<u>**ACTION MEMORANDUM**</u>

<u>**CHATFIELD WATERSHED AUTHORITY**</u>

TO: Chatfield Watershed Authority (CWA) Board of Directors (Board)

FROM: Michael Daugherty, Somach Simmons & Dunn (SSD)

RE: Data Sharing Agreement with Member Entities

DATE: October 5, 2023

<u>**SUMMARY OF ACTION REQUESTED**</u>:

The Technical Advisory Committee (TAC) recommends the Board approve use of the attached Data Sharing Agreement (the "**Agreement**"). The Agreement outlines the terms and conditions that will govern CWA's sharing of its watershed data and model with CWA member entities. SSD drafted the Agreement, attached as <u>Exhibit A</u>, and recommends approval.

<u>**PURPOSE / BACKGROUND**</u>:

TAC voted to recommend approval of CWA sharing its watershed model and data with member entities pursuant to the terms and conditions contained in the Agreement on October 3, 2023. The member entities desire to use CWA's watershed model and data to evaluate activities that may improve water quality in the Chatfield watershed. CWA has compiled significant data regarding water quality in Chatfield Reservoir, including a watershed model, that contributes to ongoing research conducted by a variety of parties, including members and non-members. CWA owns its watershed model and data, and the Agreement provides only for data-sharing between CWA and member entities for work that conforms to CWA's mission of protecting and improving the water quality of the Chatfield watershed. TAC recommends approval of sharing CWA's data with its member entities and use of the Agreement drafted by SSD.

<u>**PROPOSED MOTION TO BOARD**</u>:

The Board should move to approve use of the Data Sharing Agreement.

<u>Data Sharing Agreement</u>:

This Data Sharing Agreement (the "Agreement") is between the Chatfield Watershed Authority ("CWA") and _____ (the "Member").

CWA was organized by intergovernmental agreement in order to provide for required coordinated approaches to nutrient controls, projects and monitoring in Chatfield Reservoir and its watershed. Pursuant to Section 29-1-201, et seq., C.R.S., CWA is permitted to enter into contracts and agreements affecting its affairs. CWA has compiled significant data related to the watershed and developed a watershed model that CWA utilizes to determine the best methods for protecting the water quality of the Chatfield watershed. CWA is willing to share its data and model with the Member pursuant to the terms and conditions contained in this Agreement.

The purpose of this Agreement is to outline such terms and conditions that will govern CWA's sharing of its watershed model and data with the Member. CWA grants the Member the non-exclusive, nontransferable right to use the shared data to the extent necessary to perform work that conforms to CWA's mission of protecting and improving the water quality of the Chatfield watershed. Data provided to the Member shall be stored in a secure manner of Member's internal server with best practices, both technically and procedurally, utilized to protect data from unauthorized access and/or distribution. All data and sharing information is to be considered confidential and proprietary and the exclusive property of CWA. Data shall not be transferred or distributed to any person or entity not a party to this Agreement without the express written consent of CWA. The Member shall be responsible for notification to its employees and/or agents as to the conditions contained herein, and shall be responsible for their adherence to the same. The Member's obligations under this agreement shall continue in perpetuity unless expressly modified by both CWA and the Member in writing.

All data and modeling information is received in an "as-is" basis without any warranties of any kind, either express or implied, and CWA specifically disclaims all implied warranties of merchantability, integration, title and fitness for a particular purpose. CWA expressly indemnifies itself of all liability related to the Member's use of CWA's watershed model and data.

<u>Data Owner</u>:   Chatfield Watershed Authority
<u>Data Description</u>:   Chatfield Reservoir Water Quality Data and Model
<u>Date Executed</u>:   _____

CHATFIELD WATERSHED   MEMBER: _____
AUTHORITY:

_____   _____
Diane Kielty, Manager   Name: _____
Diane@coloradowater.org   Title: _____
                                           Email: _____