

MEMORANDUM OF AGREEMENT REGARDING COLORADO SPRINGS SUBSTITUTION OPERATIONS

This Agreement is made among the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise (“River District”), the City of Colorado Springs acting through its Utilities Enterprise (“CSU”), the City and County of Denver acting by and through its Board of Water Commissioners (“DWB”), the Northern Colorado Water Conservancy District (“Northern”), the County of Summit, acting by its Board of County Commissioners (“Summit County”), Vail Summit Resorts, Inc. (“Vail”), and the Town of Breckenridge (“Breckenridge”). This Agreement is effective as of May 15, 2003 (the “date of this Agreement.”)

Recitals

A. Green Mountain Reservoir was constructed as part of the Colorado-Big Thompson Project (the “C-BT Project”) to provide water for use in western Colorado as compensation for construction and operation of the C-BT Project and to provide replacement water for diversions by C-BT Project collection facilities for the use and benefit of Northern. The United States Bureau of Reclamation (“Reclamation”) operates Green Mountain Reservoir, located on the Blue River, pursuant to Senate Document 80 and the October 12, 1955 and April 16, 1964 Decrees entered in the Consolidated Cases Nos. 2782, 5016 and 5017, U.S. District Court for the District of Colorado, including all supplemental orders, stipulations, and decrees (“the Blue River Decrees”).

B. CSU diverts water from the headwaters of the Blue River through its Continental/Hoosier transmountain diversion system facilities (the “CSU Blue River System”), located upstream of Green

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Mountain Reservoir. CSU operates the CSU Blue River System subject to separate decrees generally referred to as CSU's 1929 Rights and CSU's 1948 Blue River Decree rights, some of which remain conditional rights at the date of this Agreement.

C. DWB owns and operates the Roberts Tunnel and Dillon Reservoir, both located on the Blue River and its tributaries, upstream of Green Mountain Reservoir. DWB's Blue River diversions are subject to the terms of the Blue River Decrees.

D. Reclamation's right to fill Green Mountain Reservoir is senior in administrative priority to CSU's 1948 Blue River Decree rights and DWB's Roberts Tunnel and Dillon Reservoir.

E. DWB is a party to two separate agreements both dated December 30, 1991 (the "DWB Substitution Agreements"), and the joint substitution decree dated March 5, 1996, in U.S. District Court, District of Colorado C.A. 2782, 5016 and 5017 and in Case No. 91CW252, Water Division 5 (the "DWB Substitution Decree"). The DWB Substitution Agreements and DWB Substitution Decree set forth procedures to allow DWB to provide sources of water in substitution for water diverted by DWB from the Blue River during years in which Reclamation determines that Green Mountain Reservoir did not fill as described in the Blue River Decrees.

F. CSU desires to establish procedures to enable it to provide sources of water in substitution for water diverted by CSU from the Blue River during years in which Reclamation determines that

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Green Mountain Reservoir will not fill as described in the Blue River Decrees.

G. The River District owns and operates Wolford Mountain Reservoir, located on Muddy Creek. The River District desires to obtain an annual right to the use of water (free of replacement obligation to DWB and others) physically stored by CSU in its Upper Blue Reservoir in order to provide for the water needs of individuals and entities (including, but not limited to Summit County, Vail, and Breckenridge) in the Blue River Basin and its tributaries.

H. Summit County, Vail, and Breckenridge use or provide water in the Blue River basin and are interested in contracting for the use of water made available to the River District in the West Slope Account pursuant to this Agreement.

I. Northern is a beneficiary of the replacement pool in Green Mountain Reservoir, is a water user in the upper Colorado River basin, and desires to protect the ability of Green Mountain Reservoir to obtain water to which it is entitled under the Blue River Decrees.

J. The parties desire to meet the requirements of Green Mountain Reservoir under the Blue River Decrees and promote the maximum utilization of existing water supplies.

WHEREFORE, in consideration of the mutual promises and covenants provided for herein, the parties agree as follows:

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Agreement

1. Definitions. Wherever capitalized throughout this Agreement, the following terms shall have the meaning set forth below:

a. “GMR Fill Deficit” means the amount of water quantified by Reclamation that is required to fill Green Mountain Reservoir as described in the Blue River Decrees. The GMR Fill Deficit includes amounts of water that may be required to fill Green Mountain Reservoir as a result of diversions or storage by DWB, CSU and others. This Agreement does not address how the GMR Fill Deficit is quantified by Reclamation and does not affect or alter the manner in which Reclamation accounts for depletions caused by DWB, CSU or others in the quantification of the GMR Fill Deficit.

b. “Replacement Obligation” means the total amount of water required from DWB and CSU to meet the GMR Fill Deficit. Replacement Obligation does not include water that may be owed by entities other than DWB and CSU to meet the GMR Fill Deficit, and this Agreement does not create or alter any obligation that CSU or DWB may have to provide replacement water to Green Mountain Reservoir for depletions caused by others.

c. “DWB Replacement Obligation” means DWB’s pro rata share of the Replacement Obligation determined under the provisions of paragraph 8 of this Agreement.

d. “CSU Replacement Obligation” means CSU’s pro rata share of the Replacement Obligation determined under the provisions of paragraph 8 of this Agreement. The CSU Replacement Obligation includes replacement for the 250 acre feet of Upper Blue Reservoir water

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that will be booked over each year into the West Slope Account for the use of the River District under the terms and conditions of this Agreement.

e. “Replacement Water” means stored water that is used to meet the CSU Replacement Obligation by means of direct release and/or by Substitution as provided in this Agreement.

f. “Substitution” means the procedures whereby CSU may use stored water to reduce the amount of water CSU would otherwise be obligated to bypass from diversion or to release from upstream storage to complete the annual fill of Green Mountain Reservoir under the terms and conditions provided in this Agreement.

g. “Substitution Year” occurs when there is a GMR Fill Deficit.

h. “CSU Substitution Account” means the storage account maintained by the River District in Wolford Mountain Reservoir not to exceed 1,750 acre feet to manage CSU’s Upper Blue Reservoir water booked into Wolford Mountain Reservoir and the water purchased by CSU from the River District under paragraph 6 of this Agreement for use by CSU under the terms and conditions of this Agreement.

i. “GMR Water Year” means the period between the “start of fill date” of a calendar year set by Reclamation pursuant to the Blue River Decrees up to the “start of fill date” set by Reclamation for the following calendar year.

j. “West Slope Account” means the storage account maintained by CSU in Upper Blue Reservoir for 250 acre feet of Wolford Mountain Reservoir water (or such lesser amount as may be requested by the River District) booked into Upper Blue Reservoir each year for use by the River District and its contractees under the terms and conditions of this Agreement.

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2. CSU Diversions.

a. Diversions by CSU pursuant to its 1929 Rights are not subject to this Agreement and shall not be counted in determining CSU's total diversions from the Blue River or in calculating the CSU Replacement Obligation in a Substitution Year.

b. Annual diversions by CSU from the Blue River and its tributaries in any given calendar year shall not exceed ten (10) percent of the natural flow of the Blue River near Dillon below its confluence with the Snake River and Ten Mile Creek as described in the Blue River Decrees.

c. In any year in which Reclamation notifies CSU of a forecast of a Substitution Year, CSU agrees to store and reserve in its Upper Blue Reservoir, the first 2,100 acre feet of water available to Upper Blue Reservoir for storage, such water to be allocated in a manner consistent with the remaining provisions of this Agreement.

d. CSU may divert water through CSU's Blue River System notwithstanding a call placed by GMR, so long as (i) the terms of this Agreement are in effect, (ii) sufficient Replacement Water to meet the reasonably anticipated CSU Replacement Obligation is on hand in storage in reservoirs described in paragraph 9 of this Agreement to meet the replacement schedule to be established by Reclamation, (iii) the plan of Substitution provided for hereunder is consistent with the terms and conditions of this Agreement, the Blue River Decrees and has been approved by Reclamation, and (iv) prior notification has been provided by CSU to the Colorado State Engineer or the designated representative of the Colorado State Engineer.

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3. Upper Blue Reservoir Bookover With Wolford Mountain Reservoir.

a. Each year CSU will hold 250 acre feet of water (or such lesser amount as is requested by the River District) in the West Slope Account. The 250 acre feet shall be the first 250 acre feet of water stored and held in Upper Blue Reservoir in Substitution Years in accordance with subparagraph 2.c. The 250 acre feet of water stored in the West Slope Account each year (or such lesser amount as may be requested by the River District or its contractees) will be available annually, at the request of the River District, for a reservoir bookover with a like-amount of water stored by the River District in Wolford Mountain Reservoir as provided in this Agreement (the “Reservoir Bookover”).

b. The intent of the Reservoir Bookover is:

i. To provide the River District and its contractees with an annual supply not to exceed 250 acre feet of Wolford Mountain Reservoir water physically stored in CSU’s Upper Blue Reservoir; and

ii. To provide a storage account of not to exceed 1,750 acre feet at Wolford Mountain Reservoir to store Upper Blue Reservoir water booked into Wolford Mountain Reservoir to assist CSU in meeting the CSU Replacement Obligation.

c. The Reservoir Bookover described in this paragraph 3 does not involve an appropriative right and does not require the adjudication of an exchange; however, CSU and the River District will include the Reservoir Bookover in the CSU Substitution Decree application contemplated in paragraph 11, below.

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d. The parties consent to the annual operation of the Reservoir Bookover. Subject to the provisions of subparagraph 18.c., the parties agree to support any water rights application filed by CSU and the River District that includes the Reservoir Bookover to the extent such application is consistent with this Agreement.

4. Wolford Mountain Reservoir Water Stored in Upper Blue Reservoir.

a. The River District intends to enter into contracts with Summit County in the amount of 100 acre feet, Vail in the amount of 100 acre feet, and Breckenridge in the amount of 50 acre feet, on terms agreed upon by the River District and each respective entity for the delivery and use of water stored in the West Slope Account each year. In the event that Summit County, Vail or Breckenridge does not enter into a contract with the River District for water to be released from the West Slope Account, any such entity may withdraw its consent to the terms and conditions of this Agreement and may withdraw as a party from this Agreement by giving written notice to the other parties to the Agreement.

b. All of the water stored in the West Slope Account shall be available for release every year, including Substitution Years, at the request of the River District or its contractees, as provided in subparagraph 4.i, for all beneficial uses, including fully consumptive uses, free of any replacement requirement by the River District or its contractees to DWB, Green Mountain Reservoir or others.

Any replacement owed to Green Mountain Reservoir for the water stored in or used from the West Slope Account will be provided as part of the CSU Replacement Obligation.

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c. Each year the West Slope Account shall be available for release at the request of the River District and its contractees at any time between June 15th and November 15th of that year. Subject to CSU's determination of operational and safety constraints such as downstream calls, icing, and avalanche danger, CSU will cooperate with the River District and its contractees with respect to any requests the River District or its contractees may make for releases of the West Slope Account at times other than the period of June 15th through November 15th of each year. Provided, however, that the River District and its contractees acknowledge and agree that any water remaining in the West Slope Account after November 15th of each year is at risk and may not be capable of delivery as requested by the River District or its contractees.

d. Subject to water accounting procedures approved by the State Engineer's Office as provided in subparagraph 4.f., the River District and its contractees shall be entitled to reuse and successively use all return flows, if any, following the initial use of water released from the West Slope Account without a change of water right. The accounting will track the use, reuse or successive use of water from the West Slope Account in order to demonstrate that the associated depletions do not exceed the accumulated total amount of water released from the West Slope Account in the then-current GMR Water Year plus all prior GMR Water Years.

e. Any use, reuse or successive use by exchange of water released from the West Slope Account shall be in priority, subject to the approval of the State Engineer or his designee, and without injury to (i) Denver's exchange operations from Williams Fork Reservoir to Dillon Reservoir/Roberts Tunnel, as confirmed in the Blue River Decrees and Case No. 88CW382, Water Division No. 5; (ii) CSU's unadjudicated exchanges shown on Attachment A, and (iii) other rights

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of exchange decreed at any time to be in existence as of the date of this Agreement. The parties' agreement in this subparagraph 4.(e.) applies only to the administration of the use, reuse or successive use by exchange of water released from the West Slope Account. With respect to the exchanges identified in Attachment A, nothing herein shall prevent any party from objecting to the adjudication of those exchanges by CSU on any grounds. If and when those exchanges are adjudicated, the decreed amount and priority thereof will govern the administration of those exchanges as against the use, reuse or successive use by exchange of water released from the West Slope Account, notwithstanding the terms of subparagraph 4.(e.)(ii.) and Attachment A.

f. The River District shall be responsible for the required accounting of water depletions resulting from the use, reuse and successive use of water from the West Slope Account, and shall provide personnel and equipment reasonably necessary to perform such accounting. The River District's accounting shall be available to the parties upon request. All costs associated with the required water accounting shall be borne by the River District and its contractees.

g. The parties to this Agreement consent to use of 250 acre feet of water from the West Slope Account each year by the River District and its contractees. Subject to the provisions of subparagraph 18.c., the parties shall support the ability of the River District and its contractees to reuse and successively use all return flows from the use of water released from the West Slope Account consistent with the terms and conditions of this Agreement. In the event a judicial, regulatory or other administrative order is entered finding the River District or its contractees do not have the legal right to reuse and successively use the return flow of Wolford Mountain Reservoir water booked into the West Slope Account under the existing decrees for Wolford Mountain

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Reservoir, then the parties to this Agreement shall cooperate in good faith to find (i) an acceptable alternative that would provide the River District and its contractees with full rights of reuse and successive use of the 250 acre feet of water available annually for release from the West Slope Account or (ii) some other form of mitigation to the River District that is acceptable to the parties to this Agreement. If no acceptable alternative or other form of mitigation is found, the River District, at its option, may terminate this Agreement by giving written notice to the other parties.

h. The water booked into the West Slope Account shall not be used to meet the CSU Replacement Obligation.

i. The storage, release, and use of the Wolford Mountain Reservoir water in the West Slope Account shall not be deemed to be an exercise of the exchange rights defined and granted by the agreement between Summit County and DWB, dated September 18, 1985, as amended as of the date of this Agreement (the "Summit County Agreement"); consequently, there shall be no deductions against the volume limits set forth in the Summit County Agreement for such exchanges, and DWB shall not be entitled to any replacement water for the storage, release and use of water from the West Slope Account. Further, the storage, release, and use of the Wolford Mountain Reservoir water from the West Slope Account shall not be credited against the volumes of allowable depletions with respect to minimum stream flow rights under either the Upper Blue River Basin Memorandum of Agreement or the Lower Blue River Basin Memorandum of Agreement between Summit County and the Colorado Water Conservation Board, both dated October 25, 1988 and recorded at Reception Nos. 447107 and 447108 respectively of the Summit County real property records. If the Colorado Water Conservation Board disagrees with the terms of this subparagraph

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4.i., Summit County may at its option terminate its participation in, and consent to the terms of, this Agreement by giving written notice to the other parties. However, if Summit County terminates its participation in this Agreement, the remaining parties nevertheless shall remain bound to the terms and conditions of this Agreement.

j. In order to ensure efficient operations under this Agreement, the River District and its contractees shall designate a contact person who shall be authorized to coordinate with CSU all operational matters, including without limitation scheduling for storage, bookover and release of water from the West Slope Account. The River District and its contractees shall provide written notice to CSU of the identity of the authorized contact person. Designation and use of an authorized contact person by the River District and its contractees is a prerequisite to CSU's obligation to provide releases from Upper Blue Reservoir under this Agreement. The River District and its contractees shall be limited to one flow change per day with twenty four hour advanced notification to CSU for releases from the West Slope Account. The authorized contact person shall coordinate releases among the River District and its contractees in such a manner as to minimize the number of required flow changes from the West Slope Account.

5. CSU Substitution Account in Wolford Mountain Reservoir.

The River District will maintain the CSU Substitution Account in Wolford Mountain Reservoir, which shall be used for the sole purpose of assisting CSU to meet the CSU Replacement Obligation. Water stored in the CSU Substitution Account will therefore be available for release only in Substitution Years, except as otherwise expressly agreed by the River District. CSU's

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obligation to book over 250 acre feet (or such lesser amount requested by the River District) of water to the West Slope Account shall continue even if the amount of water held in the CSU Substitution Account reaches and stays at the 1,750 acre foot maximum. This means that Upper Blue Reservoir water will not be credited to the CSU Substitution Account under the Reservoir Bookover to the extent the amount of water in storage in the CSU Substitution Account exceeds 1,750 acre feet as calculated at the end of a GMR Water Year. In order to determine the amount of water in the CSU Substitution Account at the end of the current GMR Water Year, all releases from the CSU Substitution Account during the current GMR Water Year shall be deducted from the amount of water stored in the CSU Substitution Account at the end of the preceding GMR Water Year prior to adding amounts for accruals to the CSU Substitution Account during the current GMR Water Year. The amount available for release from the CSU Substitution Account in any given GMR Water Year shall be the amount of water in storage in such account calculated in accordance with this Agreement for the end of the preceding GMR Water Year.

6. Initial Fill of the CSU Substitution Account.

In addition to Upper Blue Reservoir water booked into the CSU Substitution Account, CSU agrees to purchase up to 1,250 acre feet of water from the River District in an annual amount of 250 acre feet following execution of this Agreement. For the first three years this Agreement is in effect, CSU shall purchase 250 acre feet annually, and all such purchases shall be credited towards the total of up to 1,250 acre feet provided above. If this Agreement is not approved by the Secretary of the Interior by the end of 2005, CSU, by written notice to the River District and the other parties to this

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Agreement, may suspend its obligation to purchase the balance of the water until the approval of the Secretary of the Interior is obtained. Upon approval of this Agreement by the Secretary of the Interior, CSU thereafter shall be obligated to purchase 250 acre feet per year until either a total of 1,250 acre feet has been purchased or until the CSU Substitution Account is filled to 1,750 acre feet at the end of a GMR Water Year, whichever occurs first. All Wolford Mountain Reservoir water purchased by CSU will accrue in the CSU Substitution Account, subject to the overall account cap of 1,750 acre feet. This means that CSU will not be required to purchase and the River District will not be required to sell water pursuant to this paragraph once the total water in storage in the CSU Substitution Account reaches 1,750 acre feet by means of purchases and Reservoir Bookovers at the end of a GMR Water Year. The price for purchases made by CSU pursuant to this paragraph shall be in accordance with the River District's water marketing policy at the then-prevailing rate for transmountain users.

7. Change in Use of Water Rights.

Subject to the provisions of subparagraph 18.c., the parties will support any change applications that are reasonably necessary to implement this Agreement and that are consistent with this Agreement. Any change application will be the responsibility of the respective water right owner, and will be filed at the sole discretion of the water right owner.

8. Allocation of CSU and DWB Replacement Obligations.

Whenever Reclamation determines that the then-current year is a Substitution Year, the

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allocation of the Replacement Obligation between CSU and DWB shall be determined as follows:

a. In each year in which the total amount of water diverted by CSU and DWB exceeds the GMR Fill Deficit, the allocation of the Replacement Obligation between CSU and DWB shall be calculated using the following formulas:

$$\text{CSU Replacement Obligation} = \frac{(\text{CSU diversions}) \times (\text{Replacement Obligation})}{(\text{CSU diversions} + \text{DWB diversions})}$$

$$\text{DWB Replacement Obligation} = \frac{(\text{DWB diversions}) \times (\text{Replacement Obligation})}{(\text{CSU diversions} + \text{DWB diversions})}$$

CSU diversions in the above formulas include water stored in the West Slope Account.

b. In each year in which the total amount of water diverted by DWB, CSU and others does not exceed the GMR Fill Deficit, DWB and CSU shall owe to GMR the respective amounts diverted by DWB and CSU during that year.

9. CSU's Replacement Water Operations. The CSU Replacement Obligation shall be met in the manner provided for below:

a. The initial source of Replacement Water shall be from CSU's Upper Blue Reservoir. Subject to availability, the first 2,100 acre feet of Replacement Water will be released from Upper Blue Reservoir to DWB's Dillon Reservoir (any water in the West Slope Account will not be available for release as Replacement Water). The timing of releases to DWB's Dillon Reservoir will be coordinated between the River District, CSU, and DWB, with releases made in the late summer and early fall to provide environmental benefits.

b. If CSU's Replacement Obligation exceeds the amount of water available for release

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under subparagraph 9.a, the next incremental source of CSU's Replacement Water shall be from water obtained by CSU from DWB's account in Wolford Mountain Reservoir, DWB's Williams Fork Reservoir, or DWB's Dillon Reservoir, provided that the total amount of Replacement Water from sources identified in subparagraphs 9.a. and 9.b used to repay CSU's Replacement Obligation shall not exceed 2,100 acre feet. In repayment to DWB, CSU will release water from CSU's Montgomery Reservoir to DWB or by mutual agreement of CSU and DWB from other sources that CSU can deliver to DWB in the South Platte River above Strontia Springs in an amount equal to the amount obtained by CSU from DWB pursuant to this subparagraph 9.b. In making such repayment to DWB, CSU will also add an additional amount of water to replace the increased transit losses incurred in conveying water in natural streams to DWB from Montgomery Reservoir or from the point of delivery of the other CSU sources in the South Platte River above Strontia Springs. The increased transit losses are a result of the reduction in the amount of water delivered by CSU to the confluence of the North Fork of the South Platte River with the South Platte River as compared with the delivery of the same amount of water to the same location from the East Portal of the Roberts Tunnel. As between CSU and DWB, it is agreed that such transit loss shall be equal to six percent of the amount of water to be released from Montgomery Reservoir for the benefit of DWB or such greater or lesser amount as determined appropriate by the Division 1 Engineer's Office. Deliveries to DWB shall be made in accordance with a schedule mutually agreed between DWB and CSU in the same calendar year as water is obtained by CSU from DWB under this subparagraph 9.b. and shall be at a location and at a rate usable by Denver.

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c. The next increment of the CSU Replacement Obligation will be made by Substitution from the CSU Substitution Account in Woford Mountain Reservoir consistent with the Replacement Obligation schedule of releases set by Reclamation.

d. If the water available under subparagraphs 9.a., 9.b., and 9.c. is inadequate to meet the CSU Replacement Obligation to Green Mountain Reservoir, the remainder of the CSU Replacement Obligation shall be made by Substitution from CSU's Homestake Reservoir in the Eagle River Basin. Any Substitution releases from Homestake Reservoir shall be coordinated with the River District and Vail and made in the late summer and early fall to provide environmental benefits, subject to meeting the Replacement Obligation schedule set by Reclamation.

e. The amount released by CSU pursuant to subparagraph 9.a. and diverted or stored by DWB and the amount obtained by CSU from DWB pursuant to subparagraph 9.b. shall be added to the DWB Replacement Obligation, and shall be released by DWB in accordance with the DWB Substitution Agreements and DWB Substitution Decree. DWB may, at its discretion, simply pass through Dillon Reservoir the water released by CSU from Upper Blue Reservoir. In such circumstance, CSU shall make such releases at times consistent with the Replacement Obligation schedule of releases set by Reclamation; the DWB Replacement Obligation shall not include any CSU releases passed through Dillon Reservoir; and such CSU releases shall be counted as part of the CSU Replacement Obligation.

f. Attachment B provides illustrative examples of how the parties to this Agreement intend that CSU's Replacement Obligation will be paid.

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g. Subject to the provisions of subparagraph 18.c., all parties to the Agreement will support DWB's ability to use stored water in Williams Fork, Dillon, or Wolford Mountain Reservoirs to meet the CSU Replacement Obligation as provided in this Agreement. In the event DWB, due to a judicial, regulatory or other administrative order, is unable to use stored water in Williams Fork, Dillon, or Wolford Mountain Reservoirs to meet the CSU Replacement Obligation under subparagraphs 9.b. and 9.e., the parties will cooperate in good faith to find an alternative to the operation described in subparagraph 9.b., which alternative is subject to the following principle:

DWB will be allowed to perform a substitution on or otherwise be able to receive water at Dillon Reservoir or on the South Platte above Strontia Springs in the amount of the CSU Replacement Obligation, up to a maximum of 2,100 acre feet in any year, minus the amount of Replacement Water that is released by CSU from Upper Blue Reservoir under subparagraph 9.a. to meet the CSU Replacement Obligation.

If CSU and DWB cannot agree on an alternative that meets the above principle, then either CSU or DWB may terminate this Agreement by giving written notice to the other parties.

10. Transit and Evaporation Losses.

The parties to this Agreement agree that the assessment of transit losses are not necessary or appropriate in any reservoir release contemplated by this Agreement, with the exception of the transit losses to be paid by CSU pursuant to subparagraph 9.b., above. The River District shall bear any evaporation losses assessed to the CSU Substitution Account. CSU shall bear any evaporation losses assessed to the West Slope Account.

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11. CSU Substitution Decrees.

a. Following the resolution, if any, of the issue described in the following subparagraph 11.(b.), CSU and the River District shall file a joint request with the Federal District Court for the District of Colorado in its retained jurisdiction under the Blue River Decrees, and with the Division 5 Water Court to enter a supplemental decree, determining and declaring that CSU may fulfill the CSU Replacement Obligation in the manner contemplated by this Agreement (the “CSU Substitution Decrees”).

b. Summit County, Vail and Breckenridge have concerns that the diversions and storage of water and Substitutions by CSU permitted under this Agreement in a Substitution Year may decrease the opportunity for replacement operations and exchange to points on the Blue River or its tributaries upstream of Dillon Reservoir that are exercised pursuant to the Summit County Agreement and the Clinton Reservoir-Fraser River Water Agreement dated July 21, 1992 (the “Clinton Agreement”). CSU believes that its diversion and storage of water and its Substitutions under this Agreement will not decrease the opportunity for replacement operations and exchanges above Dillon Reservoir on the Blue River or its tributaries that are exercised pursuant to the Summit County Agreement or the Clinton Agreement in a Substitution Year. CSU, Summit County, Vail and Breckenridge shall cooperate in good faith to arrive at mutually agreeable terms and conditions to be included in the CSU Substitution Decrees that in a Substitution Year will allow the full amounts of diversion and storage of water and Substitutions by CSU described in this Agreement without decreasing the amounts of water that can be exchanged or replaced above Green Mountain Reservoir pursuant to the Summit County Agreement and the Clinton Agreement, as such

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agreements are now in effect, in a Substitution Year. If the parties have not agreed to such mutually agreeable terms and conditions prior to September 15, 2003, any of Summit County, Vail, Breckenridge, or CSU may terminate this Agreement prior to October 15, 2003, by giving written notice to the other parties.

c. Subject to the provisions of subparagraph 18.c., the parties hereto agree to support the efforts of CSU and the River District to secure the CSU Substitution Decrees. CSU shall bear the primary responsibility of prosecuting the CSU Substitution Decrees. The River District will be a co-applicant entitled, along with CSU to approve stipulations and any proposed decrees. The parties agree that entry of a final and non-appealable decision of either the Federal District Court or the Division 5 Water Court that does not determine that CSU may fulfill its Replacement Obligation in substantial conformity with this Agreement, will be cause for termination of this Agreement. In such event, any party to this Agreement by written notice to the other parties may terminate this Agreement.

12. Power Replacement.

CSU shall tender power replacement to Reclamation for power interference to the GMR powerplant resulting from Substitution operations contemplated by this Agreement. Power replacement obligations of DWB are addressed in the DWB Substitution Agreements. CSU and DWB shall cooperate to assure that power replacement obligations to Reclamation are not duplicated and are equitably paid by CSU and DWB respectively. CSU shall be responsible for

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any power replacement required to be made for water stored in or used from the West Slope Account.

13. No Additional CSU Substitutions.

CSU shall not seek approval of additional or different Substitutions or additional or different points of delivery for the CSU Replacement Obligation, absent the approval of the other parties to this Agreement. Nothing in this Agreement is intended to prevent CSU from developing its remaining conditional 1948 Blue River Decree rights consistent with the Blue River Decrees and applicable Colorado law.

14. Priority of Denver's Exchanges.

As between CSU and DWB, CSU acknowledges that DWB has the senior right to exchange water on the Blue River.

15. Consistency With Blue River Decrees.

All water diverted by CSU by Substitution hereunder and all water made available to DWB from Montgomery Reservoir or other CSU sources as contemplated in subparagraphs 9.b. and 9.g. hereunder shall be subject to all terms, conditions, and limitations of the Blue River Decrees. It is not the intent of the parties to this Agreement or the purpose of this Agreement to alter the terms of Senate Document 80, the Blue River Decrees, the Summit County Agreement, the Clinton Agreement, or the rights of any of the beneficiaries thereof. The Substitution operations

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contemplated by this Agreement shall not impair the right of any beneficiary, present or future, of Senate Document 80, including any contractors for GMR water service to realize the full benefits of releases of stored water from GMR to the extent that they would have been entitled to such benefits if the Substitution had not been made.

16. Operational Limitations.

To the extent there may arise unforeseen operational constraints in the nature of force majeure conditions, which conditions are beyond the control of the parties, appropriate adjustments shall be made, upon consultation with and concurrence of the parties in the manner of timing and location of the CSU Replacement Obligation.

17. Approval by the Secretary of the Interior.

a. This Agreement is binding on all the parties but the parties recognize that implementation of the CSU Substitution and Replacement Obligation operations on a permanent basis will require the formal approval of the Secretary of the Interior and that such approval may require review under the National Environmental Policy Act of 1969, as amended (“NEPA”) or other applicable federal law.

b. Promptly following the resolution, if any, of the issue described in subparagraph 11.(b.), Colorado Springs shall initiate the process for obtaining the approval of the Secretary of the Interior, and shall be responsible for carrying out that process.

c. Pending NEPA review by the Secretary of the Interior, the Reservoir Bookover, sales

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and deliveries of water described in this Agreement will be implemented. Further, if a Substitution Year occurs prior to formal approval by the Secretary of the Interior, the CSU Replacement Water Operations described in this Agreement may be implemented for that year to meet the CSU Replacement Obligation, subject to the consent of Reclamation.

d. Any required federal actions by the Secretary of the Interior to consider formal approval of this Agreement herein on a permanent basis shall be carried out in compliance with the provisions of NEPA or other applicable federal law. If the Secretary of the Interior's decision requires any mitigation as a condition of the approval of this Agreement and such required mitigation would affect any party's system or operations to such a significant extent that such party determines is not in its best interest to continue its participation in this Agreement, then the parties shall cooperate in good faith either (i) to provide for an alternative operation that would not result in the mitigation requirement or (ii) to provide alternative mitigation that would not significantly affect any party's system or operation to such a significant extent that such party would determine it would not be in that party's best interest to continue participation in this Agreement. If no such alternative operation or alternative mitigation is identified by the parties, Colorado Springs, at its option, may provide for the mitigation required by the Secretary of the Interior. If the Secretary of the Interior does not approve this Agreement with the alternative operation or alternative mitigation identified by the parties, or with CSU providing the mitigation required by the Secretary of the Interior, any party may withdraw from this Agreement by giving written notice of the withdrawal to the other parties to this Agreement. If DWB, CSU or the River District withdraws from this Agreement, then this Agreement shall terminate.

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e. Subject to the provisions of subparagraph 18.c., all parties to this Agreement will cooperate in good faith with the intent that all required federal approvals are obtained and that all required federal actions for implementation of this Agreement are carried out in an expeditious manner.

f. If a Substitution Year occurs prior to the time when formal approval of the Secretary of the Interior is obtained, all parties will cooperate in good faith to assure that consent of Reclamation is obtained in a timely manner for implementation of CSU's Replacement Water Operations described in this Agreement to meet the CSU Replacement Obligation during any such Substitution Year.

g. In the event of the entry of a final and non-reviewable decision by the Secretary of the Interior that fails to approve the operations in substantial conformity with this Agreement, any party to this Agreement by written notice to the other parties may terminate this Agreement.

18. Miscellaneous Provisions.

a. Notice. All notices required or appropriate under or pursuant to this Agreement shall be given in writing mailed or delivered to the parties at the following addresses:

River District: Colorado River Water Conservation District
201 Centennial Street, Suite 200
P. O. Box 1120
Glenwood Springs, Colorado 81602
Attention: Secretary/General Manager

CSU: Colorado Springs Utilities
Attention: Chief Executive Officer
121 S. Tejon, 5th Floor

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Colorado Springs, CO 80903

DWB: Denver Board of Water Commissioners
1600 W. 12th Avenue
Denver, CO 80204-3412
Attention: Secretary/Manager

Northern: Northern Colorado Water Conservancy District
Attention: General Manager
1250 North Wilson Avenue
P. O. Box 679
Loveland, CO 80539

Summit County: Summit County Commissioners
Attention: County Manager
P.O. Box 68
208 E. Lincoln Avenue
Breckenridge, Colorado 80424

Vail: Roger McCarthy
Breckenridge Ski Resort
P.O. Box 1058
Breckenridge, CO 80424

Breckenridge: Tim Gagen, Town Manager
Town of Breckenridge
150 Ski Hill Road
P.O. Box 1058
Breckenridge, CO 80424

Any party may, by written notice given in accordance with this provision, change the address to which notices to it shall be mailed or delivered.

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b. Amendments. No amendment, modification, or novation of this Agreement or its provisions and implementation shall be effective unless in writing approved and executed by all parties with the same formality as they have approved and executed this Agreement.

c. Obligation of Parties to Cooperate or Support Certain Actions. The obligations in this Agreement for parties to cooperate in good faith or to support certain actions or activities as more fully described in paragraphs 3, 4, 7, 9, 11, and 17 of this Agreement shall not preclude participation of any party in any proceedings or activities to assure the ultimate results are consistent with this Agreement, the Blue River Decrees and Senate Document 80. Parties may file statements of objection in any water court proceedings initiated as a result of this Agreement and may participate in any Federal Court proceedings regarding the Blue River Decrees to assure that the ultimate results are consistent with this Agreement, the Blue River Decrees and Senate Document 80.

d. Previous Agreements and Decrees. Nothing contained in this Agreement shall modify, alter or supercede the Blue River Decrees, Senate Document 80, the DWB Substitution Agreements, the Summit County Agreement, the Clinton Agreement, and the DWB Substitution Decree.

e. Successors and Assigns. This Agreement shall be binding upon all successors of any party to the Agreement. A party's rights and obligations under this Agreement may only be assigned to another entity with the prior written consent of the other parties to this Agreement, which written consent shall not be unreasonably withheld.

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f. Entire Agreement and Amendments. This Agreement constitutes the entire agreement between the parties relating to the matters herein provided. Any prior agreements regarding these matters, whether written or oral, have been merged and integrated into this Agreement. No subsequent modification or amendment of this Agreement shall be valid or binding upon the parties, or enforceable against any party, unless such modification or amendment is in writing and has been signed by all parties. The parties acknowledge that this Agreement may need to be amended to add additional parties.

g. Authorizations. Each party represents that it has taken all necessary actions to authorize execution and performance of this Agreement and that the Agreement has been executed by duly authorized representatives of that party.

h. Counterparts. This Agreement may be executed in separate counterparts, and shall be binding once a counterpart has been executed by all parties.

i. Miscellaneous. The Recitals are incorporated as part of this Agreement.

This Agreement has been executed by each of the parties on the dates shown below and shall be effective as of May 15, 2003 (the "date of this Agreement.").

ATTEST:

COLORADO RIVER WATER CONSERVATION
DISTRICT, acting by and through its Colorado River Projects
Enterprise

By David Merritt
Assistant Secretary, David H. Merritt

By Paul J. Ohri
President, Paul J. Ohri

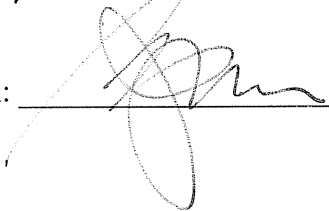
Dated: 6-17-03

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THE CITY OF COLORADO SPRINGS

By Phillip H. Tollefson
Phillip H. Tollefson, P.E.
Chief Executive Officer, Colorado Springs Utilities

Dated: June 13, 2003

Approved as to Form: 

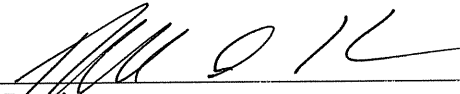
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THE CITY AND COUNTY OF DENVER,
acting by and through its
BOARD OF WATER COMMISSIONERS

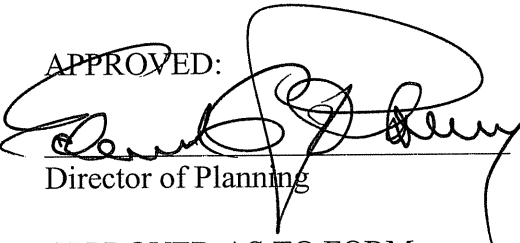
ATTEST:

By: 
Secretary

By: 
President

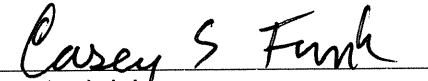
DATE: 6-25-03

REGISTERED AND COUNTERSIGNED:
~~Donald J. Mares~~, Auditor
CITY AND COUNTY OF DENVER

APPROVED: 
Director of Planning

By: 

APPROVED AS TO FORM:


Legal Division

THE NORTHERN COLORADO WATER
CONSERVANCY DISTRICT

ATTEST:

By Erdw. Wiseman
Secretary

By Mike Applegate
President

Dated: 6/13/2003

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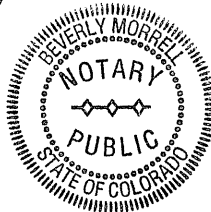
ATTEST:

VAIL SUMMIT RESORTS, INC.

By Beverly Morrell

By [Signature]

Seal



Title: COO., SVP.

Dated: 16 June 03

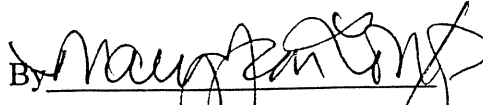
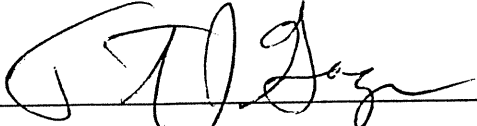
*Commission Expires
11-1-05*

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ATTEST:

TOWN OF BRECKENRIDGE

By  By 

Title TOWN CLERK Title: Town Manager

Dated: 7/24/03

Seal

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THE COUNTY OF SUMMIT, acting through its Board of County
Commissioners

By *Ron Holliday*

Title: Ron Holliday, County Manager

Dated: 6-25-03

ATTACHMENT A

CSU's Unadjudicated Exchanges

Unadjudicated Exchanges into Colorado Springs Continental-Hoosier System

From Williams Fork Reservoir to Continental-Hoosier System

Dates: July and August 1964

Maximum rate of exchange: 30 c.f.s.

From Homestake Reservoir to Continental-Hoosier System

Dates: July and August 1987

Maximum rate of exchange: 65.5 c.f.s.

ATTACHMENT B

Colorado Springs (CS) Substitution Payback Scenarios

Scenario	1	2	3	4	5	6	7	8
	(acre-feet) (acre-feet) (acre-feet) (acre-feet) (acre-feet) (acre-feet) (acre-feet) (acre-feet)							
CS pro rata Owed to GM	400	400	2500	3000	3000	3000	1850	4500
Total Upper Blue Storage	2100	2100	2100	2100	1000	1000	1500	1000
Upper Blue Released For CRD	250	250	250	250	250	250	250	250
Upper Blue Released to GM (DWB)	400	400	1850	1850	750	750	1250	750
CS Platte Released to DWB (DWB Replace to GM)	0	0	250	250	1350	1350	600	1350
CS Wolford Acct (Start of Season)	500	1750	500	500	1750	250	250	1750
Credit to Wolford (CS)	250	250	250	250	250	250	250	250
Wolford Released for Substitution (CS)	0	0	400	500	900	250	0	1750
CS Wolford Acct (End of Season)	750	1750	350	250	1100	250	500	250
Homestake Res. Release for Substitution	0	0	0	400	0	650	0	650
Total Substitution Release	400	400	2500	3000	3000	3000	1850	4500

Colorado River District (CRD)
 Colorado Springs (CS)
 Green Mountain Reservoir (GM)
 Denver Water Board (DWB)