

BORROWER: PAGOSA AREA WATER &
SANITATION DISTRICT, ACTING BY AND
THROUGH ITS WATER ACTIVITY ENTERPRISE
TOTAL LOAN AMOUNT: \$4,565,000

AGENCY NAME: COLORADO WATER
CONSERVATION BOARD
CONTRACT TYPE: LOAN/PUBLIC
CWCBS: 83535/CORE: CT2017-1008

LOAN CONTRACT

This contract ("CONTRACT" or "LOAN CONTRACT") is made between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCBS" or "State"), and Pagosa Area Water & Sanitation District, a Title 32 Special District, Acting By And Through Its Water Activity Enterprise, 100 Lyn Avenue, Pagosa Springs, CO 81157, (hereinafter called "PAWSD" or "BORROWER").

FACTUAL RECITALS

1. CWCBS authority exists in the law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this CONTRACT; and
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies; and
3. PAWSD and CWCBS have agreed to restructure an existing original loan, CWCBS Contract No. CT2016-1696 (C150261), based on terms and conditions which will allow the Dry Gulch Reservoir ("PROJECT") to move forward, provide debt relief to PAWSD and protect CWCBS's financial commitment to the PROJECT. The original loan contract will be amended to reduce the loan balance by \$4,565,000. This Loan Contract (CT2017-1008) is part of the restructure and will be for a total loan amount not to exceed \$4,565,000, for a term of forty (40) years. The first twenty (20) years will incur no interest and no payment, the following twenty (20) years will be at an interest rate of 3.50% with an annual payment of \$321,198.32.
4. CWCBS and Attorney General's Office have negotiated the restructure of the CWCBS Loan (CT2016-1696) and revised the terms and conditions in the executed agreement entitled: AGREEMENT TO RESTRUCTURE COLORADO WATER CONSERVATION BOARD DRY GULCH RESERVOIR LOAN CONTRACT NUMBER C150261, and the AMENDMENT TO AGREEMENT TO RESTRUCTURE COLORADO WATER CONSERVATION BOARD DRY GULCH RESERVOIR LOAN CONTRACT NUMBER C150261, (combined, hereinafter called "RESTRUCTURE AGREEMENT") and attached hereto as ATTACHMENT A. This contract is referred to as Loan B in the RESTRUCTURE AGREEMENT.
5. The PROJECT SUMMARY, attached as APPENDIX 1, and incorporated herein contains BORROWER Information (Section 1), the PROJECT Description (Section 2), CWCBS's authority for making this loan (Section 3), and CWCBS Approval or Legislative Authorization (Section 4), identifying the amount of the loan and the terms of repayment. The PROJECT SUMMARY also contains sections on BORROWER's debt, pledged revenues and property, procedures and eligible expenses.
6. The CWCBS now desires, by this CONTRACT, to loan money to the BORROWER for this PROJECT upon mutually agreeable terms and conditions.

THEREFORE, in consideration of the mutual and dependent covenants contained herein, the parties agree as follows:

A. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

- i. **BASE LOAN AMOUNT:** Loan amount that does not include the one percent (1%) Loan Origination fee. This the amount disbursed by CWCB to the BORROWER.
- ii. **BORROWER:** An eligible entity, as specified, who will be responsible for the repayment of the loan.
- iii. **LOAN DOCUMENTS:** Include all formal loan contract documents including but not limited to the executed loan contract, all executed appendices, and all executed amendments.
- iv. **LOAN ORIGATION FEE:** One (1%) of the BASE LOAN AMOUNT.
- v. **LOAN SECURITY:** Property or other assets that BORROWER offers to secure the loan.
- vi. **PROMISSORY NOTE:** The document providing a written agreement to pay the TOTAL LOAN AMOUNT to CWCB.
- vii. **SECURITY AGREEMENT:** The document that provides a security interest in a specified asset pledged as collateral.
- viii. **TOTAL LOAN AMOUNT:** BASE LOAN AMOUNT and LOAN ORIGATION FEE of one percent (1%).

B. LOAN PROVISIONS

1. **Loan Origination Fee.** The TOTAL LOAN AMOUNT shall include (1) the BASE LOAN AMOUNT loaned by the CWCB, to the BORROWER, for the PROJECT and (2) a LOAN ORIGATION FEE of one percent (1%) of the BASE LOAN AMOUNT.
2. **Amendments and Option Letters.** In the event that the BORROWER does not use the full amount authorized, the parties shall amend this CONTRACT or exercise an OPTION LETTER (attached as APPENDIX 2) to revise the TOTAL LOAN AMOUNT including an adjustment of the LOAN ORIGATION FEE to reflect 1% of the actual amount disbursed to the BORROWER. An amendment to this CONTRACT shall be executed for the following changes including, *but not limited to*, an increase in TOTAL LOAN AMOUNT, change in pledged revenues or property, and decrease in TOTAL LOAN AMOUNT with a change in the annual loan payment. Additionally, upon substantial completion of the PROJECT, the following applies:
 - a. Upon substantial completion of the PROJECT with a resulting decrease in the TOTAL LOAN AMOUNT and the BORROWER requests a change in the annual loan payment; the PARTIES agree to amend this contract.

- b. Upon substantial completion of the PROJECT with a resulting decrease in the TOTAL LOAN AMOUNT, but not a change in the annual payment, the STATE may exercise an option and shall provide written notice to the BORROWER in form substantially equivalent to APPENDIX 2. If exercised, the provisions of the OPTION LETTER and supporting documentation shall become part of and be incorporated into this CONTRACT for the total duration of this CONTRACT.
3. **Contract Amendment Service Fees.** Under certain circumstances, the BORROWER shall be assessed a service fee for amending the CONTRACT.
- a. A service fee shall be imposed on the BORROWER for amendments processed for the benefit of the BORROWER and necessary for the BORROWER'S course of business but not necessary for the CWCB, including, but not limited to, a change in BORROWER name, assignment of contract, substitution of pledged revenues or property, loan payment deferrals in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including but not limited to, loan payment deferrals (up to 3 per loan) and changes in terms of loan repayment will be processed at no additional charge to the BORROWER.
- b. The amount charged shall be in accordance with the service fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current service fee for an amendment is \$1,000.
- c. The BORROWER shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded.
4. **Promissory Note Provisions.** The PROMISSORY NOTE shall identify the TOTAL LOAN AMOUNT. The CWCB agrees to loan to the BORROWER an amount not to exceed the TOTAL LOAN AMOUNT and the BORROWER agrees to repay the loan in accordance with the terms as set forth in the PROMISSORY NOTE, attached hereto as APPENDIX 3 and incorporated herein.
5. **Interest Prior to PROJECT Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue, on the disbursed funds, at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to PROJECT'S substantial completion (as determined by the CWCB) and notify BORROWER of such amount. The BORROWER shall repay that amount to the CWCB either (1) within ten (10) days from the date of notification from the CWCB, (2) at the CWCB'S discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the BORROWER, or (3) at the CWCB'S discretion, said interest shall be rolled into the TOTAL LOAN AMOUNT due.
6. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of THIS CONTRACT shall be remitted to the CWCB WITHIN 30 calendar days from notification from the CWCB of either (1) completion of the PROJECT or (2) determination by the CWCB THAT the PROJECT will not be completed. Any such LOAN Funds so remitted to CWCB shall be applied to the principal payment of amounts due on the Loan.
7. **BORROWER'S Authority to Contract.** The BORROWER warrants that it has full power and authority to enter into this CONTRACT. The execution and delivery of this CONTRACT and the performance and observation of its terms, conditions and obligations have been duly authorized by all necessary actions of the BORROWER. The BORROWER'S AUTHORIZING RESOLUTION(S) or ORDINANCE(S) are attached as APPENDIX 4 and incorporated herein.

8. **Bond Counsel's Opinion Letter.** Prior to the execution of this CONTRACT by the CWCB, the BORROWER shall submit to the CWCB a letter from its bond counsel stating that it is the bond counsel's opinion that:
- a. the CONTRACT has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the CONTRACT and to bind the BORROWER; and
 - b. the resolutions or ordinances of the BORROWER authorizing the execution and delivery of the CONTRACT were duly adopted by the governing bodies of the BORROWER; and
 - c. there are no provisions in the Colorado Constitution or any other state or applicable and binding local law that prevent this CONTRACT from binding the BORROWER; and
 - d. the BORROWER was formed and is operated as a water authority pursuant to the provisions of C.R.S. 37-45.1-101 and is a government-owned business authorized to issue its own revenue bonds and receiving fewer than 10% of annual revenue in grants from all Colorado state and local governments combined within the meaning of Article X, Section 20 of the Colorado Constitution; and
 - e. based upon the parity certificate, Water Activity Enterprise revenues as reflected in the Water Enterprise Fund (which funds accounts for the financial activities of the Water Activity Enterprise) are sufficient to enable the PAWSD to execute the Promissory Note under the Loan Agreement.
9. **Pledge of Revenues.** The BORROWER irrevocably pledges, to the CWCB, for purposes of repayment of this loan the PLEDGED REVENUES as defined in the LOAN RESOLUTION or ORDINANCE set forth in APPENDIX 4 and any other funds legally available to the BORROWER in an amount sufficient to pay the annual payment due under this CONTRACT (collectively PLEDGED REVENUES).
- a. **Segregation of Pledged Revenues.** The BORROWER shall set aside and keep the PLEDGED REVENUES in an account separate from other BORROWER revenues and warrants that these revenues will not be used for any other purpose.
 - b. **Establish Security Interest.** The BORROWER has duly executed a SECURITY AGREEMENT, attached hereto as APPENDIX 5 and incorporated herein, to provide a security interest to the CWCB in the PLEDGED REVENUES. The CWCB shall have priority over all other competing claims for said revenues, except for the liens of the BORROWER'S existing loans as listed in Section 5 (Schedule of Existing Debt), of the PROJECT SUMMARY (APPENDIX 1), which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s).
 - c. **Rate Covenant.** Pursuant to its statutory authority and as permitted by law, the BORROWER shall take all necessary actions consistent therewith during the term of this CONTRACT to establish, levy and collect rates, charges and fees as described in APPENDIX 4, in amounts sufficient to pay this loan as required by the terms of this CONTRACT and the PROMISSORY NOTE, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves, including obtaining voter approval, if necessary, of increases in the BORROWER'S rate schedule or taxes, if applicable.
 - d. **Debt Service Reserve Account or Fund.** To establish and maintain the debt service reserve account or fund, the BORROWER shall deposit an amount equal to one-tenth of an annual payment into its debt service reserve account or fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan. In the event that the BORROWER applies

funds from this account to repayment of the loan, the BORROWER shall replenish the account within ninety (90) days of withdrawal of the funds. The debt service reserve account or fund requirement is in effect until the loan is paid in full.

e. Additional Debts or Bonds. The BORROWER shall not issue any indebtedness payable from the PLEDGED REVENUES and having a lien thereon which is superior to the lien of this loan. The BORROWER may issue parity debt only with the prior written approval of the CWCB, provided that:

- i. The BORROWER is currently and at the time of the issuance of the parity debt in substantial compliance with all of the obligations of this CONTRACT, including, but not limited to, being current on the annual payments due under this CONTRACT and in the accumulation of all amounts then required to be accumulated in the BORROWER'S debt service reserve fund;
- ii. The BORROWER provides to the CWCB a Parity Certificate from an independent certified public accountant certifying that, based on an analysis of the BORROWER'S revenues, for 12 consecutive months out of the 18 months immediately preceding the date of issuance of such parity debt, the BORROWER'S revenues are sufficient to pay its annual operating and maintenance expenses, annual debt service on all outstanding indebtedness having a lien on the pledged revenues, including this loan, the annual debt service on the proposed indebtedness to be issued, and all required deposits to any reserve funds required by this CONTRACT or by the lender(s) of any indebtedness having a lien on the pledged revenues. The analysis of revenues shall be based on the BORROWER'S current rate structure or the rate structure most recently adopted. No more than 10% of total revenues may originate from tap and/or connection fees;
- iii. The BORROWER acknowledges and understands that any request for approval of the issuance of additional debt must be reviewed and approved by the CWCB prior to the issuance of any additional debt.

f. Annual Statement of Debt Coverage. Each year during the term of this CONTRACT, the BORROWER shall submit to the CWCB an annual audit report.

10. Pledged Revenues During Loan Repayment. The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the PLEDGED REVENUES, so long as any of the principal, accrued interest, and late charges, if any, on this loan remain unpaid, without the prior written concurrence of the CWCB.

11. Release After Loan Is Repaid. Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the PROMISSORY NOTE, the CWCB agrees to release and terminate any and all of the CWCB'S right, title, and interest in and to the PLEDGED REVENUES.

12. Warranties.

- a. The BORROWER warrants that, by acceptance of the loan under this CONTRACT and by its representations herein, the BORROWER shall be estopped from asserting for any reason that it is not authorized or obligated to repay the loan to the CWCB as required by this CONTRACT.
- b. The BORROWER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the BORROWER, to solicit or secure this CONTRACT and has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a

bona fide employee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this CONTRACT.

- c. The BORROWER warrants that the PLEDGED REVENUES and PLEDGED PROPERTY for this loan are not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner, except for any existing lien(s) identified in APPENDIX 1, PROJECT SUMMARY, SECTION 5, SCHEDULE OF EXISTING DEBT, which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s). Documentation establishing the relative priorities of said liens, if necessary, is attached to the PROJECT SUMMARY and incorporated herein.
13. **Remedies for Default.** Upon default in the payments to be made by the BORROWER under this CONTRACT, or default in the performance of any covenant or agreement contained herein, the CWCB, at its option, may:
- a. suspend this CONTRACT and withhold further loan disbursements pending corrective action by the BORROWER, and if the BORROWER does not cure the default as provided for below, permanently cease loan disbursements and deem the PROJECT substantially complete;
 - b. declare the entire principal amount, accrued interest, and late charges, if any, then outstanding immediately due and payable;
 - c. exercise its rights under any appendices to this CONTRACT, including, but not limited to, the PROMISSORY NOTE, SECURITY AGREEMENT, and/or any instrument securing pledged revenues and property; and
 - d. take any other appropriate action.

The CWCB shall provide written notice to the BORROWER of any such default and shall give the BORROWER an opportunity to cure within thirty (30) days of receipt of such notice. All remedies described herein may be simultaneously or selectively and successively enforced. The CWCB may enforce the provisions of this CONTRACT at its option without regard to prior waivers of previous defaults by the BORROWER, through judicial proceedings to require specific performance of this CONTRACT, or by such other proceedings in law or equity as may be deemed necessary by the CWCB to ensure compliance with provisions of this CONTRACT and the laws and regulations under which this CONTRACT is executed. The CWCB's exercise of any or all of the remedies described herein shall not relieve the BORROWER of any of its duties and obligations under this CONTRACT.

14. **Operation of PROJECT.** The BORROWER shall, without expense or legal liability to the CWCB, manage, operate, and maintain the PROJECT continuously in an efficient and economical manner.
15. **BORROWER'S Liability Insurance.** Upon execution of this CONTRACT and continuing until complete repayment of the loan is made to the CWCB, the BORROWER shall maintain commercial general liability insurance, with a company that is satisfactory to the CWCB, with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate, including products/completed operations and personal injury.
16. **Additional Contract Requirements.** Any additional contract requirements are set forth in Additional Conditions & Contract Requirements, Section 7 of the PROJECT SUMMARY.

B. PROJECT PROVISIONS

1. **Construction Fund Program Procedures.** During the completion of the PROJECT, the BORROWER shall adhere to the CWCB Construction Fund Program Procedures, Section 8 of the PROJECT SUMMARY.
2. **Eligible Expenses.** The PROJECT expenses for which the BORROWER is eligible for loan disbursements are listed in Eligible Expenses, Section 9 of the PROJECT SUMMARY.
3. **Loan Disbursements.** The CWCB shall disburse loan funds in accordance with the Disbursement Schedule, Section 10 of the PROJECT SUMMARY.
4. **Time for Performance.** The BORROWER recognizes that time is of the essence in the performance of all of its obligations under this CONTRACT. Therefore, the BORROWER shall complete the PROJECT within the time specified in Time for Performance, Section 11 of the PROJECT SUMMARY.
5. **Indemnification by the Construction Firm.** The BORROWER shall require all Construction Firms and their subcontractors to indemnify the State and the BORROWER against all liability and loss, and against all claims and actions based upon or arising out of damage or injury, including death, to persons or property, caused by any acts or omissions of those parties or sustained in connection with the performance of any contract related to the PROJECT or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation, and the defense of any such claims or actions.
6. **Liability Insurance during Construction.** During construction of the PROJECT, the BORROWER shall require the construction contractor and any subcontractors to maintain the following insurance coverage, in the limits shown, during the term of their contracts and until the PROJECT is complete. CWCB may request proof of construction contractor's and subcontractor's insurance during the term of the PROJECT.
 - a. Commercial general liability insurance with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate. This insurance coverage shall include products/completed operations and bodily injury/property damage.
 - b. Worker's compensation and employer's liability insurance in the required statutory amounts.
 - c. Automobile liability insurance that includes coverage for all owned, non-owned and hired vehicles with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage.

C. GENERAL PROVISIONS

1. **Periodic Inspections.** Throughout the term of this CONTRACT, the BORROWER shall permit a designated representative of the CWCB to make periodic inspections of the PROJECT. Such inspections shall cover the condition of the PROJECT, operating records, maintenance records, and financial records. These inspections are solely for the purpose of verifying compliance with the terms and conditions of this CONTRACT and shall not be construed or interpreted as an approval of the actual design, construction or operation of any element of the PROJECT facilities.
2. **Applicable Laws.** The BORROWER shall strictly adhere to all applicable federal, state, and local laws and regulations that are in effect or may hereafter be established throughout the term of this CONTRACT.

3. **Designated Agent Of The CWCB.** The CWCB's employees are designated as the agents of the CWCB for the purpose of this CONTRACT.
4. **Assignment.** BORROWER's rights and obligations, under this CONTRACT, are personal and may not be transferred, assigned without the prior, written consent of the State. Any attempt at assignment without such consent shall be void. All assignments approved by BORROWER or the State are subject to all of the provisions hereof.
5. **Contract Relationship.** The Parties to this CONTRACT intend that the relationship between them under this CONTRACT is that of lender-borrower, not employer-employee. No agent, employee, or servant of the BORROWER shall be, or shall be deemed to be, an employee, agent, or servant of the CWCB. The BORROWER shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, construction firms, and subcontractors during the term of this CONTRACT.
6. **Integration of Terms.** This CONTRACT is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or affect whatsoever unless embodied herein in writing. No subsequent renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to State fiscal rules, unless expressly provided for herein.
7. **Order of Precedence.** The provisions of this CONTRACT shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this CONTRACT and its exhibits and attachments, including, but not limited to, those provided by Contractor, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:
 - i. Colorado Special Provisions (provided that the Parties hereby agree that, for the purposes of such Special Provisions "CONTRACTOR" shall mean "BORROWER")
 - ii. The provisions of the main body of this CONTRACT
 - iii. Appendices
8. **Controlling Terms.** In the event of conflicts or inconsistencies between the terms of this CONTRACT and conditions as set forth in any of the appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: (1) Colorado Special Provisions, provided that the parties hereby agree that, for the purposes of such Special Provisions, "Contractor" shall mean BORROWER, (2) the remainder of this CONTRACT, and (3) the Appendices.
9. **Casualty and Eminent Domain.** If, at any time during the term of this CONTRACT, (a) the BORROWER'S PROJECT facilities, including buildings or any portion thereof, are damaged or destroyed, in whole or in part, by fire or other casualty, or (b) title to or use of the PROJECT facilities or any part thereof shall be taken under the exercise of the power of eminent domain, the BORROWER shall cause the net proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of the PROJECT facilities or any portion thereof, or to repayment of this loan. Any net proceeds remaining after such work has been completed or this loan has been repaid, shall be retained by the BORROWER. If the net insurance proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the BORROWER shall complete the work and pay any cost in excess of the net proceeds. In the event BORROWER chooses to apply the net proceeds of an insurance claim or a condemnation award to repayment of the loan, BORROWER shall repay the full TOTAL LOAN AMOUNT outstanding regardless of the amount of such insurance proceeds or

condemnation award.

10. **Captions.** The captions and headings in this CONTRACT are for convenience of reference only, and shall not be construed so as to define, or limit its provisions.
11. **CWCB's Approval.** This CONTRACT requires review and approval of plans, specifications, and various other technical and legal documents. The CWCB's review of these documents is only for the purpose of verifying BORROWER's compliance with this CONTRACT and shall not be construed or interpreted as a technical review or approval of the actual design or construction of the PROJECT. Notwithstanding any consents or approvals given to the BORROWER by the CWCB on any such documents, BORROWER and any of its consultants, by preparing any such documents, shall be solely responsible for the accuracy and completeness of any of said documents.
12. **Waiver.** Waiver of any breach under a term, provision, or requirement of this CONTRACT, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed as or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.
13. **CORA Disclosure.** To the extent not prohibited by federal law, this CONTRACT and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.
14. **Binding Effect.** All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.
15. **Entire Understanding.** This CONTRACT represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.
16. **Severability.** Provided this CONTRACT can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this CONTRACT in accordance with its intent.
17. **Third Party Beneficiaries.** Enforcement of this CONTRACT and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this CONTRACT are incidental to the CONTRACT, and do not create any rights for such third parties.
18. **Counterparts.** This CONTRACT may be executed in multiple identical original counterparts, all of which shall constitute one agreement.
19. **Indemnification.** The BORROWER shall indemnify, save, and hold harmless CWCB against any and all claims, damages, liability, and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the BORROWER, or its employees, agents, or subcontractors pursuant to the terms of this Loan Agreement; provided, however, that the provisions of this clause are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the Colorado Governmental Immunity Act (Section 24-10-101, et seq., C.R.S.), or under the laws of the United

States or the State of Colorado.

20. **Addresses for mailing.** All notices, correspondence, or other documents required by this CONTRACT shall be delivered or mailed to the addresses shown in the Section 1 (BORROWER Information) of the Project Summary, for the BORROWER and to the address below for the CWCB:

Colorado Water Conservation Board
Attn: Finance Section
1313 Sherman Street, Room 718
Denver, CO 80203

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Special Provisions

(The Special Provisions apply to all contracts except where noted in *italics*.)

1. **CONTROLLER'S APPROVAL.** CRS §24-30-202(1). This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY.** CRS §24-30-202(5.5). Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.

7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION.** Governor's Executive Order D 002 00. State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST.** CRS §§24-18-201 and 24-50-507. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.
10. **VENDOR OFFSET.** CRS §§24-30-202 (1) and 24-30-202.4. *[Not Applicable to intergovernmental agreements]* Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
11. **PUBLIC CONTRACTS FOR SERVICES.** CRS §8-17.5-101. *[Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]* Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c). Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply

with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. **PUBLIC CONTRACTS WITH NATURAL PERSONS.** CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

SPs Effective
1/1/09

[END OF SPECIAL PROVISIONS]

IN WITNESS WHEREOF, the Parties hereto have executed this CONTRACT

*** Persons signing for BORROWER hereby swear and affirm that they are authorized to act on BORROWER's behalf and acknowledge that the State is relying on their representations to that effect.**

Pagosa Area Water & Sanitation District, a
Title 32 Special District, Acting By and
Through Its Water Activity Enterprise

BY: 

Signature

NAME: Michael Church

TITLE: President

DATE: 6/16/16

STATE OF COLORADO
John W. Hickenlooper, Governor
Department of Natural Resources

BY: 

Name: Kirk Russell, P.E., Section Chief
Finance Section
Colorado Water Conservation Board

DATE: 7/8/16

Attest

BY: 

Signature

NAME: Gordon Mather

TITLE: Secretary

DATE: 6/16/16

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all State contracts. This CONTRACT is not valid and the loan funds under this CONTRACT are not available until the State Controller, or such assistant as he may delegate, has signed it.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: 

Name: Chelsea Winer

Title: Central accounts manager

Effective Date: 9/23/16

**AGREEMENT TO RESTRUCTURE COLORADO WATER CONSERVATION
BOARD DRY GULCH RESERVOIR LOAN CONTRACT NUMBER C150261**

THIS AGREEMENT is entered into as of the last date any party signs this Agreement, by and between the State of Colorado, acting by and through the Department of Natural Resources, Colorado Water Conservation Board ("CWCB"), and the Pagosa Area Water and Sanitation District ("PAWSD"), a political subdivision of the State of Colorado and a quasi-municipal corporation, and the San Juan Water Conservancy District ("SJWCD"), a political subdivision of the State of Colorado and a quasi-municipal corporation. CWCB, PAWSD, and SJWCD shall collectively be referred to herein as "Parties".

1. **Recitals.**

WHEREAS, substantial time and effort was done to evaluate the long term water needs of southwest Colorado, and in particular, Archuleta County, by Southwestern Water Conservation District initially, and then by PAWSD and SJWCD. A 1989 supply and demand study concluded water storage for approximately 12,000 acre feet of water was needed for future growth through 2040. Of the potential sites reviewed, the Dry Gulch location was determined to be the best prospect; and

WHEREAS, in 2002, after a severe drought, coupled with massive wildfires, PAWSD and SJWCD started working toward developing a water storage facility at the Dry Gulch location, including acquisition of the site, permitting, cost estimates, engineering, etc. ("the Project"); and

WHEREAS, the CWCB approved a grant (Contract No. C150408) to SJWCD for one million dollars (\$1,000,000.00) ("the Grant") to be used in the purchase of land for the Project. The CWCB later approved a loan (Contract No. C150261) to PAWSD for \$11,217,000 ("the Loan") to finance the purchase of land for the Project; and

WHEREAS, PAWSD and SJWCD purchased the Running Iron Ranch for the sum of \$10,219,363, which utilized the full amount of the Grant and \$9,219,363 of the Loan. Running Iron Ranch consists of approximately 660 acres along with water rights represented by shares of stock in the Park Ditch Company and encumbered by leases, including as described in the documents recorded at reception numbers: 20800088, 20800089, 20800090, 20800091, 20800092, 20800093, 20800094, 20800097, 20800101, 20800102 in Archuleta County, Colorado (hereinafter collectively referred to as "Running Iron Ranch"). No further purchases of land were made for the Project; and

WHEREAS, PAWSD elected to close out the Loan in September 2012. On April 30, 2013, the CWCB approved Amendment No. 1 to the Loan, which modified

the principal amount due from \$11,217,000 to \$9,219,363 to be repaid over thirty (30) years with 3.5% interest per annum. Since that date, PAWSD has made two annual payments of \$501,269.08 each, leaving a current balance due of \$8,855,930.32. The Parties acknowledge the Loan and Grant Contract are not in default or breach of any kind; and

WHEREAS, the Parties have agreed, one to the other, to restructure the outstanding Grant and the Loan, on terms and conditions which will allow the Project to go forward, provide debt relief to PAWSD, will protect the CWCB's financial commitment to the Project, support PAWSD's efforts at conservation and best practices allowing it to carry out its mission to ratepayers, and support SJWCD in its mission to provide for the future water needs within its jurisdiction; and

WHEREAS, the Parties recognize the importance of holding on to the land already purchased as a whole, that partitioning the property or selling-off parts of the property would severely hamper and impede completion of the Project; and

WHEREAS, the CWCB has an interest in water supply and water storage for the basin and the success of the Project given the CWCB's substantial investments to date. While the CWCB cannot obligate future boards, it supports continued discussions between and amongst the Parties as well as continued steady application of effort in a reasonable expedient and efficient manner; and

WHEREAS, PAWSD and SJWCD supported a concept proposal submitted to CWCB for this restructuring of both the Loan and the Grant, which was approved at the January 2015 CWCB meeting; and

WHEREAS, the CWCB has been provided with a certified appraisal of the land purchased for the Project ("the Appraisal"), and is satisfied said Appraisal fully and fairly represents the current fair market value of the property at \$4,565,000 – which value includes both the fee simple estate of the land and shares in the Park Ditch (water rights) that were purchased with proceeds from the Loan and Grant; and

WHEREAS, there are additional conditional water rights associated with the Project, which represent a claim to approximately 11,000 acre-feet of water decreed in Case Nos. CA 308-D and 04CW85, Water Court, Water Division 7 which are currently subject to due diligence actions in water court. The Parties intend to support due diligence efforts as provided hereinafter and acknowledge the conditional water rights associated with the Project are important to the success of the Project; and

WHEREAS, the terms and conditions to restructure the Loan and the Grant are intended to provide the Parties with necessary financial flexibility, security and

oversight appropriate to assure development of the Project is carried out in a timeframe and with sufficient resources to give the Project the best opportunity to mature and be successful.

THEREFORE, for and in consideration of the premises and the mutual covenants, conditions, and promises herein, the Parties agree as follows:

2. CWCB Loan Restructure Plan.

2.1. This Agreement to restructure the Loan is based upon the Appraisal. Following execution of this Agreement by all Parties, the CWCB will restructure the Loan into two separate loans: Loan A and Loan B.

2.2. Loan A:

2.2.1. The principal balance of Loan A will be ascertained by reducing the remaining principal balance of the Loan by the amount of the approved Appraisal. Therefore, the remaining principal balance will be reduced by the Appraised value ($\$8,855,930.32 - \$4,565,000 = \$4,290,930.32$)

2.2.2. The CWCB agrees to reduce the interest rate for Loan A from 3.5% for the Loan to 1.75%. The new principal balance of Loan A will be amortized over twenty (20) years so based on the example above, the new annual payment for Loan A will be \$256,130.89.

2.2.3. As a condition of the interest rate reduction, PAWSD agrees to use no less than fifty percent (50%) of the annual payment savings for the repair and replacement of its current aging water distribution system to address leakage. The annual payment saving to PAWSD will be \$245,138.19.

2.2.4. All of PAWSD's leakage reduction efforts shall be consistent with the American Water Works Association Water, Audits and Loss Control Program, M36 Manual of Water Supply Practice.

2.2.5. PAWSD's leakage reduction efforts shall continue until the delivered supply to metered usage ratio for PAWSD's water distribution system reaches a level determined acceptable by the American Water Works Association Water, Audits and Loss Control Program, M36 Manual of Water Supply Practice.

2.2.6. Once an acceptable delivered supply to metered usage ratio for its water distribution system has been achieved pursuant to Paragraph 2.2.5 herein, PAWSD will be allowed to apply the entire annual payment reduction amount to debt reduction.

2.2.7. PAWSD shall provide the CWCB with an annual report regarding leakage reduction and prevention measures that have been accomplished that year no later than September 1 of each year.

2.2.8. Loan A Security: The security for Loan A shall consist of:

2.2.8.1. A Pledge of Revenues backed by a Rate Covenant from the PAWSD; and

2.2.8.2. A lien on the entire Running Iron Ranch.

2.3. The remaining outstanding principal balance of the Loan equals the approved appraised value of the Running Iron Ranch and will be converted into a separate Loan B.

2.4. Loan B:

2.4.1. The principal balance of Loan B will equal the approved appraised value of the Running Iron Ranch (\$4,565,000).

2.4.2. Loan B will have a forty (40) year term.

2.4.3. The first twenty (20) years of Loan B's term will incur no interest and no payment.

2.4.4. Beginning on the twentieth (20th) anniversary of the Loan B contract, Loan B will be amortized for twenty (20) years at an interest rate of 3.5%. The annual payment for Loan B will be \$321,198.32.

2.4.5. Loan B Security: The security for Loan B shall consist of:

2.4.5.1. A Pledge of Revenues backed by a Rate Covenant from the PAWSD; and

2.4.5.2. A lien on the entire Running Iron Ranch.

3. SJWCD Grant Amendment.

3.1. Concurrent with restructuring the Loan as described in Paragraph 2, the CWCB shall complete an amendment to the Grant. If the Project is not constructed, the Grant amendment will require PAWSD and SJWCD to return the \$1,000,000 grant funds Running Iron Ranch and compensate the CWCB for interest at the rate of 3.5% pursuant to the provisions of Paragraph 5. If the Project is constructed, the Grant shall remain a grant, and principal and interest shall not be repaid to CWCB, and the funds from the Grant shall remain as the SJWCD's vested interest in the Project.

4. Project Planning Period.

4.1. The twenty (20) year repayment term for Loan A will become the planning period for PAWSD and SJWCD to develop the Project ("Planning Period").

4.2. At the end of the twenty (20) year Planning Period, or twenty (20) years from the date that the contract for Loan B is signed, the PAWSD, after consultation with the CWCB and the SJWCD, may elect to extend the Project planning period an additional one (1) to twenty (20) years ("Extended Planning Period") or may elect to abandon the Project.

4.2.1. If the PAWSD elects to extend the Planning Period, it shall begin annual payments on the principal and interest for Loan B pursuant to the terms of the contract for Loan B.

4.2.2. The PAWSD may decide to abandon the Project and sell the Running Iron Ranch pursuant to the terms of Paragraph 5 below.

4.3. At the end of the Planning Period, if the Project is not constructed, the PAWSD must provide the CWCB and SJWCD with written notice pursuant to the provisions herein of the PAWSD's decision either to extend the Planning Period or abandon the Project and sell the Running Iron Ranch.

4.4. Use of Project water and water court diligence proceedings:

4.4.1. The Parties agree that it is in all Parties' best interests to protect the conditional water rights associated with the Project and each Party agrees to cooperate with the others to accomplish this goal.

4.4.2. The Parties' cooperation includes, but is not limited to:

4.4.2.1. PAWSD agrees to acknowledge the Project and its attendant conditional water rights as a preferred option for its long term planning;

4.4.2.2. PAWSD agrees to include the Project and its attendant conditional water rights in the PAWSD's planning documents as a principal storage option for future water demand growth that cannot be met by existing reservoirs;

4.4.2.3. PAWSD commits to an ongoing evaluation of future water purchases from the Project based on long-term demand projections, an evaluation of costs, and viable alternative sources of existing water;

4.4.2.4. PAWSD commits that any future water demands will first be met by the Project, unless those demands can be met with existing sources;

4.4.2.5. PAWSD further commits to making no infrastructure changes which would convey water appropriated under the set of West Fork water rights known as Pagosa Pipeline 3, 8 and 10 to any District 1 ditches, pipelines or reservoirs; and

4.4.2.6. PAWSD and SJWCD agree to file joint applications for finding of reasonable diligence for the Project's conditional water rights when required by the Water Court.

4.5. Project leadership.

4.5.1. The SJWCD shall lead the long-term management of the Project.

4.5.2. As Project leader, the SJWCD, in consultation with the CWCB and PAWSD, shall:

4.5.2.1. have the authority to use its best efforts, given the resources available, to take steps and actions to move the Project forward, including to attempt to acquire land necessary for the Project pool basin or to facilitate a land exchange with the U.S. Forest Service or others, pursuant to Paragraph 4.5.3 below; and

4.5.2.2. promote and develop additional Project stakeholders; and

4.5.2.3. take the lead on future water court proceedings in applications for reasonable diligence and other measures reasonable and appropriate to proceed with the Project; and

4.5.2.4. provide day-to-day management and Project facilitation as needed.

4.5.3. Given that the value of the Running Iron Ranch directly affects the CWCB's future reimbursement of its investment with the PAWSD, the SJWCD shall consult with and obtain written approval from the CWCB and the PAWSD before proceeding with any future land exchanges with the U.S. Forest Service or any other entities.

5. Sale of Running Iron Ranch.

5.1. The CWCB shall have the right of first refusal on the purchase of the Running Iron Ranch at any time PAWSD offers it for sale.

5.1.1. If PAWSD decides to sell the Running Iron Ranch, it will provide notice to the CWCB and SJWCD pursuant to this Agreement's notice provisions. PAWSD shall also provide CWCB and SJWCD a current appraisal of the Running Iron Ranch to establish the current market value of a fee simple interest in the property. The CWCB will have ninety (90) days within which to reject its right of first refusal or agree to exercise its right of first refusal. The CWCB shall provide notice to PAWSD and SJWCD of the CWCB's decision regarding this right of first refusal. If it elects to agree to exercise its right of first refusal, the CWCB will either accept the value of the tendered appraisal or provide a second appraisal, in which case the fair market value of the property shall be the average value of the two appraisals. All appraisals shall be conducted by State of Colorado certified appraisers. Closing on the property shall occur within six (6) months of the submittal of PAWSD's initial notice to the CWCB and SJWCD under this paragraph. The CWCB may use the remaining principal and interest balance of Loan A and principal balance of Loan B to fund all or part of any purchase under this right of first refusal. At closing, CWCB shall mark both Loan A and Loan B as paid in full.

5.2. Sale of Running Iron Ranch during the Planning Period:

5.2.1. PAWSD agrees to make every effort to retain the Running Iron Ranch during the Planning Period made possible by this Agreement. In the event that PAWSD, in its sole discretion but after consultation with SJWCD and CWCB, does sell the Running Iron Ranch during the Planning Period, the following terms shall take effect:

5.2.1.1. All terms and conditions of Loan A and Loan B shall be considered terminated and the loans shall become due in full pursuant to the terms of the loans and this Agreement.

5.2.1.2. The collateral which secures Loan A and Loan B shall not be disposed of until the loans are repaid in full pursuant to the terms of the loans and this Agreement.

5.2.1.3. The CWCB shall be immediately entitled to full payment of the following from the PAWSD:

5.2.1.3.1. all outstanding principal for Loan A (unpaid principal balance) and Loan B (full amount of appraised value of Running Iron Ranch); plus

5.2.1.3.2. the difference in interest charges for Loan A between the restructured 1.75% and the original 3.5% during the years annual payments for Loan A were made; plus

5.2.1.3.3. interest charges at a rate of 3.5% for Loan B over the years that Loan B was held; plus

5.2.1.3.4. the \$1,000,000 Grant; plus

5.2.1.3.5. interest charges at a rate of 3.5% for the Grant over the years that Loans A and B were held.

5.2.1.3.6. The lost interest calculations required by Paragraphs 5.2.1.3.2 and 5.2.1.3.3, are detailed in the attached Exhibit A which is incorporated herein by reference. The lost interest calculation required by Paragraph 5.2.1.3.5 is detailed in the attached Exhibit B which is incorporated herein by reference.

5.3. Sale of Running Iron Ranch at the twenty (20) year expiration of the Planning Period:

5.3.1. When the Planning Period expires, twenty (20) years from the date that the contract for Loan A is signed, the PAWSD in its sole discretion, after consultation with the CWCB and SJWCD, shall have the option to abandon the Project and sell the Running Iron Ranch to repay the remaining PAWSD and SJWCD debt.

5.3.2. At the end of twenty (20) years, Loan A will be paid off in full and the only remaining PAWSD debt to the CWCB will be the principal amount of Loan B, which is the approved appraised value of Running Iron Ranch.

5.3.3. If the PAWSD elects to sell Running Iron Ranch and abandon the Project, the CWCB shall be entitled to:

5.3.3.1. the principal of Loan B, the appraised value of Running Iron Ranch under this Agreement (\$4,565,000); plus

5.3.3.2. the total reduced interest which accrued when this debt was restructured in the amount of \$2,774,638.16; plus

5.3.3.3. the \$1,000,000 Grant; plus

5.3.3.4. interest charges on the Grant funds calculated at a rate of 3.5% annually for twenty (20) years, \$407,221.54.

5.3.3.5. Including the \$4,565,000 principal balance, the total amount due to the CWCB immediately upon the sale of the Running Iron Ranch at the end of the initial twenty (20) year Planning Period will be \$8,746,859.70.

5.3.4. Actual payment to the CWCB to satisfy the amount the CWCB is entitled to as described in Paragraph 5.3.3 herein shall be based on the actual sale price of the Running Iron Ranch, as further described below:

5.3.4.1. If the sale price of Running Iron Ranch is less than to the principal amount of Loan B (\$4,565,000), the PAWSD shall pay to the CWCB all monies received from the Running Iron Ranch sale. The PAWSD shall also immediately pay to the CWCB the difference between the sale price and the principal due on Loan B.

5.3.4.2. If the sale price of the Running Iron Ranch is equal to the principal amount of Loan B (\$4,565,000), the PAWSD shall pay to the CWCB all monies received from the Running Iron Ranch sale.

5.3.4.3. If the sale price is between the principal amount of Loan B (\$4,565,000) and \$8,746,859.70 (which amount is derived from the explanation of Paragraph 5.3.3), then the PAWSD shall pay to the CWCB all monies received from the sale of the Running Iron Ranch to cover all amounts described in Paragraphs 5.3.3.1 through 5.3.3.4 above, inclusive.

5.3.4.4. If the sale price of the Running Iron Ranch is greater than the total amount described in Paragraphs 5.3.3.1 through 5.3.3.4 above, inclusive (\$8,746,859.70), then the PAWSD shall pay to the CWCB this total amount. In addition, any amount in excess of the amount owed to the CWCB shall be split between the CWCB and PAWSD as follows: 50% to the CWCB and 50% to the PAWSD.

5.4. Sale of Running Iron Ranch during any Extended Planning Period:

5.4.1. At any time after the Planning Period expires, twenty (20) years from the date that the contract for Loan A is signed, the PAWSD in its sole discretion, after consultation with the CWCB and SJWCD, shall have the option to abandon the Project and sell the Running Iron Ranch to repay the PAWSD and SJWCD debt.

5.4.2. Loan A will be paid off in full and the only remaining PAWSD debt to the CWCB will be the remaining principal balance of Loan B, the appraised value of Running Iron Ranch less any principal payments.

5.4.3. If the PAWSD elects to sell Running Iron Ranch and abandon the Project, the CWCB shall be entitled to:

5.4.3.1. the principal of Loan B, the appraised value of Running Iron Ranch under this Agreement (\$4,565,000) less any principal payments up to the date of the sale; plus

5.4.3.2. the total reduced interest which accrued when this debt was restructured described in Paragraph 5.3.3.2 (\$2,774,638.16); plus

5.4.3.3. the \$1,000,000 Grant; plus

5.4.3.4. interest charges on the Grant funds calculated at a rate of 3.5% annually amortized for twenty (20) years plus the Extended Planning Period for Loan B.

5.4.4. Actual payment to the CWCB to satisfy the amount the CWCB is entitled to as described in Paragraph 5.4.3 herein shall be based on the actual sale price of the Running Iron Ranch, as further described below:

5.4.4.1. If the sale price of Running Iron Ranch is less than the remaining principal amount of Loan B (\$4,565,000 less principal payments), the PAWSD shall pay to the CWCB all monies received from the Running Iron Ranch sale. The PAWSD shall also immediately pay to the CWCB the difference between the sale price and the principal due on Loan B.

5.4.4.2. If the sale price of the Running Iron Ranch is equal to the principal amount of Loan B (\$4,565,000 less principal payments), the PAWSD shall pay to the CWCB all monies received from the Running Iron Ranch sale.

5.4.4.3. If the sale price is between the principal amount of Loan B (\$4,565,000 less principal payments) and the amount derived from the explanation of Paragraph 5.4.3, then the PAWSD shall pay to the CWCB all monies received from the sale of the Running Iron Ranch to cover all amounts described in Paragraphs 5.4.3.1 through 5.4.3.4 above, inclusive.

5.4.4.4. If the sale price of the Running Iron Ranch is greater than the total amount described in Paragraphs 5.4.3.1 through 5.4.3.4 above inclusive, then the PAWSD shall pay to the CWCB this total amount. In addition, any amount in excess of the amount owed to the CWCB shall be split between the CWCB and PAWSD as follows: 50% to the CWCB and 50% to the PAWSD.

6. Project Completion.

6.1. If the Project is constructed, the PAWSD shall repay both Loan A and Loan B pursuant to the terms of each loan contract.

6.2. If the Project is constructed, the \$1,000,000 Grant shall remain a grant, and principal and interest shall not be repaid to CWCB, and the funds from the Grant shall remain as the SJWCD's vested interest in the Project.

6.3. If the Project is constructed, the CWCB will forgive the interest rate reduction of Loan A.

7. Termination.

7.1. This Agreement may not be terminated but may be amended by written agreement of the Parties.

8. General Provisions.

8.1. Notice. Any notice required by this Agreement shall be made in writing to the Parties to this Agreement as listed below.

Colorado Water Conservation Board
(CWCB)

Attention: Director

1313 Sherman Street

Denver, Colorado 80203

Telephone: 303-866-8441

Fax: 303-294-8954

E-mail: james.eklund@state.co.us

With copy to:

Tim Feehan, P.E.

Deputy Director

E-mail: tim.feehan@state.co.us

Pagosa Area Water and Sanitation
District

P.O. Box 4610

100 Lyn Avenue

Pagosa Springs, Colorado 81147

Telephone: 970-731-2691

Fax: 970-731-2693

With copy to:

Jeffery P. Robbins, Esq.

Goldman, Robbins, Nicholson &

Mack, P.C.

679 E. 2nd Ave., Suite C

P. O. Box 2270

Durango, Colorado 81301

San Juan Water Conservancy District

P.O. Box 4632

46 Eaton Drive, Suite 5

Pagosa Springs, Colorado 81147

With copy to:

Kent Holsinger, Esq.

Holsinger Law, LLC

1800 Glenarm Pl., Suite 500

Denver, CO 80202

8.2. Authorization. The individuals executing this Agreement on behalf of their respective entities are authorized by those entities to execute this Agreement and, by their signatures, certify that all steps or actions required to ensure such authorization have been taken.

8.3. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties as to the subject matter hereof, and there are no further or other agreements or understandings, written or oral, in effect between the Parties relating to its subject matter unless expressly set forth in this Agreement.

8.3.1. To the extent this Agreement explains the restructured Loan A and Loan B, the contracts for those loans as executed control the terms of the actual loans and are not superseded by this Agreement.

8.4. Future Documents. Each Party, at any time before or after execution of this Agreement, shall execute, acknowledge, and deliver any further loan documents, deeds, assignments, conveyances, and other assurances, documents and instruments of transfer, reasonably requested by the other as is contemplated by this Agreement and shall take any other action consistent with the terms of this Agreement that may reasonably be requested by a Party hereto to carry out the terms of this Agreement.

8.5. Amendment. Modification of this Agreement by the Parties may be made only by a writing duly authorized and executed by every Party hereto.

8.6. No Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Agreement, except by a signed written instrument of the Party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated as such in its terms. Each such waiver shall operate only as to the specific term or condition waived, and shall not constitute a waiver of such term or condition for the future as to any act other than that specifically waived.

8.7. Assignment. No Party may assign this Agreement or the rights, benefits, burdens, or obligations hereunder to any other person or entity, unless such assignment is of the entirety of this Agreement, and is made with prior written approval of the other Parties, which approval may be granted or withheld by such Party in its sole and absolute discretion. Any assignee under an assignment approved by all Parties shall assume in writing all obligations and burdens imposed by this Agreement upon the assigning Party. Any purported assignments not approved in advance in writing shall be void.

8.8. No Merger. The rights and obligations of the Parties hereunder shall not be merged into any deeds of conveyance, and shall be fully enforceable until

such time as any and all terms and conditions of this Agreement are completely fulfilled.

8.9. Third Party Beneficiaries. There are no third party beneficiaries of this Agreement. The Parties hereto state and agree that they do not intend that any other person or entity shall have any interest in, or rights or duties under, this Agreement.

8.10. Counterparts. This Agreement may be executed in counterparts and all counterparts so executed shall constitute one agreement binding upon the Parties, notwithstanding that the Parties are not signatories to the original or to the same counterpart.

8.11. Controlling Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

8.12. Binding Effect. The terms of this Agreement shall be binding upon the respective Parties hereto, their successors, and permitted assigns.

8.13. Effective Date. This Agreement shall not be effective or enforceable until it is approved and signed by every Party, but shall be effective and enforceable thereafter in accordance with its provisions.

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Colorado Water Conservation Board

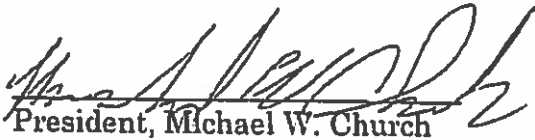


Director, James Eklund

10.27.2015

Date

Pagosa Area Water and Sanitation District, acting by and through its
Water Activity Enterprise



President, Michael W. Church

9/18/15

Date

San Juan County Water Conservancy District

President, Rodney Proffitt

Date

Colorado Water Conservation Board



Director, James Eklund

10.27.2015

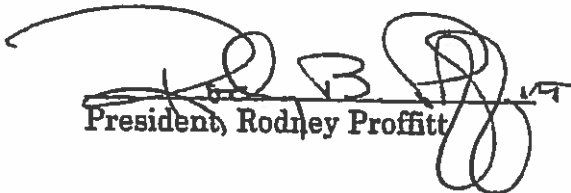
Date

Pagosa Area Water and Sanitation District, acting by and through its
Water Activity

Title

Date

San Juan County Water Conservancy District



President, Rodney Proffitt

10/12/2015

Date

**AMENDMENT TO
AGREEMENT TO RESTRUCTURE COLORADO WATER
CONSERVATION BOARD DRY GULCH RESERVOIR
LOAN CONTRACT NUMBER C150261**

THIS AMENDMENT TO AGREEMENT TO RESTRUCTURE COLORADO WATER CONSERVATION BOARD DRY GULCH RESERVOIR LOAN CONTRACT NUMBER C150261 ("Amendment") is entered into this 27th day of APRIL, 2016, by and between the State of Colorado, acting by and through the Department of Natural Resources, Colorado Water Conservation Board ("CWCB"), the Pagosa Area Water And Sanitation District, acting by and through its Water Activity Enterprise ("PAWSD"), and the San Juan Water Conservancy District ("SJWCD"). PAWSD and SJWCD are each quasi-municipal corporations and political subdivisions of the State of Colorado.

WHEREAS, the Parties entered into the Agreement To Restructure Colorado Water Conservation Board Dry Gulch Reservoir Loan Contract Number C150261 (the "Restructure Agreement") on July 22, 2015, which Restructure Agreement contemplates certain amendments to be made to said Loan Contract Number C150261 (such amendments being referred to herein as the "Amended Loan Contracts"); and

WHEREAS, the Parties have concluded that certain provisions of the Amended Loan Contracts contemplated by the Restructure Agreement would not be allowed by Article XI, Section 6 of the Colorado Constitution and should not have been included in the Restructure Agreement, *i.e.*, Section 2.2.8.2 and Section 2.4.5.2, which sections both provide that the Amended Loan Contracts will grant a "lien on the entire Running Iron Ranch" in favor of the CWCB; and

WHEREAS, the Parties desire to amend the Restructure Agreement as described below.

NOW, THEREFORE, in consideration of the promises of the Parties hereto and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed that the Restructure Agreement is amended as follows:

1. Section 2.2.8.2 is stricken in its entirety.
2. Section 2.4.5.2 is stricken in its entirety.
3. Section 2.2.6 is amended by striking the words in the third line "will be allowed to" and inserting the word "shall".
4. Section 5.1.1 is amended by replacing the last sentence with the following sentence: "If CWCB's election to exercise this right of first refusal results in Loan A and Loan B being paid off, then CWCB shall mark both Loan A and Loan B as paid in full."
5. The following new sections are added to the Restructure Agreement:

ATTACHMENT A

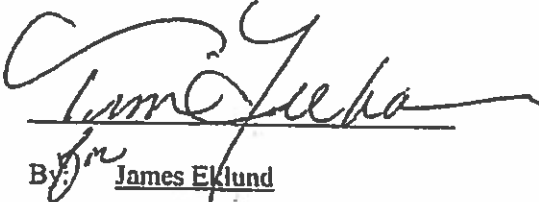
Section 8.14. Remedies. The Amended Loan Contracts shall contain an acknowledgment by the parties thereto that the Amended Loan Contracts may be enforced in law or in equity by a decree of specific performance, damages, or other such legal and equitable relief as may be available under the laws and statutes of the State of Colorado.

Section 8.15. Specific Performance. In addition to any of the remedies the Parties may have under the Amended Loan Contracts, upon a sale of the Running Iron Ranch and a failure by PAWSD and SJWCD to pay all amounts then due under the terms of this Agreement, the Amended Loan Contracts shall provide that CWCBC shall have a right to request a court of proper jurisdiction to enter a mandatory injunction against the PAWSD and SJWCD requiring specific performance of the terms contained in the Amended Loan Contracts, including payment of all amounts due under the terms thereof.

6. Counterparts and Entire Agreement. This Amendment may be executed in counterparts. All counterparts of this Amendment together with the Restructure Agreement shall constitute the entire understanding and agreement of the Parties.
7. No Other Changes. Except as expressly set forth herein, there are no further changes to the Restructure Agreement and the Restructure Agreement remains in full force and effect. The Parties do recognize and agree that this Amendment to the Restructure Agreement is necessary.

IN WITNESS WHEREOF the Parties hereto have caused this Amendment to be executed and effective as of the date first above written.

Colorado Water Conservation Board


By: James Eklund

Title: Director

Pagosa Area Water and Sanitation
District, acting by and through its
Water Activity Enterprise

By: Michael W. Church

Title: President

San Juan Water Conservancy District

By: Rodney Proffitt

Title: President

Section 8.14. Remedies. The Amended Loan Contracts shall contain an acknowledgment by the parties thereto that the Amended Loan Contracts may be enforced in law or in equity by a decree of specific performance, damages, or other such legal and equitable relief as may be available under the laws and statutes of the State of Colorado.

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6. **Counterparts and Entire Agreement.** This Amendment may be executed in counterparts. All counterparts of this Amendment together with the Restructure Agreement shall constitute the entire understanding and agreement of the Parties.
7. **No Other Changes.** Except as expressly set forth herein, there are no further changes to the Restructure Agreement and the Restructure Agreement remains in full force and effect. The Parties do recognize and agree that this Amendment to the Restructure Agreement is necessary.

IN WITNESS WHEREOF the Parties hereto have caused this Amendment to be executed and effective as of the date first above written.

Colorado Water Conservation Board

Pagosa Area Water and Sanitation
District, acting by and through its
Water Activity Enterprise

By: James Eklund

By: Michael W. Church

Title: Director

Title: President

San Juan Water Conservancy District

By: Rodney Proffitt

Title: President

Section 8.14. Remedies. The Amended Loan Contracts shall contain an acknowledgment by the parties thereto that the Amended Loan Contracts may be enforced in law or in equity by a decree of specific performance, damages, or other such legal and equitable relief as may be available under the laws and statutes of the State of Colorado.

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6. Counterparts and Entire Agreement. This Amendment may be executed in counterparts. All counterparts of this Amendment together with the Restructure Agreement shall constitute the entire understanding and agreement of the Parties.
7. No Other Changes. Except as expressly set forth herein, there are no further changes to the Restructure Agreement and the Restructure Agreement remains in full force and effect. The Parties do recognize and agree that this Amendment to the Restructure Agreement is necessary.

IN WITNESS WHEREOF the Parties hereto have caused this Amendment to be executed and effective as of the date first above written.

Colorado Water Conservation Board

Pagosa Area Water and Sanitation
District, acting by and through its
Water Activity Enterprise

By: James Eklund

Title: Director

By: Glenn Walsh

Title: Vice President

San Juan Water Conservancy District

By: Rodney Proffitt

Title: President

Project Summary – Pagosa Area Water & Sanitation District, a Title 32 Special District, Acting By and Through Its Water Activity Enterprise

SECTION 1 – BORROWER INFORMATION

Name: Pagosa Area Water & Sanitation District
Type of Entity: A Title 32 Special District, Acting By and Through Its Water Activity Enterprise
Address: 100 Lyn Avenue, Pagosa Springs, CO 81157
Contact: Mike Church, President
Phone Number: 970-759-9214
E-mail address: churchmike6@gmail.com

SECTION 2 – PROJECT DESCRIPTION

- A. Description of PROJECT: PAWSD and CWCB have agreed to restructure an existing loan, CWCB Contract No. CT2016-1696, based on terms and conditions which will allow the Dry Gulch Reservoir ("PROJECT") to move forward, provide debt relief to PAWSD and protect CWCB's financial commitment to the PROJECT. The original loan contract (CT2016-1696) will be amended to reduce the loan balance by \$4,565,000. This Loan Contract (CT2017-1008) is part of the restructure and will be for a total loan amount not to exceed \$4,565,000.
- B. CWCB and Attorney General's Office have negotiated the restructure of the CWCB Loan CT2016-1696 (C150261) and revised the terms and conditions in the executed agreement entitled: AGREEMENT TO RESTRUCTURE COLORADO WATER CONSERVATION BOARD DRY GULCH RESERVOIR LOAN CONTRACT NUMBER C150261, and the AMENDMENT TO AGREEMENT TO RESTRUCTURE COLORADO WATER CONSERVATION BOARD DRY GULCH RESERVOIR LOAN CONTRACT NUMBER C150261 (RESTRUCTURE AGREEMENT) and attached hereto as ATTACHMENT A. This contract is referred to as Loan B in the RESTRUCTURE AGREEMENT.

SECTION 3 – CWCB'S AUTHORITY

Construction Fund: This loan is made pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S., which authorizes the CWCB to loan money for water projects from the CWCB Construction Fund for the benefit of the people of the state, provided that the BORROWER assures repayment of that money.

Section 37-60-122(1)(b) C.R.S., authorizes the CWCB to make loans of up to \$10,000,000 from the CWCB's (Construction Fund) without prior approval from the General Assembly.

SECTION 4 – BOARD APPROVAL

At its January 2015 meeting, the CWCB approved the proposal for the restructuring of loan CT2016-1696 (C150261) and approved this loan CT2017-1008 in an amount up to \$4,565,000.00 for a term of forty (40) years. The first twenty (20) years will incur no interest and no payment, the following twenty (20) years will be at an interest rate of 3.50% with an annual payment of \$321,198.32.

SECTION 5 – SCHEDULE OF EXISTING DEBT

The BORROWER has the following obligations, payable from the PLEDGED REVENUES of the Water Activity Enterprise, which constitute PARITY OBLIGATION and requires a Parity

Appendix 1

Certificate.

Existing Debt Title	Original Balance	Current Balance	Maturity Date	Collateral (only pledged Water Activity Enterprise Revenues)
Series 2015 Refunding Issue	\$4,670,000	\$4,195,000	2024	Water activity enterprise revenues
Colorado Water Resources and Power Development Federal Stimulus Funds	\$7,036,541	\$5,277,406	2030	Wastewater activity enterprise revenues
Colorado Water Resources and Power Development Federal Stimulus Funds	\$976,530	\$732,398	2030	Wastewater activity enterprise revenues
Colorado Water Resources and Power Development Authority	\$7,158,870	\$6,350,069	2028	Water activity enterprise revenues
Colorado Water Conservation Board – Dry Gulch Property	\$9,219,363	\$8,674,890	2042	Water activity enterprise revenues

The BORROWER will provide to the CWCB a Parity Certificate, from an independent certified public accountant, certifying that based on an analysis of the BORROWER'S revenues, for 12 consecutive months out of the 18 months immediately preceding the date of issuance of such parity debt, the BORROWER'S revenues are sufficient to pay its annual operating and maintenance expenses, annual debt service on all outstanding indebtedness having a lien on the PLEDGED REVENUES, including this loan, the annual debt service on the proposed indebtedness to be issued, and all required deposits to any reserve funds required by this CONTRACT or by the lender(s) of any indebtedness having a lien on the pledged revenues. The analysis of revenues shall be based on the BORROWER'S current rate structure or the rate structure most recently adopted. No more than 10% of total revenues may originate from tap and/or connection fees.

SECTION 6 – LOAN SECURITY

The SECURITY provided for this loan, as evidenced by the executed SECURITY AGREEMENT (APPENDIX 5) and the RESTRUCTURE AGREEMENT (APPENDIX 1), both incorporated herein, shall be a pledge of Water Activity Enterprise revenues backed by a rate covenant.

SECTION 7 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS

ALL revised terms and conditions in the executed RESTRUCTURE AGREEMENT and attached as APPENDIX 1, shall constitute any and all conditions and contract requirements.

SECTION 11 – TIME FOR PERFORMANCE

The time for performance is established within the guidelines of the RESTRUCTURE AGREEMENT.

Appendix 1

SAMPLE OPTION LETTER

(TO BE SIGNED, IF APPLICABLE, UPON SUBSTANTIAL COMPELTION OF PROJECT)

Date:	Original Contract #: CT	Option Letter #	CMS Routing #
-------	-------------------------	-----------------	---------------

1) **OPTIONS:**

- a. Decrease contract value (herein referred to as ("Total Loan Amount").

2) **REQUIRED PROVISION.** All Option Letters shall contain the appropriate provisions set forth below:

For use with all Options 1a:

1. The amount of the current Loan Contract Amount is decreased by (\$ amount of change) to a new Total Loan Amount of (\$ New Total Amount), in consideration of Substantial Completion of the Project. The Total Loan Amount is hereby modified accordingly. The revised Total Loan Amount including all previous amendments, option letters, etc. is (Insert New \$ Amt).
 2. This change does not include a change to the annual payment.
 3. This Option Letter and supporting documentation shall become part of and be incorporated into this Contract for the total duration of this Contract.
 4. This Option Letter shall include the written Notice of Project Substantial Completion.
- 3) **Effective Date.** The effective date of this Option Letter is upon approval of the State Controller or Delegate.

<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, Governor Department of Natural Resources Colorado Water Conservation Board</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State contracts. This Option Letter is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

Name: _____

Title: _____

Date: _____

Appendix 2

PROMISSORY NOTE

DATE: June 16, 2016

BORROWER: PAGOSA AREA WATER & SANITATION DISTRICT,
ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE

TOTAL LOAN AMOUNT: \$4,565,000.00

INTEREST RATE: 3.50%

TERM OF REPAYMENT: THE FIRST TWENTY (20) YEARS WILL INCUR NO INTEREST AND NO PAYMENT;
THE FOLLOWING TWENTY (20) YEARS WILL BE AT AN INTEREST RATE OF 3.50%
WITH AN ANNUAL PAYMENT OF \$321,198.32

LOAN CONTRACT NUMBER: CT2017-1008

ANNUAL LOAN PAYMENT: \$321,198.32

Payment Initiation Date*: (to be filled in at Substantial Completion of Project)

Maturity Date*: (to be filled in at Substantial Completion of Project)

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE.
2. Principal and interest shall be payable in annual equal payments as set forth in "Loan Payment" above, with the first payment due and payable one year from the Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 718, Denver, Colorado 80203.
3. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
4. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
5. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
6. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by the SECURITY AGREEMENT ("SECURITY INSTRUMENT") of even date and amount herewith and cover certain revenues and accounts of the BORROWER. The LOAN CONTRACT and SECURITY INSTRUMENT grant additional rights to the CWCB, including the right to accelerate the maturity of this PROMISSORY NOTE in certain events.

7. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the SECURITY INSTRUMENTS securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this PROMISSORY NOTE.
8. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
9. This PROMISSORY NOTE shall be governed in all respects by the laws of the State of Colorado.



Attest:

By: [Signature]
Signature

NAME: Carson M. Stur

TITLE: Secretary

DATE: 6/16/16

BORROWER: Pagosa Area Water & Sanitation
District, Acting By and Through Its Water
Activity Enterprise

By: [Signature]
Signature

NAME: Michael Church

TITLE: President

DATE: 6/16/16

STATE OF COLORADO)
)
 ARCHULETA COUNTY)
)
 PAGOSA AREA WATER AND)
 AND SANITATION DISTRICT,) ss.
 ACTING BY AND THROUGH)
 ITS WATER ACTIVITY)
 ENTERPRISE)

I, the Secretary of the Pagosa Area Water and Sanitation District, Archuleta County, Colorado (the "District"), do hereby certify that:

(a) the Board of Directors of Pagosa Area Water and Sanitation District, acting by and through its Water Activity Enterprise, Archuleta County, Colorado (the "District"), met in special session, pursuant to due notice and call within the boundaries of the District, on June 16, 2016;

(b) notice of such meeting, in the form attached hereto as Exhibit A, was posted in three public places within the District, and at the office of the Clerk and Recorder of Archuleta County, Colorado, respectively, at least three days prior to the meeting, in accordance with law; and

(c) attached hereto as Exhibit B is a true and correct copy of a resolution (the "Resolution") adopted by the Board of Directors of the District, acting as the governing body of the Water Activity Enterprise (as so acting, the "Board") at the special meeting held on June 16, 2016.

Upon roll call, the members of the Board not marked absent, below, were present, constituting a quorum, and the Resolution was duly introduced, moved, seconded and adopted at such meeting by the affirmative vote of a majority of the members of the Board as follows:

Board Member	Yes	No	Absent	Abstaining
Blake Brueckner	✓	_____	_____	_____
Michael Church	✓	_____	_____	_____
Paul Hansen	_____	_____	✓	_____
Gordon McIver	✓	_____	_____	_____
James Smith	✓	_____	_____	_____

(a) the Resolution was duly approved by the Board, signed by the President of the District, sealed with the District's seal, attested by the Secretary of the Board and recorded in the minutes of the Board;

(b) the meeting at which the Resolution was adopted was noticed, and all proceedings relating to the adoption of the Resolution were conducted in accordance with all applicable bylaws, rules, regulations and resolutions of the District, in accordance

with the normal procedures of the District relating to such matters, and in accordance with applicable constitutional provisions and statutes of the State of Colorado;

WITNESS my hand and the seal of the District this 16 day of June, 2016.



By [Signature]
Secretary of the Board

EXHIBIT A

PAGOSA AREA WATER AND SANITATION DISTRICT)
)
 ARCHULETA COUNTY) S.S.
)
 STATE OF COLORADO)

NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that a Special Meeting of the Board of Directors of the Pagosa Area Water and Sanitation District (PAWSD) has been scheduled for June 16, 2016 at 4:00 p.m. The Board may enter into Executive Session for determining positions and development strategy for negotiations and instructing negotiators and conferences with an attorney for the public entity for the purposes of receiving legal advice on specific legal questions regarding the CWCB Dry Gulch Reservoir Second Loan Agreement and Existing Loan Agreement Amendment and the Amended and Restated Intergovernmental Agreement By and Between The Pagosa Springs Sanitation General Improvement District and The Pagosa Area Water and Sanitation District agenda items pursuant to Section 24-6-402(4)(b) and (e), C.R.S. The Special Meeting will be held at 100 Lyn Ave., Pagosa Springs, Colorado.

Proposed Agenda is as follows:

Special Meeting

1. Call to Order
2. Consideration of Entering into Executive Session Pursuant to Section 24-6-402(4)(b) and (e), C.R.S.
3. Consideration of Resolution Approving Amendments to an Existing Loan Agreement and the Execution and Delivery of a Second Loan Agreement with CWCB.
4. Consideration of Entering into Executive Session Pursuant to Section 24-6-402(4)(b) and (e), C.R.S.
5. Consideration of Amended and Restated Intergovernmental Agreement By and Between The Pagosa Springs Sanitation General Improvement District and The Pagosa Area Water and Sanitation District
6. Any Other Business Brought Before the Board Will Be Duly Considered.

PAGOSA AREA WATER AND SANITATION DISTRICT

By /s/ Renee Lewis
For the Board of Directors

SEAL

EXHIBIT B

A RESOLUTION OF PAGOSA AREA WATER AND SANITATION DISTRICT, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING AMENDMENTS TO AN EXISTING LOAN AGREEMENT AND THE EXECUTION AND DELIVERY OF A SECOND LOAN AGREEMENT, EACH BETWEEN THE COLORADO WATER CONSERVATION BOARD AND THE DISTRICT, ACTING BY AND THROUGH THE WATER ACTIVITY ENTERPRISE; AUTHORIZING THE FORM AND EXECUTION OF AMENDMENTS TO THE EXISTING PROMISSORY NOTE AND A SECOND PROMISSORY NOTE EVIDENCING THE LOANS MADE BY SUCH LOAN AGREEMENTS, RESPECTIVELY; PROVIDING FOR REPAYMENT OF SUCH PROMISSORY NOTES FROM REVENUES OF THE WATER ACTIVITY ENTERPRISE; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, Pagosa Area Water and Sanitation District, Archuleta County, Colorado, is a quasi-municipal corporation duly organized and existing as a water and sanitation district under the constitution and laws of the State of Colorado, including particularly Title 32, Article 1 of the Colorado Revised Statutes ("C.R.S."), and is operating hereunder by and through its Water Activity Enterprise under §37-45.1-101 et seq., C.R.S. (as so operating, the "District"); and

WHEREAS, the District is authorized by Title 32, Article 1, Parts 1 and 10, C.R.S., to supply water for domestic and other public and private purposes by any available means and provide all necessary or proper reservoirs, treatment works and facilities, equipment, and appurtenances incident thereto, and to provide for storm or sanitary sewers, or both, flood and surface drainage, treatment and disposal works and facilities, and all necessary or proper equipment and appurtenances incident thereto; and to fix and from time to time to increase or decrease fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District; and

WHEREAS, the District has heretofore determined and undertaken to acquire and develop certain properties and facilities for the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange or discharge of water or wastewater, which constitute a "water activity enterprise" within the meaning of §37-45.1-102(4), C.R.S. (collectively, as further defined herein, the "System"); and

WHEREAS, the District is authorized by §32-1-1101(1)(d), C.R.S., and §37-45.1-104, C.R.S., to issue revenue obligations authorized by action of the Board of Directors, acting as the governing body of its Water Activity Enterprise (the "Board"), such obligations to be issued in the manner provided in Part 4 of Article 35 of Title 31, C.R.S.; and

WHEREAS, the District operates its System as a "water activity enterprise" pursuant to the provisions of Title 37, Article 45.1, C.R.S.; in addition, the System is a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in Grants, as defined in 37-45.1-102(2), C.R.S., from all Colorado state and local governments combined, and it is hereby determined that the System is an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution; and

APPENDIX 4

WHEREAS, the Board previously determined that it was necessary for the District and its residents and ratepayers to acquire certain land and incur certain initial project development costs for the planned Dry Gulch Reservoir site (collectively, as further defined in the Agreement to Restructure, defined herein, the "Project"); and

WHEREAS, at such time, the Board determined that the need for the Project required the Board to obtain financing for the Project; and

WHEREAS, on April 15, 2008, the Board adopted a resolution approving the District entering into a loan contract with the Colorado Water Conservation Board (the "CWCB"), subject to certain parameters set forth in such resolution, for the purpose of providing for permanent financing for the Project; and

WHEREAS, in furtherance thereof, the Board approved the execution and delivery of (a) a Loan Contract dated as of July 21, 2008 (including the Security Agreement and Project Summary appended thereto, the "Original Loan Contract") between the District and the CWCB and (b) a Promissory Note (the "Original Note") dated as of July 21, 2008 from the District to the CWCB, evidencing the loan (the "Original Loan") made pursuant to the Original Loan Contract; and

WHEREAS, the Original Loan Contract established an irrevocable and first lien on the availability of service charge revenue and the net revenue of the System, on parity with that of the then-outstanding Parity Lien Bonds (as defined herein) issued by the District; and

WHEREAS, the Original Loan Contract was amended by the District and the CWCB as of April 30, 2013 to reduce the amount available to be drawn thereunder; and

WHEREAS, subsequent to such amendment, the Board determined that it may determine not to construct the Project as initially planned; and

WHEREAS, in furtherance of such determination, the District, the CWCB and the San Juan Water Conservatory District entered into an Agreement to Restructure the Original Loan Contract dated as of October 27, 2015, as subsequently amended by an Amendment to Agreement to Restructure dated as of April 27, 2016 (as so amended, the "Agreement to Restructure"); and

WHEREAS, the Agreement to Restructure set forth the parties' determination to restructure the Original Loan Contract by dividing the Original Loan into two separate loans: (a) "Loan A," made pursuant to an amendment to the Original Loan Contract (the "Loan A Amendment" and, together with the Original Loan Contract, as previously amended, the "Loan A Contract"), and evidenced by the Original Note, as amended by Amendment to Promissory Note (the "Loan A Note Amendment" and, together with the Original Note, the "Loan A Note"); and (b) "Loan B," made pursuant to a new Loan Contract (the "Loan B Contract"), and evidenced by a Promissory Note (the "Loan B Note"); and

WHEREAS, the Board has determined and hereby determines that it is in the best interest of the District and its residents and ratepayers that the District execute and deliver the Loan A Amendment and Loan A Note Amendment and the Loan B Contract and Loan B Note; and

WHEREAS, none of the members of the Board have any potential conflicting interests in connection with the authorization, execution and delivery of the Loan A Amendment, the Loan A Note Amendment, the Loan B Contract or the Loan B Note; and

WHEREAS, the Board desires to authorize the execution and delivery of the Loan A Amendment, the Loan A Note Amendment, the Loan B Contract and the Loan B Note and the approval, execution and delivery of any other documents necessary and appropriate to effectuate the transactions described in this Resolution;

THEREFORE, be it resolved by the Board of Directors of Pagosa Area Water and Sanitation District, Archuleta County, Colorado, acting as the governing body of the District's Water Activity Enterprise:

Section 1. Definitions. As used herein, the following capitalized terms shall have the respective meanings set forth below, unless the context indicates otherwise.

"Adjusted Net Revenue" means the sum of Net Revenue plus availability of service charge revenue.

"Agreement to Restructure" means the Agreement to Restructure the Original Loan Contract dated as of October 27, 2015 by and among the District, the CWCB and the San Juan Water Conservatory District, as subsequently amended by an Amendment to Agreement to Restructure dated as of April 27, 2016.

"Board" means the Board of Directors of the District, acting as the governing body of the Water Activity Enterprise of the District.

"Capital Improvements" means the acquisition of land, easements, facilities, and equipment (other than ordinary repairs and replacements), and the design, construction or reconstruction of improvements, betterments, and extensions, for use by or in connection with the System.

"C.R.S." means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

"CWCB" means the Colorado Water Conservation Board and any successor thereto.

"District" means the Pagosa Area Water and Sanitation District, acting by and through its Water Activity Enterprise, Archuleta County, Colorado.

"Financing Documents" means, collectively, the Loan A Contract, the Loan A Note, the Loan B Contract and the Loan B Note.

"Gross Revenue" means all income and revenues directly or indirectly derived by the District from the operation and use of the System, or any part thereof, including without limitation, any rates, fees, plant investment fees, standby charges, availability fees, tolls, and charges for the services furnished by, the use of, or the availability of the System, and all income attributable to any past or future dispositions of property or rights or related contracts, settlements, or judgments held or obtained in connection with the System, its operations or

availability, and including investment income accruing from moneys held to the credit of the Water and Wastewater Enterprise Fund; provided however, that there shall be excluded from Gross Revenue any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account, or similar account pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado, or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom.

"Loan A" means the loan made by the CWCB to the District pursuant to the Loan A Contract and evidenced by the Loan A Note.

"Loan A Amendment" means the amendment to the Original Loan Contract, as previously amended, made pursuant to the Agreement to Restructure.

"Loan A Contract" means the Original Loan Contract, as previously amended and as amended by the Loan A Amendment, including the Security Agreement and Project Summary appended thereto.

"Loan A Note" means the Original Note as amended by the Loan A Note Amendment.

"Loan A Note Amendment" means the Amendment to Promissory Note attached as Appendix B-2 to the Loan A Amendment.

"Loan B" means the loan made by the CWCB to the District pursuant to the Loan B Contract and evidenced by the Loan B Note.

"Loan B Contract" means the Loan Contract between the District and the CWCB entered into pursuant to the Agreement to Restructure, including the Security Agreement and Project Summary appended thereto.

"Loan B Note" means the Promissory Note made by the District evidencing Loan B, attached as Appendix 3 to the Loan B Contract.

"Loan Contracts" means, collectively, the Loan A Contract and the Loan B Contract.

"Net Revenue" means the Gross Revenue after deducting the availability of service charge revenues and Operation and Maintenance Expenses.

"Notes" means, collectively, the Loan A Note and the Loan B Note.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the District, paid or accrued, for operating, maintaining, and repairing the System, including without limitation legal and overhead expenses of the District directly related to the administration of the System, insurance premiums, audits, charges of depository banks and paying agents, professional services, salaries and administrative expenses, labor, and the cost of

materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, legal liabilities not based on contract, expenses incurred in connection with Capital Improvements, payments due in connection with any bonds or other obligations issued to provide Capital Improvements, and charges for the accumulation of reserves.

"Original Loan" means the loan made by the CWCB to the District pursuant to the Original Loan Contract.

"Original Loan Contract" means the Loan Contract dated as of July 21, 2008 between the District and the CWCB, including the Security Agreement and Project Summary appended thereto.

"Original Note" means the Promissory Note dated as of July 21, 2008 from the District to the CWCB evidencing the Original Loan.

"Parity Lien Bonds" means, collectively: (a) the Prior Parity Obligations; and (b) one or more series of additional bonds, notes, interim securities, or other obligations having a lien on the Adjusted Net Revenue on a parity with the lien pledged to the CWCB in the Loan A Contract and the Loan B Contract that are issued by the District in conformance with the provisions of the Loan A Contract, the Loan B Contract, and the District resolutions and other documents governing the Prior Parity Obligations.

"Prior Parity Obligations" means, collectively: (a) the Loan Agreement dated June 1, 2008 between the District and the Colorado Water Resources and Power Development Authority (the "CWRPDA"), and Governmental Agency Bond issued pursuant thereto, and the resolution of the District authorizing the execution and delivery thereof; (b) the Loan Agreement (2009 ARRA Program) dated as of September 4, 2009, as amended as of February 11, 2010, between the District and the CWRPDA, and Governmental Agency Bond issued pursuant thereto, and the resolution of the District authorizing the execution and delivery thereof, and the Loan Agreement (2009 Base Program) dated as of September 4, 2009, as amended as of February 11, 2010, between the District and the CWRPDA, and Governmental Agency Bond issued pursuant thereto, and the resolution of the District authorizing the execution and delivery thereof; and (c) the District's Enterprise Revenue Refunding Bonds, Series 2015.

"Project" is defined in the Agreement to Restructure.

"Reserve Accounts" means, collectively, the "debt service reserve account or fund" provided for in each of the Loan Contracts.

"Resolution" means this Resolution, including any amendments properly made hereto.

"Restructuring Project" means the restructuring of the cost of financing the Project as set forth in the Agreement to Restructure.

"System" means all of the District's water and wastewater facilities and properties, now owned or hereafter acquired, whether situated within or without the District boundaries, including all present or future improvements, extensions, enlargements, betterments,

replacements, or additions thereof or thereto, which facilities and properties comprise the District's Water Activity Enterprise.

"Water and Wastewater Enterprise Fund" means, collectively, the funds of the District designated as the "Water Enterprise Fund" and the "Wastewater Enterprise Fund," previously established by the District and reaffirmed by the provisions hereof.

Section 2. Authorization. In accordance with the Constitution of the State of Colorado, Title 31, Article 35, C.R.S., Title 32, Article 1, C.R.S.; Title 37, Article 45.1, C.R.S., and all other laws of the State of Colorado thereunto enabling, the Loan A Amendment, the Loan A Note Amendment, the Loan B Contract and the Loan B Note are incorporated herein by reference and are hereby approved for purposes of effectuating the Restructuring Project; the Chairman of the Board and President of the District, the Secretary of the Board and all other appropriate officers of the District are hereby authorized and directed to execute and deliver the Loan A Amendment, the Loan A Note Amendment, the Loan B Contract and the Loan B Note, in substantially the forms made available to the Board, with such changes, not inconsistent herewith, as are approved by the persons executing the same (whose signatures thereon shall constitute conclusive evidence of such approval); and the District is hereby authorized and directed to perform its obligations under the Loan A Contract, the Loan A Note, the Loan B Contract and the Loan B Note. The accomplishment of the Restructuring Project is hereby authorized, approved, and ordered, and it is hereby determined that the Notes mature at such times as do not exceed the estimated life of the Project.

Section 3. Pledge and Lien for Payment of Notes and Amounts Payable Pursuant to Loan Contracts. The principal of and interest on the Notes and any other amounts payable pursuant to the Notes and the Loan Contracts, including, without limitation, amounts required to fund the Reserve Accounts, the loan service fees payable pursuant to the Loan Contracts, any contract amendment service fees payable pursuant to the Loan Contracts and any late charges payable pursuant to the Notes, shall be payable only out of Adjusted Net Revenue. Pursuant to the Loan Contract, the District grants an irrevocable and first lien on the Adjusted Net Revenue, but not an exclusive such lien, for the payment of the Notes, and the Adjusted Net Revenue is hereby pledged to the payment of the Notes. The Parity Lien Bonds have a lien on the Adjusted Net Revenue which is on a parity with the lien granted pursuant to the Loan Contracts. Notwithstanding the foregoing or anything else contained herein, the Notes shall have no pledge of or lien or claim on any debt service reserve account created for any Parity Lien Bonds. The CWCB may not look to any general or other fund of the District for the payment of the principal of and interest on the Notes or any other such amounts payable under the Loan Contracts or the Notes, except the Water and Wastewater Enterprise Fund and the respective Reserve Accounts, and none of the Loan A Contract, the Loan A Note, the Loan B Contract or the Loan B Note shall constitute a debt or an indebtedness of the District within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the District.

Section 4. Water and Wastewater Enterprise Fund. There is hereby reaffirmed the Water and Wastewater Enterprise Fund, which shall be maintained by the District in accordance with the provisions of this Resolution. The District shall apply amounts on deposit in the Water and Wastewater Enterprise Fund as provided in the Loan Contracts and in the resolutions of the District and other documents governing the Parity Lien Bonds.

Section 5. Maintenance of Water Activity Enterprise. The District hereby further irrevocably covenants and agrees with the CWCB that so long as the Notes remain outstanding, the District has established and covenants to continue to maintain the System as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution, and as a "water activity enterprise" within the meaning of Title 37, Article 45.1, C.R.S.; provided, however, after calendar year 2016 the District may disqualify the System as an "enterprise" in any year in which said disqualification does not materially, adversely affect the enforceability of the covenants made by the District in the Financing Documents. In the event that the System is disqualified as an enterprise and the enforceability of the covenants made by the District in the Financing Documents are materially, adversely affected, the District covenants to immediately take all actions necessary to (i) qualify the System as an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution and (ii) permit the enforcement of the covenants made in the Financing Documents.

Section 6. Authorization to Execute Documents. The Chairman of the Board and President of the District, the Secretary of the Board, the District Manager, and any other duly authorized officer of the District, shall, and they are hereby authorized and directed to, take all actions necessary or desirable to effectuate the provisions of this Resolution, including, but not limited to, the execution of an such certificates and other documents as may be reasonably required by the CWCB or as are necessary and appropriate to effectuate the transactions described in this Resolution. The execution by the Chairman of the Board and President of the District, the Secretary of the Board, the District Manager or any other duly authorized officer of the District of any document authorized herein shall be conclusive proof of the approval by the District of the terms thereof.

Section 7. Costs and Expenses. All costs and expenses incurred in connection with the execution and delivery of the Loan A Amendment, the Loan A Note Amendment, the Loan B Contract and the Loan B Note shall be paid as provided in Loan Contracts, and such moneys are hereby appropriated for that purpose.

Section 8. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers and agents of the District and the members of the Board, not inconsistent with the provisions of this Resolution, relating to the authorization, execution and delivery of the Loan A Amendment, the Loan A Note Amendment, the Loan B Contract and the Loan B Note, are hereby ratified, approved, and confirmed.

Section 9. Resolution Irrepealable; Amendments. After the Notes have been executed and delivered by the District, this Resolution shall constitute a contract between the CWCB and the District, and shall be and remain irrepealable until each of the Notes and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided.

Section 10. Repealer. All orders, bylaws, and resolutions of the District, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed to the extent only of such inconsistency or conflict.

Section 11. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or


Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption and approval.

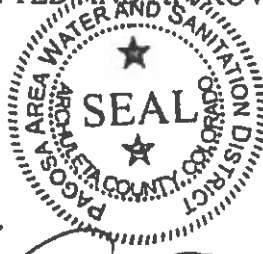
ADOPTED AND APPROVED this 16 day of June, 2016.

[SEAL]

Attested:

By


Secretary of the Board



By


Chairman of the Board and President

APPENDIX 4

SECURITY AGREEMENT

DATE: JUNE 16, 2016

BORROWER: PAGOSA AREA WATER & SANITATION DISTRICT,
ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

PROMISSORY NOTE: \$4,565,000.00

TERMS OF REPAYMENT: THE FIRST TWENTY (20) YEARS WILL INCUR NO INTEREST AND NO
PAYMENT; THE FOLLOWING TWENTY (20) YEARS WILL BE AT AN INTEREST
RATE OF 3.50% WITH AN ANNUAL PAYMENT OF \$321,198.32

LOAN CONTRACT NUMBER: CT2017-1008

PLEDGED REVENUES: WATER ACTIVITY ENTERPRISE REVENUES BACKED BY A RATE COVENANT
AND ALL OF DEBTOR'S RIGHT TO RECEIVE SAID REVENUES TO REPAY THE LOAN AS DESCRIBED IN PLEDGED
REVENUES PROVISIONS OF THE LOAN CONTRACT AND DEBTOR'S RESOLUTIONS ADOPTED JUNE 16, 2016.

To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the
TERMS OF REPAYMENT, or until all principal, interest, and late charges, if any, are paid in full, the
BORROWER grants to SECURED PARTY a security interest in the above described PLEDGED REVENUES.

BORROWER EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Section 5 of the LOAN CONTRACT, PROJECT SUMMARY, BORROWER is the owner of the PLEDGED REVENUES free from any adverse lien, security interest or encumbrances; and that BORROWER will defend the PLEDGED REVENUES against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by BORROWER will not violate any law or agreement governing BORROWER or to which BORROWER is a party.
3. To not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the PLEDGED REVENUES and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the CONTRACT and by its representations herein, BORROWER shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the PLEDGED REVENUES pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature that may be levied or assessed against the PLEDGED REVENUES.
6. That the BORROWER's articles of incorporation and by-laws do not prohibit any term or condition of this agreement.

UNTIL DEFAULT BORROWER may have possession of the PLEDGED REVENUES, provided that BORROWER keeps the PLEDGED REVENUES in an account separate from other revenues of BORROWER and does not use PLEDGED REVENUES for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the PLEDGED REVENUES.


BORROWER SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:


- a. default in the payment or performance of any obligation contained herein or in the PROMISSORY NOTE or LOAN CONTRACT;
- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against BORROWER; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of BORROWER which proves to have been false in any material respect when made or furnished.


Upon such default and at any time thereafter, SECURED PARTY shall have the remedies of a secured party under Section 11-57-208, Colorado Revised Statutes as amended. SECURED PARTY may require BORROWER to deliver or make the PLEDGED REVENUES available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY's reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this SECURITY AGREEMENT. No default shall be waived by SECURED PARTY except in writing, and no waiver by SECURED PARTY of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this SECURITY AGREEMENT shall not waive or impair any other security SECURED PARTY may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this SECURITY AGREEMENT; but SECURED PARTY shall retain its rights of set-off against BORROWER. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and BORROWER consents to venue and personal jurisdiction in said Court.

All rights of SECURED PARTY hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of BORROWER shall bind its successors or assigns.

(SEAL) 

Attest: 

BY: 
Signature

NAME: Gordon McIver

TITLE: Secretary

DATE: 6/16/16

BORROWER: Pagosa Area Water & Sanitation
District, Acting By and Through Its Water
Activity Enterprise

BY: 
Signature

NAME: Michael Church

TITLE: President

DATE: 6/16/16