from the Sponsor any costs and expenses of collection, including a reasonable attorney's fee.

Article 19. AMENDMENTS - This contract may be amended in writing at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law.

Article 20. OPINIONS AND DETERMINATIONS - Where the terms of this contract provide for action to be based upon the opinion, judgment, approval, review, or determination of either party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

Article 21. CONTRACTING OFFICER OF THE BOARD - The contracting officer of the Board shall be the Director of the Idaho Department of Water Resources or duly authorized representative. The contracting officer shall be responsible for all discretionary acts, opinions, judgments, approvals, reviews, and determinations required of the Board under the terms of this contract.

Article 22. SUCCESSORS AND ASSIGNS OBLIGATED - This contract and all of its provisions shall jointly and severally apply to and bind the respective heirs, personal representatives, successors, and assigns of the parties hereto.

Article 23. ASSIGNMENT - No assignment or transfer of this contract or any part shall be valid unless and until written approval is received by the Board and made subject to such reasonable terms and conditions as the Board may impose.

Article 24. WAIVER OF RIGHTS - It is the intention of the parties that, from time to time, either party may waive any of its rights under this contract. Any waiver at any time by either party of its rights with respect to a default or any other matter arising in connection with this contract, shall not be deemed to be a waiver with respect to any other default or matter.

Article 25. NOTICES - All notices that are required either expressly or by implication to be given by one party to the other under this contract shall be signed for the Board by its contracting officer and for the Sponsor by such officers as it may, from time to time, authorize in writing to so act. All such notices shall be deemed to have been given if delivered personally or if enclosed in a properly addressed postage-prepaid envelope and deposited in a United States Post Office for delivery by registered or certified mail. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown on the signature page of this contract.

Article 26. INSPECTION OF BOOKS, RECORDS, AND REPORTS - During regular office hours, each of the parties and their duly authorized representative shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this contract or related matters. Each of the parties shall maintain and make available for such inspection accurate records of all of its costs, disbursements, and receipts with respect to its

activities under this contract.

Article 27. SUIT - In the event suit is instituted to assert any right or privilege under this contract, the Board may recover as attorney fees such sum as the court may adjudge as reasonable in addition to the costs and disbursements allowed by law or court rule.

Article 28. REIMBURSEMENT - The Sponsor shall pay for any cost incurred by the Board in filing, or perfecting any security interest including but not limited to, the providing of a mortgage insurance policy, or recording any instrument executed pursuant to this contract. In the event these costs are not paid by the Sponsor they shall be paid by the Board and all costs, expenses, and related attorney fees shall forthwith be due to the Board with interest thereon from the date of such payments at the highest note for which it is lawful to contract, and such amount shall be added to and be deemed a part of the debt.

Article 29. DEFAULT - In the event that the Sponsor shall fail to pay any of the sums of money due under the Contract and Promissory Note; then, as often as such failure of payment or breach of terms, conditions, covenants or provisions shall occur, the Board may at any time thereafter declare the whole of the principal sum, or as much remaining unpaid at the time of declaration, together with all sums of interest accrued, to be due and payable. The Board may, at any time after such failure of payment or breach of terms, conditions, covenants or provisions, proceed to compel payment of the full amount due and payable, or may exercise every right and remedy as a secured party under the law.

Article 30. COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS - The Sponsor shall comply with all applicable local, state, and federal laws, rules, and regulations such as may govern any part of this project and contract. Failure on the part of the Sponsor to comply with any applicable local, state, and federal laws, rules and regulations shall not relieve the Sponsor of its financial obligations under this contract.

Article 31. RATE COVENANT - The Sponsor agrees that for the term of this contract the Sponsor shall establish, fix, prescribe, and collect rates and charges for water service or related services of the system, which after taking into account anticipated delinquencies, provide revenues sufficient to pay for all expenses of the system.

**Contract No. IWRB1010**

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first hereinabove written.

**IDAHO WATER RESOURCE BOARD**

P.O. Box 83720  
Statehouse Mail  
Boise, ID 83720-9000

  
\_\_\_\_\_  
Brian Patton, Bureau Chief  
Idaho Department of Water Resources

**DALTON WATER ASSOCIATION, INC.**

6360 N. 4<sup>TH</sup> Street  
Dalton Gardens, ID 83815

  
\_\_\_\_\_  
Kevin Kirking, President

  
\_\_\_\_\_  
ATTEST: Secretary

**ACKNOWLEDGMENT of Dalton Water Association, Inc.'s Signature**

STATE OF IDAHO )

County of BOONVILLE )

On this 20<sup>th</sup> day of September, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared KEVIN KIRKING & RANDY BRADLEY, known to me to be the Pres. & Secretary of the Dalton Water Assn that executed the instrument or the persons who executed the instrument on behalf of said Dalton Water, and acknowledged to me that they executed the same.

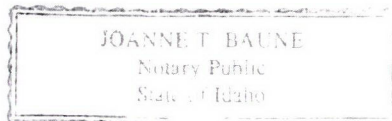
IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Joanne T. Baune  
Notary Public for the State of Idaho

Residing at Dalton, Idaho

Idaho, Commission expires:

11-16-2017



Contract No. IWRB1010

**IDAHO WATER RESOURCE BOARD  
PROMISSORY NOTE**



Made Pursuant to Idaho Water Resource Board Revolving Development Account Loan Contract Agreement with the Dalton Water Association, Inc.

DATED: September 9, 2016

**\$1,036,900.00**

FOR VALUE RECEIVED, the **DALTON WATER ASSOCIATION, INC.** (Maker) promises to pay to the order of the **IDAHO WATER RESOURCE BOARD** (Board), at its principal place of business, the principal sum not to exceed **\$1,036,900.00** or so much as shall be outstanding from time to time with interest and maturity at the rate of three and one half percent (3.5%) per annum on the balance remaining from time to time unpaid. The Maker shall make annual payments to the Board as specified in the Revolving Development Loan Contract Agreement dated September 9, 2016 between the Maker and the Board. Maker may repay all or any portion of the principal at anytime, with interest charged only to the date of payment.

If default is made in any payment of this note at the option of the Board, the entire principal and accrued interest shall at once become due and payable without notice. The Maker agrees to pay all costs of collection, including attorney fees. Failure to exercise this option shall not constitute a waiver of the right to declare the entire principal amount of this note and interest due and payable at once at a subsequent time.

All existing and future security interests contained in contract agreements or water rights assignments between the Maker and the Board secure this note. The Maker agrees that the Board may, without notice or demand, set-off against any credit a balance or other money now or hereafter owed the Maker by the Board any amount unpaid under the note.

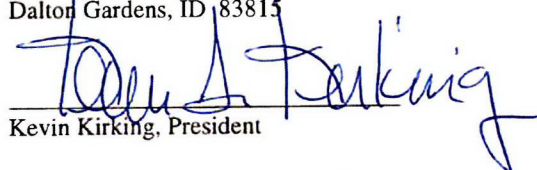
Without affecting the liability of any maker, endorser, surety or guarantor, the Board may, without notice, renew or extend the time for payment, accept partial payments, release or impair any collateral which is security for the payment of this note or agree not to sue any party liable. Any maker, endorser, surety or guarantor further agrees that the Board is not required to first resort for payment to any collateral.

This note is secured by a Revolving Development Loan Contract Agreement and an Assignment of Water Rights.

**DALTON WATER ASSOCIATION, INC.**

6360 N. 4<sup>th</sup> Street

Dalton Gardens, ID 83815

  
Kevin Kirking, President

  
ATTEST: Secretary



**IDAHO WATER RESOURCE BOARD  
ASSIGNMENT OF WATER RIGHTS**

This ASSIGNMENT is made and entered into this **9th** day of **September, 2016**, by and between the **DALTON WATER ASSOCIATION, INC.** (Sponsor) and the **IDAHO WATER RESOURCE BOARD** (Board), an agency of the State of Idaho.

**WITNESSETH**

The Sponsor, for and in consideration of the funds advanced to the Sponsor, under the "Idaho Water Resource Board, Revolving Development Account Loan Contract" (Contract) and "Idaho Water Resource Board, Promissory Note" (Note), both dated the **9th** day of **September, 2016**, by and between the Sponsor and the Board, has granted, bargained, sold, conveyed, assigned, transferred and set over and by these presents does grant, bargain, sell, convey, assign, transfer and set over unto the Board, its successors and assigns, the following described water rights to secure the payment of that certain Note of the **9th** day of **September, 2016**, in the principal sum not to exceed **ONE-MILLION THIRTY-SIX THOUSAND NINE-HUNDRED DOLLARS (\$1,036,900.00)**, delivered and executed by the Sponsor, as makers to the Board as secured party and payee, with terms and conditions as more particularly designated therein.

**WATER RIGHTS** – All of the interest in the following water rights as listed in the record of the State of Idaho, Department of Water Resources, along with all easements, and rights of way, pipelines, water mains, wells, storage reservoirs, pumps, canals, dams, headgates, flumes, weirs water control structures, water treatment plants, and all other rights and privileges owned by the Sponsor or belonging to, or with, leading to, connected with, or usually had or enjoyed in connection with the following described water rights in **Kootenai County, Idaho**.

| Water Right # | Stage   | Priority Date | Source       | Amount |
|---------------|---------|---------------|--------------|--------|
| 95-7008       | License | 11/22/67      | Ground Water | 2.38   |
| 95-7360       | License | 9/13/73       | Ground Water | 2.32   |
|               |         |               |              |        |
|               |         |               |              |        |
|               |         |               |              |        |

TO HAVE AND TO HOLD the above described water rights and all of the same and to the Board, its successors and assigns.

1. **DEFAULT** – In the event that the Sponsor fails to pay any of the sums of money when due under the Note; fails to comply with any of the terms, conditions, covenants or provisions of this ASSIGNMENT, Note, or Contract; then, as often as such failure of payment or breach of terms, conditions, covenants or provisions shall occur, the Board may at any time thereafter declare the whole of the principal sum, with all sums of interest accrued thereon paid by the Sponsor on the Note or paid by the Sponsor under the provisions of this ASSIGNMENT, to be at once payable. The Board may, at any time after such failure of payment or breach of terms, conditions, covenants or provisions, as aforesaid, proceed to compel payment to be paid of the full amount due and payable and to compel payment to be paid of the full amount due and payable, or may exercise every right and remedy as a secured party under the law.

2. WARRANTY - The Sponsor has covenanted, agreed and represented, and does covenant, agree and represent to and with the Board as follows:
- a. The Sponsor does warrant and will defend title unto the Board against claims and demands of all persons whomsoever against all of the property subject to the ASSIGNMENT.
  - b. The Sponsor will pay all sums of money specified in the Note, promptly as they become due, and that the Sponsor will pay all taxes, assessments and other charges that may be levied or assigned on any property subject to this ASSIGNMENT when and as the same shall become due and payable. Sponsor will comply with all terms and conditions of this ASSIGNMENT and any violation thereof shall constitute a default.
3. ATTORNEY FEES AND COSTS
- a. In the event suit is instituted to assert any right or privilege under this ASSIGNMENT, the Board may recover as attorney fees such sums as the court may adjudge reasonable in addition to the costs and disbursements allowed by law or court rule, together with the cost of any abstract of title or evidence of title procured and used in such proceeding and covering said property.
  - b. In the event the Board becomes a party plaintiff or defendant in any suit or legal proceeding in relation to the property described or referred to by this ASSIGNMENT or any agreement given by Sponsor in connection herewith, Sponsor agrees to pay on demand all reasonable attorney fees paid or incurred by the Board in connection with such suit or proceeding, including, but not limited to, any expenses paid or incurred in procuring or continuing abstracts of title, title reports or title policies and search of the records for the purpose of such litigation. All sums paid shall bear interest at the highest rate for which it is lawful to contract and shall constitute a lien upon the premises and property and be secured hereby. In default of immediate repayment by the Sponsor after demand, the whole indebtedness secured shall, at the option of the Board, become due and payable without notice.
4. RECEIVER: In the event proceedings are instituted for a breach of the terms and conditions of this ASSIGNMENT, the Board shall, at its election, as a matter of right and without regard to sufficiency of the security or of waste or danger or misapplication of any of the properties of the Sponsor, be entitled to have a receiver appointed of all or any part of the property secured. The Sponsor expressly consents to the appointment of a receiver by the court of competent jurisdiction and expressly stipulates, covenants and agrees that such receiver may remain in possession and control of the secured property so elected until the final determination of such suit.
5. SUBROGATION: The Board shall be subrogated for further security to the lien, though released of record, of any and all prior encumbrances upon the rights subject to this ASSIGNMENT.
6. CHATELS AND PERSONAL PROPERTY: Except for the purposes of making replacements of the chattels and other personal property subject to this ASSIGNMENT and which the Sponsor now has or hereafter has or acquires and uses in connection with and as a part of the water system and facilities associated with the above described water rights, the Sponsor will not see or dispose of any of the chattels or personal property, nor attempt to do so, nor part with possession of any of the same, nor permit it to be removed from the secured, or from the adjoining or adjacent lands where such property may be located, while this ASSIGNMENT remains in force and effect, without the prior written consent of the Board, which consent shall not unreasonably be withheld. Except for fire, strikes, riots, acts of God, or other unavoidable casualties, the chattels and other personal property subject to

this ASSIGNMENT shall at all times while this ASSIGNMENT remains in force and effect be kept and maintained by the Sponsor, at the Sponsor's expense, in first class order, condition and repair. The Sponsor shall from time to time make all replacements of such property which may reasonably be necessary for the irrigation and cultivation of the premises. The Sponsor will neither commit nor suffer any damages or waste on or to the premises and such property nor do or permit to be done anything that may lessen or impair the value of the property, real or personal, or the lien or security.

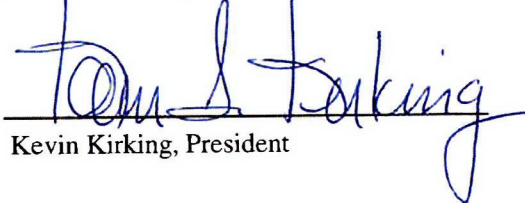
7. LEASES OR OTHER INSTRUMENTS OR AGREEMENTS SUBORDINATED: Sponsor covenants and agrees that each and every term, condition and covenant of any and all leases or other instruments or agreements, oral or written relating to or affecting in any way the property described or referred to above, shall be and are made subject and subordinate to all of the terms, conditions and covenants of this ASSIGNMENT.
8. TIMELY PERFORMANCES: Sponsor covenants and agrees to fully and timely perform each and every term, provision and condition of any and all instruments evidencing the Sponsor's easements, rights-of-way, licenses or other rights, privileges or interest in appurtenant to or used or enjoyed in connection with the installation, utilization or maintenance of the water system facilities, use or to be used in the supply or delivery of water to any of the property described and referred to or for access, required to be performed by the Sponsor. The Sponsor assigns such instruments and all of their rights and interest to the Board as further security. Any assignment shall not affect any of the terms and conditions of this ASSIGNMENT and shall terminate or be subject to reassignment by the Board to the Sponsor upon payment of the entire secure indebtedness. The Board shall have and is hereby granted the right, as its option, at any time within twenty days before performances or payment is required, to perform on behalf of the Sponsor any or all of the terms, provisions and conditions in any instrument assigned to the Board, that is required to be performed by the Sponsor. and the Board, in its sole and exclusive judgment and discretion, may pay any sum of money the Board deems necessary to prevent the termination of any instrument, or the abandonment or loss of any of the Sponsor's rights or privileges provided by the instruments. The Sponsor agrees to immediately repay the Board, without notice or demand, any sums paid or expended, with interest at the same rate as specified in the secured NOTE on the principal, after default and maturity, and all such sums paid or expended by the Board, with interest, shall become a part of the secured indebtedness. If the Sponsor does not immediately repay the Board, the Sponsor shall be in default and the whole secured indebtedness shall, at the option of the Board, become due and payable without notice.
9. BOARD TO BE HELD HARMLESS FROM PROJECT DAMAGE: The Sponsor agrees to indemnify the State of Idaho, the Idaho Water Resource Board, and their officers, agents, and employees against and to hold the same free and harmless from any and all claims, demand, losses, costs, expenses, or liability due or incident to, either in whole or in part and whether directly or indirectly, the design, construction, operation, repair, maintenance, existence, or failure of the project, or any of the works or its facilities. The Sponsor may be required by the Board to carry a reasonable coverage of liability insurance for this purpose.
10. INTERPRETATION: Words used herein shall include the singular or plural, and feminine, masculine or neuter as the context may require.
11. CONTINUING OBLIGATION: The rights and obligations herein shall inure to and be binding upon the successors, heirs, executors, administrators, and assigns of the respective parties.
12. APPLICABLE LAW: This ASSIGNMENT shall be governed and construed according to the laws of the State of Idaho.

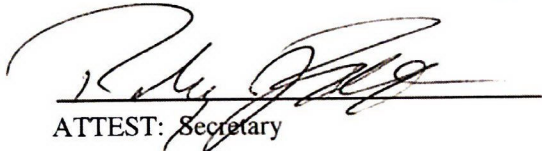
IN WITNESS WHEREOF, Sponsor has hereunto affixed hands and seals as of the day and year of this instrument.

DATED, 20<sup>th</sup> day of September, 2016.

**DALTON WATER ASSOCIATION, INC.**

6360 N. 4<sup>th</sup> Street  
Dalton Gardens, ID 83815

  
Kevin Kirking, President

  
ATTEST: Secretary

ASSIGNMENT accepted by:

**IDAHO WATER RESOURCE BOARD**  
P.O. Box 83720  
Boise, ID 83720-0098

  
Brian Patton, Bureau Chief  
Idaho Department of Water Resources

**ACKNOWLEDGMENT**

STATE OF IDAHO                    )  
                                              )  
County of Kootenai )

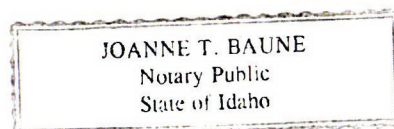
On this 20<sup>th</sup> day of September, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared KEVIN KIRKING and Randy Biddle, known to me to be the PIPS & Secretary of the DALTON Water Association that executed the instrument or the persons who executed the instrument on behalf of said Dalton Water, and acknowledged to me that they executed the same.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Joanne T Baune  
Notary Public for the State of Idaho

Residing at Dalton Gardens,

Idaho, Commission expires:  
11-16-2017



W2007 IWRB water rights

SCANNED  
MAY 24 2023

FOR INTERNAL USE OF THE DEPARTMENT

APPROVED AS TO FORM

~~Sascha Marston~~

~~Financial Manager~~

\_\_\_\_\_  
Date

~~Janet Garrett~~

~~Purchasing Agent~~

\_\_\_\_\_  
Date

Andrea Courtney

Andrea Courtney

Deputy Attorney General

Department of Water Resources

9/26/10

Date



## IDAHO WATER RESOURCE BOARD

### AMENDMENT NO. 1: REVOLVING DEVELOPMENT ACCOUNT LOAN CONTRACT AGREEMENT

This Contract Amendment, entered into between the IDAHO WATER RESOURCE BOARD (Board) and the Dalton Water Association (Sponsor), is made in reference to the following facts:

#### RECITALS

- A. On July 22, 2016, the Board authorized a loan in the amount not to exceed \$1,036,900.00 to be used by the Sponsor for water main line relocation and upgrades to the existing water system.
- B. Following the Board's July 22, 2016, authorization, the Board entered into a Revolving Development Account Loan Contract Agreement, dated September 9 2016, with the Sponsor.
- C. Article 19 of the Contract allows the Contract to be amended in writing at any time upon mutual agreement of the Board and the Sponsor.
- D. The parties now wish to extend the deadline to complete construction to December 31, 2017. Construction and relocation of the new water main line and associated water system upgrades will not be completed by December 31, 2016, as stipulated in the Contract. The schedule to begin construction of the Government Way Widening Project has been changed from the Fall of 2016 to the Spring of 2017. Due to this schedule change, the installation of the Dalton Water Association water system improvements and upgrades will not commence until the Spring of 2017.

The Contract is hereby amended as follows:

- 1. Delete the existing section a. in Article 8.
- 2. Insert the following new section a. in Article 8:
  - a. Project Completion Date – The Sponsor shall cause the construction of the Project to be completed no later than **December 31, 2017**, provided that said date may be extended upon written approval of the Board.
- 3. All other provisions of the contract shall remain unchanged and in effect.

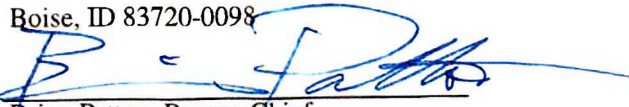
IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment as of the date executed by both parties.

**IDAHO WATER RESOURCE BOARD**

322 E. Front Street

P.O. Box 83720

Boise, ID 83720-0098



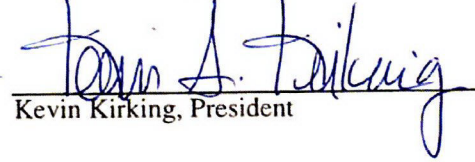
Brian Patton, Bureau Chief

Idaho Department of Water Resources

**DALTON WATER ASSOCIATION**

6360 N. 4<sup>th</sup> Street

Dalton Gardens, ID 83815



Kevin Kirking, President

11/7/2016  
Date

11/1/16  
Date

SCANNED

MAY 24 2023



## IDAHO WATER RESOURCE BOARD

### AMENDMENT NO. 2: REVOLVING DEVELOPMENT ACCOUNT LOAN CONTRACT AGREEMENT

This Second Contract Amendment, entered into between the IDAHO WATER RESOURCE BOARD (Board) and the Dalton Water Association (Sponsor), is made in reference to the following facts:

#### RECITALS

- A. On July 22, 2016, the Board authorized a loan in the amount not to exceed \$1,036,900.00 to be used by the Sponsor for water main line relocation and upgrades to the existing water system.
- B. Following the Board's July 22, 2016, authorization, the Board entered into a Revolving Development Account Loan Contract Agreement, dated September 9, 2016, with the Sponsor.
- C. On November 7, 2016, the parties agreed, in a Contract Amendment, to extend the deadline to complete construction to December 31, 2017.
- D. Article 19 of the Contract allows the Contract to be amended in writing at any time upon mutual agreement of the Board and the Sponsor.
- E. The parties now wish to extend the deadline to complete construction to December 31, 2018. Construction and relocation of the new water main line and associated water system upgrades was not completed by December 31, 2017, as stipulated in the Contract. The schedule to begin construction of the Government Way Widening Project has been changed from the Fall of 2017 to the Spring of 2018. Due to this schedule change, the installation of the Dalton Water Association water system improvements and upgrades will not commence until the Spring of 2018.

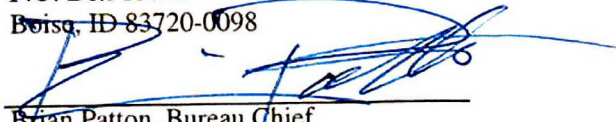
The Contract is hereby amended as follows:

- 1. Delete the existing section a. in Article 8.
- 2. Insert the following new section a. in Article 8:
  - a. Project Completion Date – The Sponsor shall cause the construction of the Project to be completed no later than **December 31, 2018**, provided that said date may be extended upon written approval of the Board.
- 3. All other provisions of the Contract shall remain unchanged and in effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Contract Amendment as of the date executed by both parties.

**IDAHO WATER RESOURCE BOARD**

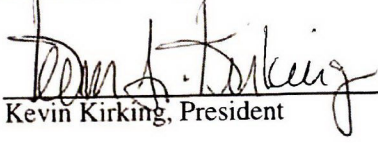
322 E. Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

  
\_\_\_\_\_  
Brian Patton, Bureau Chief  
Idaho Department of Water Resources

3/5/18  
Date

**DALTON WATER ASSOCIATION**

6360 N. 4<sup>th</sup> Street  
Dalton Gardens, ID 83815

  
\_\_\_\_\_  
Kevin Kirking, President

2/28/18  
Date

## Memorandum



To: Kevin Kirking  
From: Rick Collingwood  
Date: 3-6-18  
Re: Dalton Water Association – Loan Contract Amendment No.2

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Kevin,

Attached is an executed original of the Contract Amendment No.2 for the Dalton Water Association's water system improvements project for your records.

Rick

**Loan Contract No. IWRB1010**

Recording Fee: Exempt  
(see Idaho Code § 67-2301)



This block for Recorder use only.

**STATEMENT OF THE LOAN**  
**(A Lien Under Idaho Code § 42-1756(5) and (7))**

**Lienor:** STATE OF IDAHO  
IDAHO WATER RESOURCE BOARD  
322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

**Debtor:** DALTON WATER ASSOCIATION, INC  
6360 N. 4<sup>th</sup> Street  
Dalton Gardens, ID 83815

This statement of the loan reflects the Lienor, Idaho Water Resource Board's ("**Board**"), Revolving Development Account Loan Contract ("Loan Contract") and Security Agreement, both dated September 9<sup>th</sup>, 2016, Amendment No. 1 to The Loan Contract dated November 7, 2016, and Amendment No. 2 to The Loan Contract dated March 6<sup>th</sup>, 2018 entered into by the Board and Debtor.

In accordance with Idaho Code § 42-1756(5), this statement includes a summary of the loan amount, terms, and security. Pursuant to Idaho Code § 42-1756(5) and (7), this statement shall be recorded in the lien book of the county recorder(s) where the Project<sup>1</sup> is located.

**1. Loan Amount.** To finance Debtor's Project costs, the Board agreed to loan Debtor an amount of money not to exceed \$1,036,900.00. Debtor shall pay interest to the Board at the rate of 3.5% per annum of the unpaid balance of the amounts of money disbursed, pursuant to the Loan Contract, from the date of disbursement of each principal amount.

<sup>1</sup> "Project" means all works and facilities proposed to be constructed by Debtor, as described in the Loan Contract and as approved in writing by the Board. Unless a written extension is executed by the Board, construction of the Project shall be completed not later than December 31, 2018.

2. **Loan Term.** Subject to the conditions of the Loan Contract and Idaho Code § 42-1756(4), the Loan Contract shall remain in effect until the principal amount of the loan, all interest thereon, and any money owed to the Board under the Loan Contract has been paid in full. Subject to mutually agreed upon modification, the Debtor shall make 15 annual and approximately equal payments to the Board, repayment commencing not later than one year from the date of final disbursement of funds for the Project.

3. **Loan Security.** As security for any amount loaned under the terms and conditions of the Loan Contract, and pursuant to the terms and conditions of the Security Agreement, Debtor has granted to the Board a continuing security interest in, and assigns and pledges to the Board all of Debtor's and its successors' and assigns', right, title and interest in the following collateral, whether now owned or subsequently acquired:

a. **WATER RIGHTS**

| Water Right | Stage   | Priority Date | Source      | Amount   |
|-------------|---------|---------------|-------------|----------|
| 95-7008     | License | 11/22/1967    | Groundwater | 2.38 cfs |

b. **PROJECT INFRASTRUCTURE**

All of the interest in the following water rights as listed in the record of the State of Idaho, Department of Water Resources, along with all easements, and rights of way, pipelines, water mains, wells, storage reservoirs, pumps, canals, dams, headgates, flumes, weirs water control structures, water treatment plants, and all other rights and privileges owned by the Sponsor or belonging to, or with, leading to, connected with, or usually had or enjoyed in connection with the following described water rights in **Kootenai County, Idaho.**

I, the Executive Officer of the Idaho Water Resource Board, certify and declare under penalty of perjury pursuant to the laws of the State of Idaho, that the above is true and correct:



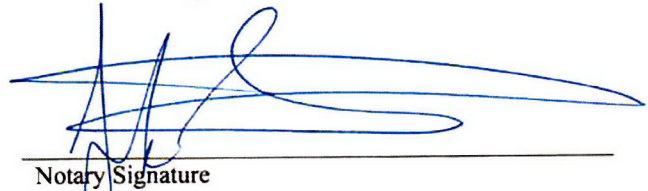
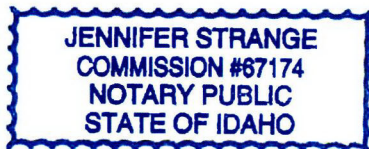
**Brian Patton**  
Executive Officer

State of Idaho  
**IDAHO WATER RESOURCE BOARD**  
322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

State of Idaho

County of Ada

This instrument was signed or acknowledged before me on February 23, 2023  
by Brian Patton



Notary Signature

Printed Name

Jennifer Strange

Commission expires:

3-2-2028