

LAKE DURANGO WATER AUTHORITY

FIRST AMENDED ESTABLISHMENT AGREEMENT

Effective July 14, 2009

**FIRST AMENDED
AGREEMENT ESTABLISHING
THE
LAKE DURANGO WATER AUTHORITY**

THIS FIRST AMENDED AGREEMENT to establish the Lake Durango Water Authority is entered into by Durango West Metropolitan District No. 1 (“DW1”), Durango West Metropolitan District No. 2 (“DW2”) and La Plata County (“LPC”), each a quasi-municipal corporation and political subdivision of the State of Colorado, all situated in La Plata County, Colorado, and hereafter referred to individually as a “Member” and collectively as the “Members”. This First Amendment amends Sections 2.2.c and 6.7.a and was approved by the Board of Directors of DW1 at a meeting on July 1, 2009, by the Board of Directors of DW2 at a meeting on June 17, 2009, and by the Board of County Commissioners of LPC at a meeting on July 14, 2009. All other sections of the Agreement are hereby re-affirmed.

PREAMBLE

The Members to this Agreement acknowledge that local governments can increase their efficiency and their effectiveness through cooperative efforts for the provision of water service within La Plata County. The creation of this water authority will allow for public ownership and operation of a water system that will provide domestic water service to portions of western La Plata County.

RECITALS

A. Each of the Members is authorized to own and operate water systems or facilities within its respective jurisdiction.

B. Pursuant to the provisions of the Colorado Constitution, Article XIV, § 18(2)(a) and (2)(b), and C.R.S. §29-1-201, *et seq.* (the “Intergovernmental Relationships Act” or the “IGA Act”), the Members have the authority to enter into an intergovernmental agreement which will establish a water authority as a separate governmental entity in order to make the best use of their joint resources to effect the development of water resources, systems, or facilities in whole or in part for the benefit of the inhabitants of such Members; to further develop domestic water

operations and facilities; to serve a public purpose; and to promote the health, safety, prosperity, security, and general welfare of the inhabitants of the Members.

C. Each of the Members is a party to a Memorandum of Agreement dated July 17, 2007 (the “MOA”) pursuant to which Lake Durango Water Company, Inc. (“LDWC”) agreed to sell the assets of LDWC to a water authority to be created by the Members.

NOW THEREFORE, in consideration of the mutual agreements set forth herein, the adequacy of which is hereby acknowledged, the Members agree as follows:

I. INTRODUCTORY PROVISIONS

Section 1.1. Establishment of the Water Authority. There is hereby established the Lake Durango Water Authority (“Authority”) as a separate legal entity, political subdivision, and public corporation of the State of Colorado, separate and distinct from each of the Members, with the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate.

Section 1.2. Effective Date and Term. This Agreement shall become effective and the Authority operations shall begin as of the date the Agreement is executed by all of the Members. The term of this Agreement shall be unlimited and shall extend until terminated, as provided herein.

Section 1.3. Authority Service Area. The Authority service area consists of all property identified with a committed water tap from LDWC as shown on the attached Exhibit A and any property to which the Authority may expand its service.

II. PURPOSE AND POWERS OF THE AUTHORITY

Section 2.1. Purpose. The purpose of the Authority is to operate a domestic water system (“Water System”). To that end, it is the intent of the Members to extend to the Authority the maximum flexibility and authority to conduct the business of operating the Water System, enter into additional intergovernmental agreements, or perform any other necessary functions to further that purpose.

Section 2.2. Powers.

a. The powers of the Authority are derived primarily from C.R.S. § 29-1-204.2, (“IGA Act”) which authorizes the establishment of a water authority as a separate governmental entity.

b. The general powers of the Authority shall include all powers granted by the Colorado Revised Statutes, to wit, the power:

(i) To develop water resources, systems, or facilities in whole or in part for the benefit of the inhabitants of the Members or others, at the discretion of the board of directors of the Authority, subject to fulfilling any conditions or requirements set forth in this Agreement;

(ii) To make and enter into contracts;

(iii) To employ agents and employees;

(iv) To acquire, construct, manage, maintain, or operate water systems, facilities, works, or improvements, or any interest therein;

(v) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property utilized only for the purposes of water treatment and distribution;

(vi) To condemn property for use as rights-of-way only if such property is not owned by any public utility and devoted to such public use pursuant to state authority;

(vii) To incur debts, liabilities, or obligations;

(viii) To sue and be sued in its own name;

(ix) To have and use a corporate seal;

(x) To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the Authority;

(xi) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purpose;

(xii) To exercise any other powers which are essential to the provision of functions, services, or facilities by the Authority and which are specified in this Agreement;

(xiii) To do and perform any acts and things authorized by the IGA Act under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(xiv) To permit other municipalities, special districts, or political subdivisions of this state that are authorized to supply water to enter this Agreement , subject to the approval of the

Members and to fulfilling any and all conditions or requirements of this Agreement; except that rates need not be uniform between the Authority and the contracting parties;

(xv) To provide for the rehabilitation of any surfaces adversely affected by the construction of water pipelines, facilities, or systems through the rehabilitation of plant cover, soil stability, and other measures appropriate to the subsequent beneficial use of such lands;

(xvi) To justly indemnify property owners or others affected for any losses or damages incurred, including reasonable attorney fees, or that may subsequently be caused by or which result from actions of such corporations.

(xvii) To do any and all other things necessary or desirable to establish and operate the Water System for persons and property. It is the intent of the Members to extend maximum power to the Authority, consistent with the IGA Act, to fulfill the purposes set forth in this Agreement.

c. The Authority is authorized to issue bonds, notes, or other obligations payable solely from revenues derived from the function, service, system, or facility or the combined functions, services, systems, or facilities of the Authority or from any other available funds of the Authority. The terms conditions and details of said bonds, notes and other obligations shall be in accordance with the provisions of the IGA Act and all other applicable laws. The bonds, notes and other obligations of the Authority shall not be the debts, liabilities, or obligations of the Members.

III. GOVERNANCE OF THE AUTHORITY

Section 3.1. Board of Directors. The governing body of the Authority shall be a Board of Directors (“Board”) in which all legislative power of the Authority is vested. While it is recognized that the Directors are appointed by the individual Members, Directors individually and the Board collectively shall act in accordance with their fiduciary duties to advance the goals and objectives of the Authority.

Section 3.2. Number and Qualification of Directors. The initial number of Directors shall be five (5). The number of Directors may be expanded if other public entities join the Water Authority.

Section 3.3. Appointment and term. The Board of Directors of DW 1 and DW 2 shall each appoint one Director. The Board of County Commissioners of LPC shall appoint two Directors who shall be retail customers of the Authority and shall appoint one Director who is not a customer of the Authority and who may be an official or employee of La Plata County. The Directors of the Authority shall serve at the pleasure of the governing body of the appointing Member. Each Director shall serve for a term of three years; except that the original Directors shall initially serve staggered terms as follows:

- One retail Director: one year term
- One retail Director: two year term
- One at large Director: three year term
- Durango West 1 Director: one year term
- Durango West 2 Director: two year term

Directors shall hold their offices until their successors are appointed. A Director may be re-appointed for successive terms. A vacancy, whether the result of a Director's resignation, death, removal, or disability, shall be filled within sixty (60) days by appointment of a replacement by the appropriate Member.

Section 3.4. Compensation. Directors may receive compensation for their services as may be determined by resolution of the Board. The Board shall provide by resolution for the reimbursement of Directors for their actual and reasonable expenses incurred on behalf of the Authority, which reimbursements shall not be considered to be compensation. No Director shall be paid any additional compensation by the Authority except as authorized by this provision.

Section 3.5. Meetings and Decisions.

a. The Board, from time to time, shall adopt a schedule for the holding of regular meetings and shall post a notice of the schedule in at least one public place in DW1, DW2, the Service Area outside DW1 and DW2 and at the LPC Clerk's office. Such meetings may then be held without additional notice to the Directors.

b. Special meetings of the Board may be called by the President or by any two Directors, and it shall be the duty of the Secretary to cause notice of such meeting to be given as provided above. Written notice of special meetings shall also be delivered to each Director not less than 5

days before the date fixed for such meeting. The notice may be given by personal delivery, by regular mail or by email.

c. A majority of the directors then in office shall constitute a quorum for the transaction of business. Each director, including the President, shall be entitled to cast one vote. The action of a majority of the directors present at a meeting at which a quorum is present, except as otherwise provided in this Agreement, shall be an act of the Board. Decisions of the Board may be made only at regular or special Board meetings called upon proper notice.

d. Meeting shall be conducted in accordance with the Colorado Open Meetings law. Not less than 24 hours prior to any regular or special meeting, a notice of the meeting and an agenda of matters to be considered at the meeting shall be posted at the locations specified in subsection (a) above.

Section 3.6. Officers. The officers of the Authority shall be a President, Vice President, Secretary, Treasurer, and such other officers as may be authorized by the Board. The President and Vice President shall be members of the Board but the other officers of the Authority need not be Board members. The duties of the officers shall be those provided in Section 3.7 below and as may be provided in the Authority Bylaws. All officers shall serve for terms of one year or at the pleasure of the Board. Vacancies in any office may be filled at any meeting of the Board. Notwithstanding any dates for appointment, reappointment, or election, officers shall hold office until their successors are appointed.

Section 3.7 Duties of Officers.

a. President. The President shall be the principal executive officer of the Authority and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Authority. He or she shall, when present, preside at all meetings of the Board of Directors. He or she may sign, with the Secretary or any other proper officer of the Authority deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Authority, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

b. Vice President. In the absence of the President or in the event of his or her death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

c. Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Board of Directors; (b) see that all notices are duly given in accordance with the provisions of the C.R.S. 24-72-201 et seq and this Agreement or as otherwise provided by law; (c) sign with the President; (d) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

d. Treasurer. The Treasurer shall be the financial officer for the Authority and shall: (a) have charge and custody of and be responsible for all funds of the Authority; (b) receive and give receipts for moneys due and payable to the Authority from any source whatsoever, and deposit all such moneys in the name of the Authority in such banks, trust companies or other depositories as designated by the Board of Directors; and (c) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors. All checks written from an Authority bank account over \$10,000 shall require the signature of the Treasurer and a single member of the Board of Directors or the signature of two members of the Board of Directors.

Section 3.8. Bonds of Officers. The Treasurer and any other Officer or agent of the Authority charged with the responsibility for the handling or custody of any of its funds and any other person, if required by law, shall give bond in such sum and with such surety as the Board shall determine. The cost of such bonds shall be an expense payable by the Authority.

Section 3.9. Minutes, Bylaws and Rules and Regulations. The Secretary shall cause all minutes of the meetings of the Board to be kept in accordance with the provisions of the Colorado Open Meeting Law. The approval of each of the Members is required for the adoption of the bylaws of the Authority and any amendments thereto. The Board shall adopt rules and regulations and amendments thereto for the conducting of its business affairs,

Section 3.10. Indemnification of Directors and Officers. To the maximum extent permitted by the Colorado Governmental Immunity Act (C.R.S. 24-10-101, *et seq.*), the Directors, Officers and employees of the Authority (“public employees”) shall be indemnified by the Authority for claims against them arising from an act or omission of such public employee occurring during the performance of the public employee’s duties and within the scope of the public employee’s employment, except where such act or omission is willful and wanton. The Authority may purchase error and omissions insurance to provide additional indemnification to all public employees of the Authority.

IV. FINANCING PROVISIONS

Section 4.1. Fiscal Year and Budget. The fiscal year of the Authority shall be the calendar year. Each year, after the first year of the Authority’s existence, the Authority shall adopt a budget in accordance with the Colorado Local Government Budget Law (“Budget Law”), C.R.S. § 29-1-101, *et seq.*

Section 4.2. Funding. The operations of the Authority shall be funded by revenue from the operation of the Water System, revenue bonds, grants, contributions and any other legal sources of revenue. Members shall not be required to make any financial contribution to the Authority; but may make contributions or loans to the Authority only if such contribution or loan does not effect the enterprise status of the Authority.

Section 4.3. Rates and Fees. Authority rates and fees shall be established based on the following principles:

- a. There shall be two (2) customer classes: Retail Customers and Wholesale Customers .
- b. Within the Retail Customer class, an individual end-user may be classified as either residential or commercial, each with different rates. Within the Wholesale Customer class, Wholesale Customers may have different rates.
- c. A Wholesale Customer is a customer that: (i) serves over twenty (20) end-users; (ii) owns and maintains its own storage facilities and distribution lines to end-users within its boundaries; (iii) receives treated water from the Authority at one or more master meters and is

billed by the Authority for consumption recorded at said meter(s); and (iv) has statutory authority to set rates and to bill for, and to promulgate regulations for, water service to end-users within its boundaries .

d. Rates; Rate Study. Rates shall be based upon the principle of recovering the full cost of service using standards generally accepted in the industry such as American Water Works Association standards or other similar generally accepted industry trade organization standards. The Board shall, within a reasonable period of time after formation of the Authority, engage qualified consultants to conduct a cost of service study and design rates. Costs to be considered in the study shall include, but not be limited to: collection and storage, transmission, peaking, treatment and delivery, maintenance, replacement and repair and administrative. The study shall include classification of costs and allocation of costs to and within customer classes using the full cost of service standard. Such rates shall be implemented as soon as reasonably feasible. Rates shall be fair, just and reasonable. The Board shall periodically review the need for changes in rates and implement such changes as may be appropriate in a manner consistent with the standards in this section 4.3. .

Objectives. It shall be the objective of all authority policies, including rate and conservation policies, to (i) yield necessary revenue in a stable and predictable manner; (ii) minimize unexpected changes to customer bills; (iii) discourage wasteful use and promote justified use; (iv) promote fairness and equity; (v) avoid discrimination; (vi) maintain simplicity, certainty, convenience, feasibility, and freedom from controversy; and (vii) comply with all applicable laws.

Conservation Measures. The Authority shall also establish conservation measures, such as usage restrictions and education programs and which may, but are not required to, include rate mechanisms.

Low Income Measures. The Board shall also implement a method for evaluating the economic impact of rate increases on residential Retail Customers and devise a plan or plans for mitigating such impact on qualified low income residential Retail Customers. Wholesale Customers agree to do likewise for qualified low-income residential end-users within their boundaries.

Costs of LDWC Purchase. Anything in the foregoing to the contrary notwithstanding, the 1,435 committed taps identified in LDWC's January 26, 2007, tap count and all future taps of the Authority shall bear equally (in the case of Retail Customers, by direct assessment; in the case of Wholesale Customers, by assessment to each Wholesale Customer based on the number of such taps within the Wholesale Customer's boundaries), all costs of purchasing the LDWC and Johnson assets described in the MOA, all costs associated with the development and implementation of the Authority and all closing costs for the acquisition of the LDWC assets.

e. Tap fees or Plant Investment Fees ("PIFs") shall be used only for acquisition of new sources of supply, capital construction, facilities replacement, funding reserve accounts for these purposes or repayment of revenue bonds the proceeds of which were used for these purposes.

f. While reserving the right to bring legal action challenging rate-making decisions that they in good faith believe improperly implement the rate-making principles and objectives set forth in this Agreement, the Members covenant and agree otherwise to accept and not to challenge rate-making decisions of the Authority based upon those principles and objectives

Section 4.4. Records and Accounts. The Board shall provide for the keeping of accurate records and accounts showing in detail all Authority revenues and expenses. All of the financial affairs of the Authority shall be conducted in accordance with and subject to the requirements of the Local Government Uniform Accounting Law, Part 5 of Article 1 of Title 29, C.R.S. and generally accepted governmental accounting principles. The Authority's books and records shall be open to public inspection at all times during normal business hours in accordance with C.R.S. §24-72-201, *et seq.*

Section 4.5. Audit. The Board shall require an annual audit of the Authority to be conducted in accordance with the Local Government Audit Law, Part 5 of Article 1 of Title 29, C.R.S.

V. ADDITION OR WITHDRAWAL OF A MEMBER OR TERMINATION OF THIS AGREEMENT

Section 5.1. Additional Members. Upon recommendation of the Board of the Authority and unanimous approval of the existing Members, other political subdivisions may be admitted as Members on such terms and conditions as may be established by the Board and approved by the existing Members in a written document which shall be approved and executed by the New

Member. Such document shall incorporate by reference the provisions of this agreement and any changes to the agreement required for the addition of the New Member.

Section 5.2. Withdrawal of DW1 or DW2 as a Member. DW1 and DW2 may withdraw from the Authority by giving not less than two (2) years notice of its election to withdraw, which withdrawal shall be effective as of the end of the second succeeding calendar year. Such withdrawal may be for any reason and need not be for cause. The Authority shall continue to provide services for the withdrawing Member comparable to the services the withdrawing Member was receiving immediately prior to its notice of withdrawal, and the withdrawing Member shall continue to have all rights and obligations under this IGA until the effective date of the withdrawal. The withdrawing Member shall continue to pay its prorata share of the acquisition costs and its prorata share of any indebtedness of by Authority. Such payments may be made by lump sum on or before the effective date of withdrawal or by recurring periodic minimum payments. The withdrawal from this Agreement shall not result in a termination of the Authority unless otherwise agreed to by the remaining Members.

Section 5.3. Withdrawal of La Plata County as a Member. The Members hereby acknowledge that La Plata County is not a Member receiving services from the Authority. Accordingly, La Plata County may withdraw from the Authority by giving one hundred eighty (180) days' notice of its election to withdraw, which withdrawal will be effective as of the one hundred eighty-first (181st) day following notice. Such withdrawal by the County may be for any reason. The remaining Members do not need to consent to the withdrawal of La Plata County. The withdrawal of La Plata County shall not alter the continuing responsibilities of the County for appointing certain Directors as set forth herein and such obligation shall survive the County's withdrawal. The withdrawal of La Plata County from this Agreement shall not result in a termination of the Authority unless otherwise agreed to by the remaining Members.

Section 5.4. Termination. This Agreement may be terminated at any time by written agreement of the Members. Upon termination of this Agreement, the Members shall cooperate in a good faith and timely manner to transfer assets so that one or more of the Members or a new entity may continue to provide adequate water service to all of the Authority's customers without a lapse or significant reduction in the provision of such.

VI. OPERATIONAL PROVISIONS

Section 6.1. Principal Place of Business. The official offices of the Authority shall be located

in La Plata County, Colorado, at a location selected by the Board. The Board may change the Authority's principal place of business at any Board meeting.

Section 6.2. Fiscal Year and Reports. The fiscal year of the Authority shall be the calendar year. Operations Reports of the Authority's activities for the calendar year shall be developed and distributed to the Members on or before March 1. Such reports are expected to include the following:

- a. Service Area changes made or proposed.
- b. Changes or proposed changes in the Authority's policies, rates, rules and regulations.
- c. Changes or proposed changes in the Authority's operations.
- d. Any changes in the financial status of the Authority including revenue projections or operating costs.
- e. A summary of any litigation which involves the Authority.
- f. A discussion of any proposed plans for capital projects, expansions or significant operational changes in the year immediately following the year summarized in the annual report.
- g. A list of all facilities and improvements acquired or constructed by the Authority in the past year.
- h. A copy of the budget for the current year as filed with the Division of Local Government.
- i. A copy of the Authority's audit for the preceding year as filed with the State Auditor.
- j. Any defaults or anticipated defaults in the repayment of indebtedness or in the performance of any other obligations, contracts or agreements of the Authority.

The annual report provided for herein is intended to be a summary of significant events affecting the Authority during the prior year. Since such reporting could occur more than a year after a significant event occurs which should be reported to the Members on a timelier basis, any event described under (d), (e), or (j) above shall be reported in writing by the Authority to the Members prior to the occurrence if possible but in any event no later than 10 days after the occurrence or discovery of such event. Any other significant events which may have a material adverse impact on the Authority shall be reported in writing to the Members within 10 days of the occurrence or discovery of such event.

Section 6.3. Insurance. The Authority shall maintain the types of insurance coverage listed below in the minimum amount of \$150,000 per person, \$600,000 per occurrence, or such increased limits as may be established pursuant to §24-10-101 *et seq.*, C.R.S., commonly known as the Colorado Governmental Immunity Act:

a. Comprehensive liability coverage, protecting the Authority, Officers, Directors, employees, and volunteers against any loss, liability, or expense whatsoever resulting from personal injury, death, property damage or otherwise arising from, or in any way connected with, management, administration, and operation of the Water System.

b. Property insurance for broad form covered causes of loss in the kinds and amounts typically obtained by governmental entities which own and operate similar facilities.

c. Insurance coverage protecting the Officers, Directors and employees, including volunteers, of the Authority against any loss, liability or expense whatsoever from personal injury, death, property damage or otherwise arising out of, or in any way connected with any actual or alleged error, act, omission, neglect, misfeasance, nonfeasance, or breach of duty, including violation of any civil rights law, that results unexpectedly and unintentionally to others.

d. Automobile insurance liability coverage including other common coverages such as uninsured motorist and no fault coverage.

e. If the Authority has employees, workers compensation, disability and unemployment insurance for employees as required by any laws of the State of Colorado or the Federal Government.

f. Any other insurance deemed appropriate by the Board.

Upon request, the Authority shall furnish to the Members, certificates of insurance showing compliance with the foregoing, and naming each Member as an additional insured. The provisions of the policy or policies shall not be cancelled or altered without at least 30 days prior written notice to each of the Members.

Section 6.4. Indemnification. The Authority shall indemnify, defend and hold Members their successors, assigns, agents, guests and licensees harmless from and against any and all claims, expenses, losses or damages, including attorney fees, resulting from or relating to the Authority's operation and maintenance of the water system, including claims concerning water quality or interruption of service. The Authority shall obtain liability and such other insurance as it deems appropriate in amount to be determined by its Board of Directors but in no event less than the limits of liability specified in the Colorado Governmental Immunity Act. Any such insurance shall name the Authority and the Members as insureds.

Section 6.5. Execution of Contracts. Except as otherwise provided by law, the Board may authorize any one or more Officers, employees, or agents to enter into any contract and deliver any instrument in the name and on behalf of the Authority.

Section 6.6. Negotiable Instruments. All checks, drafts, or other orders for payment of money, and all notes, bonds, or other evidences of indebtedness issued in the name of the Authority shall be signed by two Officers, agents or employees of the Authority, and in such manner as, from time to time, shall be determined by the Board.

Section 6.7. Debts.

a. The bonds, notes, and other obligations of the Authority payable from sources identified in Section 2.2.c and all other financial obligations of the Authority, however incurred and for whatever purpose, shall not be debts, liabilities, or obligations of the Members.

b. Notwithstanding any other provisions of this Agreement, each of the Members, not the Authority, shall be responsible for the bonded indebtedness of such Member.

Section 6.8. Deposits. All funds of the Authority shall be deposited to the credit of the Authority in such bank or banks or other financial institutions as the Board may determine. All such deposits shall be covered by the Public Deposit Protection Act, §11-10.5-101, *et seq.*, C.R.S. Funds of the Authority shall only be invested in those investments which are lawful for public funds in accordance with the provisions of §24-75-601, *et seq.*, C.R.S.

VII. GENERAL

Section 7.1. Amendments. This Agreement may be amended by written document approved by formal action of the governing bodies of all of the Members; provided however, that such amendment will not affect other obligations outstanding of the Authority unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to such obligations.

Section 7.2. Assignment/Consolidation. Rights and obligations of the Authority or its Members under this Agreement shall not be assignable without the written consent of all the Members.

Section 7.3. Notices. Any formal notice, demand or request provided for in this Agreement between the Authority and its Members shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage pre-paid to the Members at the addresses as set forth below, and to the Authority at its principal place of business as established herein, unless another address is provided to the Authority and the Members by any party by providing written notification to the other parties as set forth herein.

Section 7.4. Severability. In the event that any of the terms, covenant, or conditions of this Agreement or their application shall be held invalid as to any person, corporation or circumstance by any court having competent jurisdiction, the remainder of this Agreement shall not be affected thereby. If any provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable, such determination shall not affect or impair the

validity or enforceability of any other provision, and the Members agree to renegotiate the invalid or unenforceable provision so as to cure such defect, if possible, and have it reflect and serve as closely as possible the original intent and purpose of same unless to do so would render the Agreement inequitable.

Section 7.5. Governing Law, Venue. It is the intent of the Members that all questions with respect to the construction of this Agreement, and the rights, duties, obligations and liabilities of the Members shall be governed by and construed and enforced in accordance with applicable provision of the laws of the state of Colorado. Venue for any action to enforce the provisions of this Agreement shall be in the district court in and for La Plata County, Colorado.

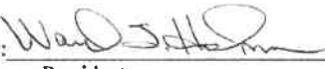
Section 7.6. Original Counterparts. This Agreement may be executed in counterparts, each of which will be an original, but all of which together shall constitute one and the same instrument.

Durango West Metropolitan District No. 1

By: 

President
Address: Po Box 3156
Durango CO 81302

Durango West Metropolitan District No. 2

By: 

President
Address: P.O. Box 1092
Durango CO 81302

Board of County Commissioners
La Plata County Colorado

By: _____
Chairperson
Address: _____

validity or enforceability of any other provision, and the Members agree to renegotiate the invalid or unenforceable provision so as to cure such defect, if possible, and have it reflect and serve as closely as possible the original intent and purpose of same unless to do so would render the Agreement inequitable.

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Section 7.6. Original Counterparts. This Agreement may be executed in counterparts, each of which will be an original, but all of which together shall constitute one and the same instrument.

Durango West Metropolitan District No. 1

By: _____
President
Address: _____

Durango West Metropolitan District No. 2

By: Wad Johnson
President
Address: P.O. Box 1092
Durango CO 81302

Board of County Commissioners
La Plata County Colorado

By: Kenneth C. Lotter
Chairperson
Address: 1060 E. 2nd Ave.
Durango, CO 81301