

Bidder #: \_\_\_\_\_

Tracts: \_\_\_\_\_

## AGREEMENT FOR SALE AND PURCHASE OF CBT UNITS

This Agreement for Sale and Purchase of CBT Units (the “**Agreement**”) is made and entered into this November 18<sup>th</sup> 2024 by and between

\_\_\_\_\_, (“**Purchaser**”),  
and the **Webb-Denny Living Trust, dated April 21, 2015** (collectively “**Seller**”). The Purchaser and the Seller are collectively referred to herein as the “Parties.”

### RECITALS

WHEREAS, the Seller owns \_\_\_\_\_ Colorado-Big Thompson units (“**CBT Units**”) which they desire to sell to Purchaser; and

WHEREAS, the Purchaser desires to Purchase the CBT Units.

WHEREAS, the Parties desire to enter into this Agreement to set forth the terms and conditions on which Seller will sell and Purchaser will purchase the CBT Units.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

### TERMS AND CONDITIONS

1. **CBT UNITS TO BE TRANSFERRED.** Subject to the terms and conditions of this Agreement, the Purchaser agrees to buy and the Seller agrees to sell their interests in the CBT Units as evidenced by the allotment contract from the Northern Colorado Water Conservancy District (“**Northern Water**”) bearing a Contract ID to be assigned by Northern Water.

2. **TITLE TO UNITS; SELLER’S REPRESENTATIONS AND WARRANTIES TO OWNERSHIP OF UNITS.** Seller represents and warrants that it owns the allotment contract for the CBT Units. Seller further represents and warrants that Melanie Patton, Trustee is vested with the legal authority to act on behalf of Seller and to execute any documents, including to enter into this Agreement, and to take any other actions necessary to complete the purchase and sale contemplated by this Agreement. This representation and warranty shall apply as of the date of this Agreement and at any time up to and through closing.

3. **TRANSFER OF CBT UNITS.** It is understood by the Parties hereto that the CBT Units are intended to be conveyed to the Purchaser for its use. All transfer documentation submitted to Northern Water shall designate Purchaser as the transferee of the CBT Units.

4. **PURCHASE PRICE.** The “**Total Purchase Price**” for the CBT Units has been determined as follows:

**Total High Bid:** \$\_\_\_\_\_ (Sum of all High Bids)  
**Buyer Premium:** \$\_\_\_\_\_ (10% of Total High Bid)  
**Total Purchase Price:** \$\_\_\_\_\_ (Total High Bid + Buyers Premium)  
**Earnest Money:** \$\_\_\_\_\_ (10% of the Total Purchase Price)

a. The Purchaser shall deposit the above-defined Earnest Money upon mutual execution of this Agreement into the escrow account of the Escrow Agent, as set forth in Section 8 below (“**Escrow Agent**”), where it shall be held and applied against the Purchase Price at the time of the disbursement of funds in accordance with paragraph 9, below.

b. The Purchase Price for the CBT Units shall be \$\_\_\_\_\_ dollars per CBT unit for a Total Purchase Price as set forth above. ). The Total Purchase Price, less the Earnest Money, (“**Balance of Funds**”) shall be deposited with the Escrow Agent on or before noon on the day that is seven (7) days prior to the regularly scheduled Northern Water Board of Directors (the “**Northern Water Board**”) meeting, at which time this transfer is to be considered and acted upon by the Northern Water Board. The Parties intend to request the transfer of the CBT Units at the Northern Water Board meeting in the month following the mutual execution of this Contract or as soon as practicable thereafter. Notwithstanding anything to the contrary, if the remainder of the Purchase Price is not deposited on or before six (6) months after the execution of this Agreement, then Purchaser shall be in immediate default, this Agreement shall be null and void and Seller may direct Northern Colorado Water Conservancy District to withdraw the application for transfer, and the Earnest Money Deposit shall be released from escrow to Seller pursuant to the terms and conditions set forth in the Escrow Agreement.

5. **RESERVED.**

6. **WARRANTY TO TITLE.** The CBT Units shall be transferred by the Seller free and clear of all deeds of trust, liens, security interests, financing statement, prior or preemptive rights to purchase, encumbrances and assessments, leases, or other pending sales agreements or first right of refusal (“**Liens**”).

7. **NCWCD BOARD APPROVAL.** Purchaser and Seller shall submit to Northern Water all documents required by Northern Water for Northern Water’s approval on or before the first day of the month following the execution of this Agreement, as required to obtain the Northern Water Board’s approval of the transfer at the regularly scheduled meeting in the following month.

8. **ESCROW AGENT.** The Parties appoint as Escrow Agent: **First American Title, Longmont Colorado, C/O Jennifer Engelking.**

9. **ESCROW AND PAYMENT TERMS.** Funds held in escrow as required by this Agreement (“**Escrowed Funds**”) shall be released from escrow to Seller pursuant to the following terms and conditions, which shall be incorporated into any escrow agreement with the Escrow Agent (or if no separate escrow agreement is entered into by the Parties, the terms of this Agreement shall constitute the escrow agreement):

Please consider the following as to the timing of the deposit of the Balance of Funds and the Closing of this transaction.

- a. Closing; Disbursement of Funds. Closing of this transaction shall be held as soon as practical but in no event later than fourteen (14) days after the Purchaser has received official written confirmation from Northern Water that the transfer of the CBT Units has been approved by the Northern Water Board and that the updated public records check has been received by Northern Water, if applicable, and that the transfer of the Units is confirmed by Northern Water. Closing and the disbursement of the Escrowed Funds shall occur in accordance with this paragraph.
- b. Northern Water Approval Contingency. If Northern Water denies the transfer application due to the fault of Seller, Seller shall in good faith seek to remedy any deficiencies and request approval at the next regularly scheduled Northern Water Board meeting. However, if Seller is unable to cure any Seller-caused issues resulting in the denial, this contingency shall be deemed unfulfilled and this Agreement shall terminate and be of no further force or effect, the Parties shall be released from further obligations under this Agreement, and the Escrow Agent shall be authorized to return to the Purchaser all funds in escrow. The Purchaser reserves final payment until Northern Water approves the transfer.
- c. Escrow Agent Fees. The Purchaser and Seller shall each pay to the Escrow Agent one half for the Escrow Agent’s total fees associated with this Agreement. The Seller’s portion of this expense shall be deducted from the Escrowed Funds prior to the distribution of proceeds to Seller.
- d. Distribution of Funds. Within fourteen (14) days of the Purchaser’s receipt of official written confirmation of final transfer approval from Northern Water and that the updated public records check has been received by Northern Water, if applicable, and that the transfer of the Units is confirmed by Northern Water, the funds shall be distributed as follows:
  - i. All net proceeds of sale to Seller less the Seller’s Escrow Agent fees as described in paragraph 9.c. and any commissions as set forth in paragraph 17; and
  - ii. any interest accrued on the Escrowed Funds during the period of time the Escrowed Funds are escrowed with the Escrow Agent shall be released to the Purchaser.
- e. Failure to Close. In the event the conditions in this Agreement are not satisfied on or before the closing date in paragraph 11, below, the Escrow Agent shall deliver the Escrowed Funds, along with any interest accrued thereon, to Seller, unless: (i) the failure to close is due to the default of Seller; or (ii) the Seller and Purchaser extend

that deadline and provide written notice thereof to the Escrow Agent. This Agreement may be extended upon written approval by all Parties.

10. **APPROVAL OF THIRD PARTIES.** The Parties hereto agree that time is of the essence. Purchaser and Seller recognize the need for obtaining necessary signatures and approvals from various third parties, including Northern Water and the Northern Water Board, to accomplish this transfer. The Purchaser and Seller will cooperate and exercise their timely and commercially reasonable efforts to obtain same.

11. **CLOSING.** The closing shall occur after the Purchaser receives written confirmation from Northern Water of its approval of an Allotment Contract for the CBT Units in the Purchaser's name, subject to payment of assessments and transfer fees by Purchaser as further described in paragraphs 14 and 15, below. Closing shall be held no later than fourteen (14) days after Purchaser's receipt of written confirmation of approval of the transfer, unless a later closing date is agreed upon in writing by the Parties.

12. **AUTHORITY TO TRANSFER.** Seller warrants that Seller, individually and/or collectively, is authorized to sell the CBT Units. Further, the signatories below warrant that they are and will continue to be authorized to sign said documents on behalf of Seller and Purchaser, respectively. Said warranties shall survive the closing, and the transfer of the allocation of the CBT Units by Northern Water from Seller to Purchaser.

13. **DEFAULT.** If any payment or other condition hereof is not made, tendered or performed by either the Seller or the Purchaser as herein provided, this Agreement may be terminated at the option of the party who is not in default. If the Purchaser defaults in making or performing any covenant provided for in this Agreement, the Seller shall be able to keep the Earnest Money as liquidated damages and are not entitled to any further recourse. In the event of default by the Seller, the Purchaser shall be entitled to the return of all monies and may pursue whatever rights and remedies are available under Colorado law or in equity, including, but not limited to, specific performance and damages, not to include consequential, special, or punitive damages. The prevailing party in any legal proceeding shall be entitled to receive an award of attorney fees and court costs.

14. **TRANSFER FEES.** The Purchaser shall pay all transfer fees charged by Northern Water for issuance of an Allotment Contract in Purchaser's name.

15. **ASSESSMENTS.** All assessments in 2024 and any assessments associated with the transfer to municipal use, if applicable, are the responsibility of the Purchaser.

16. **USE OF UNITS.** The Purchaser shall have use of the CBT Units upon completion of closing under this Agreement. Notwithstanding the foregoing, after initial approval of the transfer by the Northern Water Board, neither Seller nor any other third party will use any water that may be available to the CBT Units.

17. **COMMISSIONS.** Seller shall be solely responsible for any and all real estate or other commission incurred in connection with the transactions contemplated under this Agreement through real estate brokers engaged by Seller. Seller agrees to indemnify and hold Purchaser harmless from the claims of any person or entity for real estate commissions, finder's fees, or any similar fees in connection with the transactions contemplated under this Agreement. Purchaser shall be solely responsible for any and all real estate or other commission incurred in connection with the transactions contemplated under this Agreement through real estate

brokers engaged by Purchaser. Purchaser agrees to indemnify and hold Seller harmless from the claims of any person or entity for real estate commissions, finder's fees, or any similar fees in connection with the transactions contemplated under this Agreement through real estate brokers engaged by Purchaser. This representation, covenant, and promise of Seller shall not merge in any deed, assignment, covenant, escrow agreement, easement, lease or any other document, but shall survive each nevertheless at and following closing, for a period of one (1) year after the Closing, but only if notice of a claim is received during such one (1)-year period, and be binding and obligatory upon Seller and Purchaser, respectively.

18. **NOTICES.** Any notices contemplated under this Agreement shall be sent to the Purchaser and the Seller by electronic mail and by overnight delivery through a nationally recognized carrier mail, at the addresses below:

Purchaser:	_____	Mailing Address:	_____
	c/o _____		_____
	_____		_____
	email address		phone

Copy to:

\_\_\_\_\_

c/o \_\_\_\_\_

\_\_\_\_\_

email address

Seller:

**Webb-Denny Living Trust, dated April 21, 2015**  
c/o Melanie Patton  
masonvillemelanie@gmail.com

Copy to:

Jennifer Lynn Peters  
Peters Schulte Odil pllc  
6125 Sky Pond Drive, Suite 250  
Loveland, CO 80538  
970-672-1820 direct  
jpeters@noco.law | noco.law

19. **GOVERNING LAW.**

a. Venue. Venue for all actions arising from this Agreement shall be in the District Court in Larimer County, Colorado. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise.

b. Choice of Law. Colorado law shall apply to any dispute, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado.

20. **NEGOTIATED PROVISIONS.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed to the preparation of this Agreement.

21. **SEVERABILITY.** If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, void, or unenforceable, such decision shall not affect the validity of any other portion of this Agreement which shall remain in full force and effect, the intention being that such portions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

22. **NO THIRD-PARTY BENEFICIARIES.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

23. **HEADINGS.** Paragraph headings used herein are for convenience of reference and shall in no way define, limit, or prescribe the scope or intent of any provision under this Agreement.

24. **BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

25. **LEGAL ADVICE.** All parties hereto are hereby advised to seek competent tax and/ or legal advice regarding this transaction.

26. **NOTICE OF ACCEPTANCE: COUNTERPARTS.** If this Agreement is accepted by all Parties by virtue of signatures below and if all Parties receive notice of such acceptance on or before the close of business on November 18th, 2024, this instrument shall become a binding contract between Seller and Purchaser, and shall inure to the benefit of their heirs, successors and assigns. If this Agreement is not accepted by all Parties by said date, this Agreement shall become null and void, and of no effect. A copy of this Agreement may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete copy between the Parties. Facsimile (fax) or e-mailed copies of original documents containing signatures of the Parties shall be valid and binding upon the Parties.

***[Remainder of Page Intentionally Blank. Signature Pages Follow]***

IN WITNESS WHEREOF, the Parties have executed this Agreement on November 18th.

By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**PURCHASER:**

(Signed) \_\_\_\_\_,

(Print): \_\_\_\_\_

(Title): \_\_\_\_\_

**SELLER:**

**Webb-Denny Living Trust, dated April 21,  
2015**

By: \_\_\_\_\_  
Melanie Patton, Trustee