

RESOLUTION NO. 2016-01

A RESOLUTION APPROVING A LOAN FROM THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY; AUTHORIZING THE FORM AND EXECUTION OF THE LOAN AGREEMENT AND A GOVERNMENTAL AGENCY BOND TO EVIDENCE SUCH LOAN; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the La Plata Archuleta Water District (the "District"), in the County of La Plata and State of Colorado, is duly organized and existing under the Constitution and the laws of the State of Colorado; and

WHEREAS, the members of the Board of Directors of the District (the "Board") have been duly elected, chosen and qualified; and

WHEREAS, at an election held on May 4, 2010 (the "2010 Election"), the voters within the District approved the following question which authorizes the tax increase from which the Limited Mill Levy (defined herein) is pledged under this resolution:

"SHALL LA PLATA ARCHULETA WATER DISTRICT TAXES BE INCREASED \$5,100,642 ANNUALLY IN 2011, AND BY SUCH AMOUNT AS MAY BE RAISED ANNUALLY IN EACH YEAR THEREAFTER BY THE IMPOSITION OF A PROPERTY TAX LEVY OF NOT MORE THAN 5.0 MILLS (WITH THE ACTUAL MILL LEVY RATE FOR ANY FISCAL YEAR TO BE ADJUSTED DOWNWARDS OR UPWARDS BY THE BOARD OF DIRECTORS IN ITS DISCRETION SO LONG AS THE MILL LEVY DOES NOT EXCEED 5.0 MILLS) COMMENCING IN LEVY YEAR 2010 AND CONTINUING THERAFTER, FOR THE PURPOSE OF PAYING THE DISTRICT'S CAPITAL IMPROVEMENT COSTS OF CONSTRUCTING A RURAL DOMESTIC WATER SYSTEM AND FOR OPERATIONS, MAINTENANCE, ADMINISTRATION AND OTHER EXPENSES WITHOUT LIMITATION; AND SHALL THE DISTRICT BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE PROCEEDS OF SUCH TAXES AND ANY AND ALL OTHER AMOUNTS RECEIVED ANNUALLY FROM ANY REVENUE SOURCES WHATSOEVER AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, SECTION 29-1-301, C.R.S., OR ANY OTHER LAW?"; and

WHEREAS, at an election held on November 5, 2011 (the "November 2011 Election," and together with the 2010 Election, the "Elections"), the voters within the District

approved the issuance of bonded indebtedness in an aggregate amount not exceeding \$25,000,000 pursuant to the following bond question:

“SHALL LA PLATA ARCHULETA WATER DISTRICT DEBT BE INCREASED \$25,000,000, WITH A REPAYMENT COST OF \$45,378,000, WITHOUT INCREASING EXISTING TAXES OR IMPOSING ANY NEW TAX, BY THE ISSUANCE OF BONDS OR OTHER FINANCIAL OBLIGATIONS TO ACQUIRE, PLAN AND CONSTRUCT A RURAL DOMESTIC WATER SYSTEM, INCLUDING:

- POTABLE WATER TREATMENT PLANTS, PUMPS, PIPELINES, WATER STORAGE TANKS AND VALVES;
- WATER LOADING STATIONS;
- BUILDINGS, WATER METERS AND METER READERS;
- EXCAVATION EQUIPMENT AND PIPE INSTALLATION EQUIPMENT;
- WATER QUALITY MONITORING EQUIPMENT;
- COMPUTERS, SOFTWARE AND COMMUNICATION EQUIPMENT;

AND SHALL THE REVENUE FROM THE DISTRICT'S EXISTING CAPITAL IMPROVEMENT, OPERATIONS AND MAINTENANCE MILL LEVY OF 5.0 MILLS BE USED AS NECESSARY, ALONG WITH ANY OTHER REVENUE OF THE DISTRICT, TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH DEBT OR ANY REFUNDING DEBT (OR TO CREATE A RESERVE FOR SUCH PAYMENT), SUCH DEBT TO BE EVIDENCED BY THE ISSUANCE OF BONDS OR OTHER FINANCIAL OBLIGATIONS BEARING INTEREST AT A MAXIMUM NET EFFECTIVE INTEREST RATE NOT TO EXCEED 6.5%; SUCH BONDS OR OBLIGATIONS TO BE SOLD IN ONE SERIES OR MORE, FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT OF SUCH SERIES, ON TERMS AND CONDITIONS, AND WITH SUCH MATURITIES AS PERMITTED BY LAW AND AS THE DISTRICT MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A PREMIUM OF NOT MORE THAN THREE PERCENT; AND SHALL THE DISTRICT BE AUTHORIZED TO ISSUE DEBT TO REFUND THE DEBT AUTHORIZED IN THIS QUESTION, PROVIDED THAT SUCH REFUNDING DEBT, ALONG WITH ANY OTHER DEBT INCURRED BY THE DISTRICT PURSUANT TO THIS AUTHORIZATION, IS ISSUED ON TERMS WHICH DO NOT EXCEED THE PRINCIPAL, INTEREST AND REPAYMENT COSTS AUTHORIZED IN THIS QUESTION; AND SHALL THE EARNINGS FROM THE INVESTMENT OF SUCH BOND PROCEEDS AND TAX REVENUES BE

COLLECTED, RETAINED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?"; and

WHEREAS, the District has previously issued its Limited Tax General Obligation Bonds, Series 2013 (the "2013 Bonds"), in the original aggregate principal amount of \$5,000,000, and currently has \$20,000,000 of voter authorization remaining as a result of the November 2011 Election; and

WHEREAS, the District is not delinquent in the payment of the principal of or interest on any of the 2013 Bonds; and

WHEREAS, the Board has heretofore determined that the interest of the District and the public interest and necessity demand and require the construction of approximately 11 miles of 12-inch water transmission main in southeast La Plata County, including design, engineering, legal, financing and administrative costs relating thereto, and any other costs incidental thereto (the "Project"); and

WHEREAS, the Board has determined that in order to finance the Project, it is necessary and advisable and in the best interests of the District to enter into a loan agreement (the "Loan Agreement") with the Colorado Water Resources and Power Development Authority ("CWRPDA"), a body corporate and political subdivision of the State of Colorado, pursuant to which CWRPDA shall loan the District an amount of not to exceed \$2,500,000 (the "Loan") for such purposes; and

WHEREAS, the repayment obligations under the Loan Agreement shall be evidenced by a governmental agency bond (the "Bond") to be issued by the District to CWRPDA; and

WHEREAS, the Bond and the Loan Agreement (collectively, the "Financing Documents") shall be a limited mill levy obligation of the District, payable solely from the Limited Mill Levy (as defined herein); and

WHEREAS, the Financing Documents shall be equally and ratably secured by the Limited Mill Levy pledged for the payment of the 2013 Bonds, shall be an obligation on a parity with the 2013 Bonds, and shall be payable solely from the Limited Mill Levy; and

WHEREAS, the Loan Agreement and the Bond shall be executed and delivered pursuant to the provisions of Title 32, Article 1, Parts 11 and 13, C.R.S. and all other laws thereunto enabling; and

WHEREAS, the Board specifically elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S. (the "Supplemental Act," as defined below), to the Financing Documents; and

WHEREAS, there have been presented to the Board the forms of the Financing Documents; and

WHEREAS, the Board desires to approve the forms of the Financing Documents and authorize the execution thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF LA PLATA ARCHULETA WATER DISTRICT:

Section 1. Approvals, Authorizations, and Amendments. The forms of the Financing Documents presented at this meeting are incorporated herein by reference and are hereby approved. The District shall enter into and perform its obligations under the Financing Documents in accordance with the forms of such documents, with such changes as are not inconsistent herewith and as are hereafter approved by the Chairman of the Board and President of the District (the "Chairman"). The Chairman and the Secretary of the District (the "Secretary"), and in their absence, the Vice Chairman and/or Assistant Secretary of the District, are hereby authorized and directed to execute the Financing Documents and to affix the seal of the District thereto, and further to execute and authenticate such other documents or certificates as are deemed necessary or desirable in connection therewith. The Financing Documents shall be executed in substantially the forms approved at this meeting.

The execution of any instrument or certificate or other document in connection with the matters referred to herein by the Chairman and the Secretary, and in their absence, the Vice Chairman and/or Assistant Secretary of the District, shall be conclusive evidence of the approval by the District of such instrument.

Section 2. Election to Apply Supplemental Act. Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S. (the "Supplemental Act") provides that a public entity, including the District, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The Board hereby elects to apply all of the Supplemental Act to the Financing Documents.

Section 3. Delegation.

(a) Pursuant to Section 11-57-205 of the Supplemental Act, the Board hereby delegates to the Chairman or the Vice Chairman the authority to make the following determinations relating to and contained in the Financing Documents, subject to the restrictions contained in paragraph (b) of this Section 3:

- (i) The interest rate on the Loan;
- (ii) The principal amount of the Loan;
- (iii) The amount of principal of the Loan maturing in any given year and the final maturity of the Loan;
- (iv) The dates on which the principal of and interest on the Loan are paid; and
- (v) The existence and amount of reserve funds for the Loan, if any.

(b) The delegation in paragraph (a) of this Section 3 shall be subject to the following parameters and restrictions:

- (i) the interest rate on the Loan shall not exceed 2%;
- (ii) the principal amount of the Loan shall not exceed \$2,500,000;
- (iii) the maximum annual repayment cost of the Loan shall not exceed \$200,000 and the total repayment cost of the Loan shall not exceed \$3,500,000; and
- (v) the final maturity of the Loan shall not be later than November 1, 2036.

Section 4. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, each of the Financing Documents shall contain a recital that such document is issued pursuant to certain provisions of the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the each of the Loan Agreement and the Bond, after its delivery for value.

Section 5. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Financing Documents provided herein shall be governed by Section 11-57-208 of the Supplemental Act, this Resolution and the Loan Agreement. The amounts pledged to the payment of the Financing Documents shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have the priority described in the Loan Agreement. The lien of such pledge

shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the District irrespective of whether such persons have notice of such liens.

Section 6. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the Financing Documents shall be commenced more than thirty days after approval of this Resolution.

Section 7. Limited Tax Obligation; Parity Obligation. The Loan is payable solely from the District's ad valorem mill levy (a mill being equal to 1/10th of 1¢) imposed upon all taxable real property within the boundaries of the District each year in an amount sufficient to pay the principal of and interest on the Loan, but not in excess of 2.50 mills (the "Limited Mill Levy"). The Financing Documents shall be equally and ratably secured by the Limited Mill Levy pledged for the payment of the 2013 Bonds, and shall be an obligation on a parity with the 2013 Bonds.

Section 8. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board, or any officer or agent of the District acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal of or interest on the Bond or the fulfillment by the District of its obligations under the Loan Agreement. Such recourse shall not be available either directly or indirectly through the Board or the District, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Loan Agreement and the Bond and as a part of the consideration of the sale or purchase of the Bond, CWRPDA specifically waives any such recourse.

Section 9. Disposition and Investment of Loan Proceeds. The proceeds of the Loan shall be applied only to pay the costs and expenses of acquiring, constructing and equipping the Project, including costs related thereto and reimbursement to the District for capital expenditures heretofore incurred and paid from District funds in anticipation of the incurrence of long-term financing therefor, and all other costs and expenses incident thereto, including without limitation the costs of obtaining the Loan. Neither CWRPDA nor any subsequent owner(s) of the Loan Agreement shall be responsible for the application or disposal by the District or any of its officers of the funds derived from the Loan. In the event that all of

the proceeds of the Loan are not required to pay such costs and expenses, any remaining amount shall be used for the purpose of paying the principal amount of the Loan and the interest thereon.

Section 10. District Representative. Pursuant to Exhibit B of the Loan Agreement, the Chairman, Vice Chairman, Treasurer and General Manager are hereby designated as the Authorized Officers (as defined in the Loan Agreement) for the purpose of performing any act or executing any document relating to the Loan, the District, or the Loan Agreement. A copy of this Resolution shall be furnished to CWRPDA as evidence of such designation.

Section 11. Direction to Take Authorizing Action. The appropriate officers of the District and members of the Board are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Resolution, including but not limited to such certificates and affidavits as may reasonably be required by CWRPDA.

Section 12. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers and agents of the District and members of the Board, not inconsistent with the provisions of this Resolution, relating to the Financing Documents, or actions to be taken in respect thereof, are hereby authorized, ratified, approved, and confirmed.

Section 13. Repealer. All acts, orders, ordinances, or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 14. Severability. Should any one or more sections or provisions of this Resolution be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 15. Resolution Irrepealable. After said Bond is issued, this Resolution shall be and remain irrepealable until said Bond and the interest thereon shall have been fully paid, satisfied and discharged.

ADOPTED on January 14, 2016.

LA PLATA ARCHULETA WATER DISTRICT

Richard T. Luceford
Chairman and President of the Board of Directors of
La Plata Archuleta Water District

[SEAL]

Attest:

Cheryl Lynn
Secretary of La Plata Archuleta Water District

STATE OF COLORADO)
 COUNTY OF LA PLATA) SS.
 LA PLATA ARCHULETA WATER DISTRICT)

I, Cheryl Lynn, the duly qualified and acting Secretary of La Plata Archuleta Water District, La Plata County, Colorado (the "District"), do hereby certify:

(a) The foregoing pages are a true and correct copy of a resolution (the "Resolution") passed and adopted by the Board of Directors (the "Board") of the District at a regular meeting held on January 14, 2016.

(b) The Resolution was duly moved and seconded and the Resolution was adopted at the regular meeting of January 14, 2016, by an affirmative vote of a majority of the members of the Board, as follows:

<u>Name</u>	<u>"Yes"</u>	<u>"No"</u>	<u>Absent</u>	<u>Abstain</u>
Richard Lunceford, President/Chairman	✗			
Dan Lynn	✗			
Ron Dent	✗			
Mark Williams			✗	
Gregg Johnson	✗			

(c) The members of the Board were present at such meeting and voted on the passage of such Resolution as set forth above.

(d) The Resolution was approved and authenticated by the signature of the Chairman of the Board and President, sealed with the District seal, attested by the Secretary and recorded in the minutes of the Board.

(e) There are no bylaws, rules or regulations of the Board which might prohibit the adoption of said Resolution.

(f) Notice of the regular meeting of January 14, 2016, in the form attached hereto as Exhibit A was posted in at least three public places within the limits of the District, and, in addition, such notices were posted in the office of the La Plata County Clerk and Recorder not less than 72 hours prior to the meetings in accordance with law.

WITNESS my hand and the seal of said District affixed this 14th day of January,

2016.

Cheryl Lynn
Secretary

(SEAL)

EXHIBIT A

(Attach Notice of Meeting)

**NOTICE OF REGULAR MEETING FOR
LA PLATA ARCHULETA WATER DISTRICT**

PUBLIC NOTICE is hereby given that the regular meeting of the Board of Directors of the La Plata Archuleta Water District, La Plata County, Colorado, is scheduled for Thursday, January 14, 2016, at 9:00 a.m., at 255 Ute Street, Ignacio, Colorado. At such meeting the Board will take up regular business of the District and any other matters as may come before the Board.

AGENDA

1. Disclosure of potential conflicts of interest.
2. Public Comments (3 minutes per person).
3. Approval of Minutes of December 10, 2015 regular Board meeting.
4. Financial report.
 - Approval and payment of invoices
5. Finance Committee report.
 - Consider Approving Engagement Letter with FrederickZink and Associates
 - Make a final determination to issue general obligation indebtedness in the form of a proposed Loan Agreement with the Colorado Water Resources and Power Development Authority in the amount of \$2,500,000.
 - Discuss current Banking arrangements
6. Public Relations/Communications Committee report.
7. Legal report.
 - Consider Resolution Designating Location to Post Notices.
 - Consider Resolution Calling for the 2016 Regular District Election.
 - Consider Petitions for Inclusion of Real Property into the District for the Winnicki Property and the Lienert & Koscielniak Property.
8. Engineer report.
 - Phase 1 Pipeline
9. Environmental report. Grayling LLC
10. General Manager report.
 - Pine River Irrigation Annual Meeting
 - Easement across SUIT Lands (Executive Session)
11. Executive Session to:
 - confer with an attorney for purpose of receiving legal advice on specific legal questions (Section 24-6-402(4)(b), C.R.S.); and/or
 - for determining positions relative to matters that may be subject to negotiations, developing strategies for negotiations, and instructing negotiators (Section 24-6-402(4)(e), C.R.S.).
 - Issues to be discussed include Phase 1C Pipeline and ROW/Easement Issues for CR 510
12. Any other matter which may come before the Board.

This meeting is open to the public.

LA PLATA ARCHULETA WATER DISTRICT

By: /s/ Cheryl Lynn

Secretary

I hereby certify that a copy of the foregoing Notice of Regular Meeting was, by me personally, posted at the designated location, 255 Ute Street, Ignacio, Colorado, at least 24 hours prior to the meeting.
