

RESOLUTION # 2018-M

A RESOLUTION OF THE TOWN OF SAGUACHE, ACTING BY AND THROUGH ITS SEWER AND WATER ENTERPRISE TO ENTER INTO A LOAN AGREEMENT WITH THE COLORADO WATER RESOURCE AND SEWER DEVELOPMENT AUTHORITY

WHEREAS, the United States of America, pursuant to the federal Water Quality Act of 1987, requires increased state and local participation in the financing of the costs of wastewater treatment projects and said federal Water Quality Act requires each state to establish a water pollution control revolving fund to be administered by an instrumentality of the state; and

WHEREAS, the Authority was created to initiate, acquire, construct, maintain, repair, and operate or cause to be operated water management projects which include wastewater treatment facilities; and

WHEREAS, Section 37-95-107.6, Colorado Revised Statutes has created a Water Pollution Control Revolving Fund to be administered by the Authority that will enable the State of Colorado to comply with the provisions of said federal Water Quality Act of 1987; and

WHEREAS, the Authority and the United States Environmental Protection Agency have entered into an Operating Agreement and 1989 Capitalization Grant Agreement for the Water Pollution Control Revolving Fund; and

WHEREAS, the Town of Saguache, acting by and through its Sewer and Water Enterprise, has made timely application to the Authority for a loan to finance all or a portion of the cost of a wastewater treatment facility; and

WHEREAS, the Colorado Legislature has approved a project eligibility list that includes the Project proposed by the Town of Saguache to be financed hereunder; and

WHEREAS, the Authority has approved the Town of Saguache's application for a loan from funds available in the Water Pollution Control Revolving Fund in an amount not to exceed the amount of the Loan Commitment set forth in Paragraph (4) of Exhibit B hereto to finance all or a portion of the cost of the Project of the Town of Saguache; and

WHEREAS, the Town of Saguache will issue its bond to the Authority to evidence said loan and its obligations hereunder to the Authority; and

WHEREAS, the Town of Saguache has created its Sewer and Water Enterprise in Ordinance #2018-C in accordance with the requirements of Article 10, Section 20, of the Colorado Constitution (TABOR) by classification of the Town's Sewer Collection System and Water System as an enterprise, within the meaning of TABOR, on March 12, 2018; and

WHEREAS, such enterprise is a government-owned business authorized to issue its own secure bonds and receives under 10% of its annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, proper notice has been given concerning the entry of the enterprise into a Town contract and other documents with the Colorado Water Resources and Power Development Authority at the regular meeting of the Town Board of Trustees of the Town of Saguache on March 12, 2018; and

WHEREAS, the Colorado Water Resources and Power Development Authority has tendered a loan contract in the amount of \$1,938,260.00 for a term of thirty (30) years with interest and the rate of 0%, together with a repayment schedule, opinions by bond counsel and Town counsel, Forms of Regulation and other necessary documents;

NOW THEREFORE, be it resolved by the Board of Trustees of the Town of Saguache that such agreement (and accompanying documents) all of which are incorporated herein by reference, are hereby adopted and the Town Mayor, Elvie Samora, is authorized to execute such contract on behalf of the Town.

DONE AND SIGNED this 12th day of March, 2018.




Elvie Samora, Mayor

Attest:

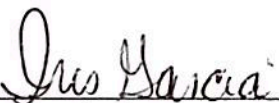

Town Clerk

EXHIBIT A

DESCRIPTION OF THE PROJECT, SYSTEM, AND PLEDGED PROPERTY

(1) **Description of the Project**

The project consists of rehabilitating the Town's collection system.

(2) **Description of the System**

"System" shall mean, (i) any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property, relating to the collection, treatment, storage and distribution of water or the collection, treatment, transmission and disposal of wastewater that is owned, operated or controlled by the Governmental Agency, including, without limitation, the Project (ii) any renewal, replacement, addition, modification or improvement to (i) above, and (iii) all real or personal property and rights therein and appurtenances thereto necessary or useful or convenient for the effectiveness of the purposes of the Governmental Agency in the transmission, treatment, storage and distribution of water or the collection, treatment, transmission and disposal of wastewater.

(3) **Pledged Property**

The Pledged Property shall consist of Net Revenue, as defined below:

"Net Revenue" means the Gross Revenue after deducting the Operation and Maintenance Expenses.

"Gross Revenue" means all income and revenues directly or indirectly derived by the Governmental Agency from the operation and use of the System, or any part thereof, including without limitation, any rates, fees (including without limitation plant investment fees and availability fees), and charges for the services furnished by, or the use 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 or its operations, and including investment income accruing from such moneys; provided however, that there shall be excluded from Gross Revenue: ad valorem property taxes; 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.

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

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the Governmental Agency, paid or accrued, for operating, maintaining and repairing the System, including without limitation legal and overhead expenses of the Governmental Agency directly related to the administration of the System, insurance premiums, audits, 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, expenses incurred in connection with Capital Improvements, payments due in connection with any bonds or other obligations, and expenses that are otherwise paid from ad valorem property taxes.

EXHIBIT B

DESCRIPTION OF THE LOAN

- (1) Commencement Date:
- (2) Name and Address of Governmental Agency:

Town of Saguache
504 San Juan Avenue
Saguache, CO 81149
- (3) Estimated Cost of the Project: \$2,067,962.00
- (4) Maximum Principal Amount of Loan Commitment: \$1,938,262.00
- (5) Loan Term: 30 years, subject to Paragraph (10), below, if applicable.
- (6) Interest Rate: 0% annually
- (7) Authorized Officers:
Elvie Samora, Mayor
Town Administrator
- (8) Loan Repayment Commencement Date:
- (9) Execution Date:
- (10) Principal Forgiveness: At the discretion of the Authority, and if such funds are available and the Governmental Agency is deemed eligible, the Loan may be forgiven in an amount up to 100% of the principal amount of the Loan. The Authority will provide written notice (the "Notice of Principal Forgiveness") to the Governmental Agency once the Authority determines to exercise its discretion to grant Principal Forgiveness, that funds are available, and that the Governmental Agency is eligible for such action. The Notice of Principal Forgiveness will set forth the amount, up to 100%, of the principal amount of the Loan to be forgiven. Upon the Governmental Agency's receipt of the Notice of Principal Forgiveness from the Authority, the following terms shall apply:

- (a) If 100% of the principal amount of the Loan is forgiven, then:
- (i) the award of Principal Forgiveness shall be effective as of the date of the Notice of Principal Forgiveness (the "Effective Date of 100% Principal Forgiveness");
 - (ii) the Authority, in its sole discretion, may waive payment of interest accrued on the amount of principal forgiven through the Effective Date of 100% Principal Forgiveness. Notice to the Governmental Agency regarding the Authority's election to waive payment of interest will be included in the Notice of Principal Forgiveness;
 - (iii) the Authority shall amend the repayment schedule set forth in Exhibit C to acknowledge the Principal Forgiveness award, the Effective Date of 100% Principal Forgiveness, and, if applicable, the waiver of accrued interest;
 - (iv) the Authority shall amend the Loan Term to extend from the date of Loan Execution until the date the Water Quality Control Division of the Colorado Department of Health and Environment (the "WQCD") issues certification that all required documents have been submitted and the Governmental Agency has met all Project and Loan requirements;
 - (v) absent then-existing or continuing Events of Default, the Governmental Agency Bond will be released at the expiration of the Loan Term, as amended; and
 - (vi) as of the Effective Date of 100% Principal Forgiveness, the following Loan Agreement sections will no longer apply: Section 2.02. (n) Audits; Section 3.03. Amounts Payable; Exhibit A (3) Pledged Property; Exhibit A (4) Rate Covenant; Exhibit B (5) Loan Term; Exhibit B (6) Interest Rate; Exhibit B (8) Loan Repayment Commencement; Exhibit C Repayment Schedule; and all references thereof.
- (b) If the Governmental Agency receives Principal Forgiveness for less than 100% of the principal amount of the Loan, then:
- (i) the effective date of the Principal Forgiveness shall be the date of the Notice of Principal Forgiveness from the Authority (the "Effective Date of Partial Principal Forgiveness"); and
 - (ii) upon the Effective Date of Partial Principal Forgiveness, the Loan Term shall remain as set forth in this Agreement, but the Authority shall amend the Loan Repayment Schedule set forth in Exhibit C to include a revised amortization schedule for the remaining principal amount.

If the Effective Date of Principal Forgiveness, either 100% or Partial, occurs after the Loan Repayment Commencement Date, and the Governmental Agency has paid one or more of the scheduled payments, including any payments of accrued interest, the Principal

Forgiveness will be net of any such payments. The Authority will not reimburse the Governmental Agency any amount paid by the Governmental Agency.

EXHIBIT C
REPAYMENT SCHEDULE

EXHIBIT D

GOVERNMENTAL AGENCY BOND

FOR VALUE RECEIVED, the undersigned **TOWN OF SAGUACHE, COLORADO, ACTING BY AND THROUGH ITS WATER AND SEWER ENTERPRISE** (the "Governmental Agency"), evidences the issuance of a loan from the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority") in the principal amount of One Million Nine Hundred Thirty Eight Thousand Two Hundred Sixty Two and 00/100 Dollars (\$1,938,262.00), or such lesser amount as shall be loaned to the Governmental Agency pursuant to the Loan Agreement dated as of _____, 2018, by and between the Authority and the Governmental Agency (the "Loan Agreement"), at the times and in the amounts determined as provided in the Loan Agreement, at zero percent interest, subject to late charges on late payments as provided in Section 3.03 (b) of the Loan Agreement, and payable on the dates and in the amounts determined as provided in the Loan Agreement.

This Governmental Agency Bond is issued pursuant to the Loan Agreement and is issued in consideration of the loan made thereunder (the "Loan") and to evidence the obligations of the Governmental Agency set forth in Section 3.03 thereof. This Governmental Agency Bond is subject to assignment or endorsement in accordance with the terms of the Loan Agreement. All of the definitions, terms, conditions, and provisions of the Loan Agreement are, by this reference thereto, incorporated herein as a part of this Governmental Agency Bond.

Pursuant to the Loan Agreement, disbursements to the Governmental Agency shall be made in accordance with written instructions upon the receipt by the Authority of requisitions from the Governmental Agency executed and delivered in accordance with the requirements set forth in Section 3.02 of the Loan Agreement.

This Governmental Agency Bond is entitled to the benefits, and is subject to the conditions, of the Loan Agreement. The obligations of the Governmental Agency to make the payments required hereunder ("Loan Repayments") shall be absolute and unconditional without any defense or right of set-off, counterclaim, or recoupment by reason of any default by the Authority under the Loan Agreement, or under any other agreement between the Governmental Agency and the Authority, or out of any indebtedness or liability at any time owing to the Governmental Agency by the Authority, or for any other reason.

This Governmental Agency Bond is subject to optional prepayment under the terms and conditions, and in the amounts, provided in Section 3.06 of the Loan Agreement. The obligation of the Governmental Agency to make payments under the Loan Agreement and this Governmental Agency Bond is payable solely from the Pledged Property, except for reserves created in connection with the Loan.

This Governmental Agency Bond does not constitute a debt or an indebtedness of the Governmental Agency within the meaning of any constitutional or statutory limitation or provision, and shall not be considered or held to be a general obligation of the Governmental Agency. The payment of this Governmental Agency Bond and the interest thereon is not secured by an encumbrance, mortgage or other pledge of property except for such property and moneys pledged for the payment of the Governmental Agency Bond.

For the payment of this Governmental Agency Bond and the interest thereon, the Governmental Agency shall enforce the Rate Covenant set forth in Paragraph (1) of Exhibit F to the Loan Agreement, shall promptly collect all revenues of the System, and shall take all necessary action to collect any revenues that are in default.

If an "Event of Default" as defined in Section 5.01 of the Loan Agreement occurs, the remedies on default set forth in Section 5.03 of the Loan Agreement shall be available to enforce the obligations of the Governmental Agency that are evidenced by this Governmental Agency Bond.

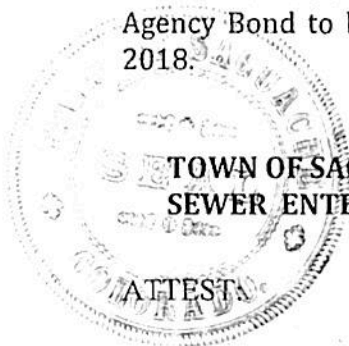
This Governmental Agency Bond is issued under the authority of and in full conformity with the Constitution and laws of the State of Colorado, including without limitation, Article X, Section 20 of the Constitution, Title 31, Article 35, Part 4, C.R.S.; Title 37, Article 45.1; certain provisions of Title 11, Article 57, Part 2, C.R.S. (the "Supplemental Public Securities Act"), and pursuant to the Loan Agreement. Pursuant to §11-57-210, of the Supplemental Public Securities Act, this recital is conclusive evidence of the validity and regularity of the issuance of the Governmental Agency Bond after its delivery for value. Pursuant to §31-35-413, C.R.S., this recital conclusively imparts full compliance with all the provisions of said statutes, and this Governmental Agency Bond issued containing such recital is incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Governmental Agency has caused this Governmental Agency Bond to be duly executed, sealed and delivered, as of this 12th day of March 2018.

TOWN OF SAGUACHE, COLORADO, ACTING BY AND THROUGH ITS WATER AND SEWER ENTERPRISE

By: Jess Garcia
Town Clerk

By: Elcio M. Smea
Mayor



EUGENE L. FARISH
Attorney at Law



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Monte Vista, CO 81144
Tele.: (719) 852-5101
Fax: (719) 852-4833
E-mail: gene@farishlaw.com

OPINION OF GOVERNMENTAL AGENCY COUNSEL

DATED : March 12, 2018

Colorado Water Resources and
Power Development Authority

Gentlemen:

I am an attorney admitted to practice in the State of Colorado and I have acted as counsel to the **TOWN OF SAGUACHE, COLORADO, ACTING BY AND THROUGH ITS WATER AND SEWER ENTERPRISE** (the "Governmental Agency"), of the State of Colorado, which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), and have acted as such in connection with the authorization, execution and delivery by the Governmental Agency of its Loan Agreement and Governmental Agency Bond (as hereinafter defined).

In so acting I have examined the Constitution and laws of the State of Colorado and the proceedings relating to organization of the Governmental Agency. I have also examined originals, or copies certified or otherwise identified to my satisfaction, of the following:

- (a) the Loan Agreement, dated as of _____ (the "Loan Agreement") by and between the Authority and the Governmental Agency;
- (b) the proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);
- (c) the Governmental Agency Bond, dated as of _____ (the "Governmental Agency Bond") issued by the Governmental Agency to the Authority to evidence the Loan (as defined in the Loan Agreement);
- (d) the proceedings of the governing body of the Governmental Agency relating to the issuance of the Governmental Agency Bond and the execution, issuance and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the "Loan Documents");

(e) all outstanding instruments relating to the bonds, notes or other indebtedness of or relating to the Governmental Agency.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

(1) The Governmental Agency is a "governmental agency" within the meaning of the Authority's enabling legislation and is a statutory town of the State of Colorado with the full legal right and authority to execute the Loan Documents.

(2) The Governmental Agency has the full legal right and authority to carry on the business of the System (as defined in the Loan Agreement) as currently being conducted and as proposed to be conducted, and to undertake and complete the Project.

(3) The proceedings of the Governmental Agency's governing body authorizing the Governmental Agency to undertake and complete the Project were duly and lawfully adopted and approved in accordance with Ordinance 2018-C and applicable Colorado law at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(4) The proceedings of the Governmental Agency's governing body approving the Loan Documents and authorizing their execution, issuance and delivery on behalf of the Governmental Agency have been duly and lawfully adopted and approved in accordance with Ordinance 2018-C and applicable Colorado law, at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(5) To the best of my knowledge, after such investigation as I have deemed appropriate, the authorization, execution and delivery of the Loan Documents by the Governmental Agency, the observation and performance by the Governmental Agency of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Governmental Agency or its property or assets or result in a breach or violation of any of the terms and provisions

of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust, ordinance, order, or other agreement to which the Governmental Agency is a party or by which it, the System, or its property or assets is bound.

(6) To the best of my knowledge, after such investigation as I have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery and performance of the Loan Documents and the undertaking and completion of the Project, other than licenses and permits relating to the construction and acquisition of the Project which I expect the Governmental Agency to receive in the ordinary course of business, have been obtained or made.

(7) To the best of my knowledge, after such investigation as I have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Governmental Agency or of the validity, legality or enforceability of the Loan Documents or the undertaking or completion of the Project, except as disclosed in writing to the Authority, which if adversely determined, could (i) materially adversely affect (a) the financial position of the Governmental Agency, (b) the ability of the Governmental Agency to perform its obligations under the Loan Documents, (c) the security for the Loan Documents, or (d) the transactions contemplated by the Loan Documents or (ii) impair the ability of the Governmental Agency to maintain and operate the System.

This opinion is rendered on the basis of the laws of the State of Colorado as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the numbered paragraphs herein.

I hereby authorize Carlson, Hammond, & Paddock, L.L.C., General Counsel to the Authority, to rely on this opinion as if I had addressed this opinion to them in addition to you.

Very truly yours,



Eugene L. Farish
Town Attorney

EXHIBIT E-2

OPINION OF GOVERNMENTAL AGENCY BOND COUNSEL

[LETTERHEAD OF BOND COUNSEL TO GOVERNMENTAL AGENCY]

[DATED: Closing Date]

Colorado Water Resources and
Power Development Authority

Gentlemen:

[insert "I am an attorney" or "We are attorneys"] admitted to practice in the State of Colorado and [insert "I" or "we"] have acted as bond counsel for **TOWN OF SAGUACHE, COLORADO, ACTING BY AND THROUGH ITS WATER AND SEWER ENTERPRISE** (the "Governmental Agency"), of the State of Colorado, which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), and have acted as such in connection with the authorization, execution, and delivery by the Governmental Agency of the Loan Agreement and Governmental Agency Bond (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Colorado and [charter/by-laws/proceedings relating to organization] of the Governmental Agency. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

(a) the Loan Agreement, dated as of _____ (the "Loan Agreement"), by and between the Authority and the Governmental Agency;

(b) the proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement, and the execution, issuance, and delivery thereof on behalf of the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);

(c) the Governmental Agency Bond, dated as of _____ (the "Governmental Agency Bond"), issued by the Governmental Agency to the Authority to evidence the Loan (as defined in the Loan Agreement);

(d) the proceedings of the governing body of the Governmental Agency relating to the issuance, of the Governmental Agency Bond, and the execution, issuance, and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the "Loan Documents"); and

(e) all outstanding instruments relating to the bonds, notes, or other indebtedness of, or relating to the Governmental Agency.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates, and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "we are"] of the opinion that:

(1) The Governmental Agency is a "governmental agency" within the meaning of the Authority's enabling legislation.

(2) The Governmental Agency has full legal right and authority to execute the Loan Documents and the Governmental Agency has full legal right and authority to observe and perform its respective duties, covenants, obligations, and agreements thereunder; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment, or other similar laws affecting creditors' rights generally (Creditor's Rights Limitations), heretofore or hereafter enacted.

(3) The Governmental Agency has pledged the Pledged Property described in Paragraph (3) of Exhibit A to the Loan Agreement for the punctual payment of the principal on the Loan and all other amounts due under the Loan Documents according to their respective terms, and the Authority has a first lien on such Pledged Property, but not an exclusive first lien. *****Only include "but not an exclusive first lien" if there is parity debt***** No filings or recordings are required under the Colorado Uniform Commercial Code in order to provide a first lien on such Pledged Property, and all actions have been taken as required under Colorado law to insure the priority, validity, and enforceability of such lien.

(4) The Loan Documents have been duly authorized, executed, and delivered by the authorized officers of the Governmental Agency; and, assuming in the case of the Loan Agreement, that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed, and delivered the Loan Agreement, the Loan Documents constitute the legal, valid, and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by, or resulting from, Creditor's Rights Limitations or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, provided that no opinion is expressed herein regarding the validity or enforceability of Section 3.05 of the Loan Agreement or any other provision thereof that purports to require the Governmental Agency to indemnify or hold any party harmless.

(5) To the best of our knowledge, after such investigation as we have deemed appropriate, the authorization, execution, and delivery of the Loan Documents by the Governmental Agency, the observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements thereunder, and the consummation of the transactions contemplated therein, do not and will not contravene any existing law, or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any outstanding instruments relating to the bonds, notes, or other indebtedness of, or relating to, the Governmental Agency.

(6) To the best of our knowledge, after such investigation as we deemed appropriate, all approvals, consents, or authorizations of, or registrations of or filings with, any governmental or public agency, authority, or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery, and performance of the Loan Documents have been obtained or made.

****If the Governmental Agency constitutes an Enterprise under TABOR, the following paragraph should be included in the Bond Counsel opinion:**

(7) The execution and delivery of the Loan Documents are not subject to the limitations of Article X, Section 20 of the Colorado Constitution, since the Governmental Agency as defined in the Loan Agreement constitutes an enterprise under said Article X, Section 20 on the date of such execution and delivery. The performance of the Loan Documents is not subject to the limitations of said Article X, Section 20, as long as the Governmental Agency continues to qualify as an enterprise under said Article X, Section 20. If the Governmental Agency ceases to be an enterprise under said Article X, Section 20, during the Loan Term, the Loan Documents will continue to constitute legal, valid and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to (a) Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual rights generally and (b) subject to the next sentence, the revenue and spending limitations of said Article X, Section 20. If the Governmental Agency at any time ceases to be an enterprise under said Article X, Section 20, (i) the **City/District/Town** may continue to impose and increase fees, rates and charges without voter approval; (ii) all revenues of the Governmental Agency used to pay Loan Repayments will be included in the Governmental Agency fiscal year spending limit under Section 7(d) of said Article X, Section 20 except that debt service changes and reductions are exceptions to, and not part of, the Governmental Agency revenue and spending bases and limits; and (iii) if the Governmental Agency is required to reduce spending in order to comply with its fiscal year spending limit under Section 7(b) of said Article X, Section 20, the Governmental Agency will first be required to reduce spending for purposes for which it does not have an obligation under law or by contract prior to reducing spending required to comply with the other covenants contained in the Loan Documents.

****If the Governmental Agency does not constitute an Enterprise under TABOR, the following paragraph should be included in the Bond Counsel opinion:**

(7) The Governmental Agency has complied with the requirements of Article x, Section 20 of the Colorado Constitution in connection with the execution and delivery of the loan documents.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. We express no opinion as to any matter not set forth in the numbered paragraphs herein.

[insert "I" or "We"] hereby authorize Carlson, Hammond & Paddock, L.L.C., General Counsel to the Authority, to rely on this opinion as if [insert "I" or "we"] had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT F

ADDITIONAL COVENANTS AND REQUIREMENTS

(1) Rate Covenant

The Governmental Agency shall establish and collect such rates, fees, and charges for the use or the sale of the products and services of the System as, together with other moneys available therefor, are expected to produce Gross Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) for each calendar year that will be at least sufficient for such calendar year to pay the sum of:

- (a) all amounts estimated to be required to pay Operation and Maintenance Expenses (as defined in Paragraph (3) of Exhibit A of this Loan Agreement) during such calendar year;
- (b) a sum equal to 110% of the debt service due on the Governmental Agency Bond for such calendar year and debt service coming due during such calendar year on any obligations secured by a lien on the Pledged Property which lien is on a parity with the lien of this Loan Agreement on the Pledged Property, in each case computed as of the beginning of such calendar year;
- (c) the amount, if any, to be paid during such calendar year into any debt service reserve account in connection with any obligations secured by a lien on the Pledged Property which lien is on a parity with the lien of this Loan Agreement on the Pledged Property;
- (d) a sum equal to the debt service on any obligations secured by a lien on the Pledged Property which lien is subordinate to the lien of this Loan Agreement on the Pledged Property for such calendar year computed as of the beginning of such calendar year; and
- (e) amounts necessary to pay and discharge all charges and liens or other indebtedness not described above payable out of the Gross Revenue during such calendar year.

(2) Rate Study.

In the event that Gross Revenue collected during a fiscal year is not sufficient to meet the requirements set forth in the Rate Covenant contained in Paragraph (1) of this Exhibit F to the Loan Agreement, the Governmental Agency shall, within 90 days of the end of such fiscal year, cause an independent firm of accountants or consulting engineers, to prepare a rate study for the purpose of recommending a schedule of rates, fees, and charges for the use of the System that, in the opinion of the firm conducting the study will be sufficient to provide Gross Revenue to be collected in the next succeeding fiscal year that will provide compliance with the Rate Covenant described in Paragraph (1) of this Exhibit F to this Loan Agreement. Such a study shall be delivered to the Authority. The Governmental Agency

shall within six months of receipt of such study, adopt rates, fees, and charges for the use of the System, based upon the recommendations contained in such study, that provide compliance with said Rate Covenant. Notwithstanding the foregoing, the Authority may, from time to time, in its sole and absolute discretion and pursuant to such terms and restrictions it may specify, waive in writing the requirement that a rate study be performed by the Governmental Agency.

(3) Additional Bonds.

(a) Senior Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge, on the Pledged Property that is superior to the lien or charge of this Loan Agreement on the Pledged Property.

(b) Parity Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge, on the Pledged Property that is on a parity with the lien or charge of this Loan Agreement on the Pledged Property, unless the Governmental Agency certifies to the Authority that Net Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) for any 12 consecutive months out of the 18 months preceding the month in which such obligations are to be issued was at least equal to the sum of (a) 110% of the maximum annual debt service due in any one year on (i) this Loan Agreement and (ii) all other outstanding obligations of the Governmental Agency payable out of, or secured by a lien or charge on, the Pledged Property that is on a parity with the lien or charge of this Loan Agreement on the Pledged Property, and (iii) such proposed obligations to be issued, and (b) the maximum annual debt service due in any one year on all obligations payable out of, or secured by a lien or charge on the Pledged Property that is subordinate to the lien or charge of this Loan Agreement on the Pledged Property.

(c) Subordinate Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge on, the Pledged Property that is subordinate to the lien or charge of this Loan Agreement on the Pledged Property, unless the Governmental Agency certifies to the Authority that for any 12 consecutive months out of the 18 months preceding the month in which such obligations are to be issued Net Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) was at least 100% of the maximum annual debt service due in any one year on (a) all obligations outstanding during such period that are payable out of, or secured by a lien or charge on, the Pledged Property and (b) such proposed obligations to be issued.

(d) Net Revenue Adjustment. In calculating revenue coverage for purposes of the issuance of additional parity or subordinate lien bonds, the Governmental Agency may adjust Net Revenue to reflect any rate increases adopted in connection with the issuance of additional obligations by adding to the actual Net Revenue for the period examined an estimated sum equal to 100% of the estimated increase in Net Revenue that would have been realized during such period had the adopted rate increase been in effect during all of such period.

(e) Refunding Bonds. Notwithstanding the foregoing, the Governmental Agency may issue refunding obligations payable out of, or secured by a lien or charge on, the Pledged Property, without compliance with the requirements stated above, provided that the debt service payments on such refunding obligations do not exceed the debt service payments on the refunded obligations during any calendar year.

(4) Lien Representation.

[insert if there is no outstanding debt] The Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, prior to, or of equal rank with, the obligation of the Governmental Agency Bond.

[insert if the Authority Loan will be on a parity with the existing debt] The Governmental Agency has disclosed the following bonds, notes or other evidence of indebtedness of the Governmental Agency issued, or contractual obligations incurred, having a lien on the Source of Repayment of equal rank with the lien and charge on the Source of Repayment of the Governmental Agency Bond: {insert description of the parity lien obligations} (the "Parity Lien Obligations"). The Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, other than that of the Parity Lien Obligations, that is of equal rank with the obligation of the Governmental Agency Bond. Further, the Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, that is prior to the obligation of the Governmental Agency Bond.

[insert if there is existing senior lien debt only] The Governmental Agency has disclosed the following bonds, notes or other evidence of indebtedness of the Governmental Agency issued, or contractual obligations incurred, having a lien on the Source of Repayment superior to the lien and charge on the Source of Repayment of the Governmental Agency Bond: {insert description of the senior lien obligations} (the "Senior Lien Obligations"). The Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, other than that of the Senior Lien Obligations, that is prior to the obligation of the Governmental Agency Bond. Further, the Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, that is of equal rank with the obligation of the Governmental Agency Bond.

[insert if The Authority Loan will be junior to some debt and on parity with some existing debt] The Governmental Agency has disclosed the following bonds, notes or other evidence of indebtedness of the Governmental Agency issued, or contractual obligations incurred, having a lien on the Source of Repayment superior to the lien and charge on the Source of Repayment of the Governmental Agency Bond: {insert description of the senior lien obligations} (the "Senior Lien Obligations"). The Governmental Agency has disclosed the following bonds, notes or other evidence of indebtedness of the Governmental Agency issued, or contractual obligations incurred, having a lien on the

Source of Repayment of equal rank with the lien and charge on the Source of Repayment of the Governmental Agency Bond: {insert description of the parity lien obligations} (the "Parity Lien Obligations"). The Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, other than that of the Senior Lien Obligations, that is prior to the obligation of the Governmental Agency Bond. The Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, other than that of the Parity Lien Obligations, that is of equal rank with the obligation of the Governmental Agency Bond.

(5) Operation and Maintenance Reserve Fund. The Governmental Agency shall maintain an operation and maintenance reserve in an amount equal to three months of operation and maintenance expenses, excluding depreciation, of the System as set forth in the annual budget for the current fiscal year. Said reserve may be in the form of unobligated fund balances, or other unobligated cash or securities (i.e. capital reserves), or may be in a separate segregated fund and shall be maintained as a continuing reserve for payment of any lawful purpose relating to the System. If the operation and maintenance reserve falls below this requirement, the shortfall shall be made up in 24 substantially equal monthly installments beginning the second month after such shortfall.

(6) Davis Bacon & Related Acts. The Governmental Agency will comply with the requirements of the Davis Bacon & Related Acts, codified at 40 U.S.C. §§ 3140 through 3148.

(7) Cost Overruns. Any cost overruns associated with the Project will be the responsibility of the Governmental Agency and any additional costs to defend against contract claims will not be reimbursed through this or any future funding.

(8) Audit Requirements. For each year in which the Governmental Agency requests a disbursement from the Project Loan Subaccount, the Governmental Agency shall conduct its annual audit in accordance with the federal Single Audit Act, 31 U.S.C. 7501 et seq.

(9) American Iron and Steel Requirement. The Governmental Agency will comply with all federal requirements applicable to the Loan, including Section 436 of P.L. 113-76, Consolidated Appropriations Act, 2014, (the "Appropriations Act") and related State Revolving Fund Policy Guidelines, which require that all of the iron and steel products (as defined in the Appropriations Act and Guidelines) used in the Project must be produced in the United States unless the Governmental Agency has requested and received a waiver from the requirement pursuant to the "waiver process" described in the Appropriations Act and Guidelines.

(10) Financial Sustainability Plan Requirement. The Governmental Agency will comply with all federal requirements applicable to the Loan, including Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) as amended by the Water Resources Reform and Development Act (WRRDA), 2014, which will require that treatment works proposed for repair, replacement, or expansion, and eligible for assistance to develop and implement a fiscal sustainability plan due by the end of the Project that includes:

1. An inventory of critical assets that are a part of the treatment works.
2. An evaluation of the condition and performance of inventoried assets or asset groupings.
3. A certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan.
4. A plan for maintaining, repairing, and as necessary, replacing the treatment works and a plan for funding such activities.

(11) Construction Schedule. The Governmental Agency has provided the following estimated dates regarding the project:

1. Advertisement for Bids Publication Date:
2. Construction Contract Award Date:
3. Construction Start Date:
4. Construction Completion Date:

EXHIBIT G

WPCR Form of Requisition

THE TOWN OF SAGUACHE, COLORADO, ACTING BY AND THROUGH ITS WATER AND SEWER ENTERPRISE (the "Governmental Agency")

Please submit to the following addresses:

Email To: cdphe_grantsandloans@state.co.us (preferred method)

Or Mail To: Colorado Department of Public Health and Environment
Grants and Loans Unit WQCD-OA-B2
Attn: Paul Young
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Or Fax To: 303-782-0390 (Call CDPHE Project Manager to confirm delivery)

Cc: CDPHE Project Manager Paul.young@state.co.us

Cc: [E-mail requisition form \(Exhibit G\) to the Colorado Water Resources and Power Development Authority at requisitions@cwrpda.com](#)

This requisition is made in accordance with Section 3.02 of the Loan Agreement executed by the Colorado Water Resources and Power Development Authority on _____, 2018. Terms defined in the Loan Agreement and not otherwise defined herein shall have the same meanings when used herein.

The Governmental Agency hereby states as follows:

1. This is Requisition No _____.
2. The amount requisitioned hereunder is _____.
3. The person, firm or corporation to whom the amount requisitioned is due, or to whom a reimbursable and advance has been made, is _____.
4. The payee of the requisitioned amount is _____.
5. The manner of payment to the payee is to be wire transferred to:

Bank:
 ABA No.:
 Account No.:
 Account Name:
 Contact:

6. Attached hereto is the appropriate documentation demonstrating that the amount requisitioned hereunder is currently due or has been advanced by the Governmental Agency.

7. The amount hereby requisitioned is a proper Cost of the Project to be paid only from amounts deposited in the Project Account established for the Governmental Agency in the **Water Pollution Control Revolving Fund**.
8. On the date hereof, there does not exist any Event of Default under the Loan Agreement nor any condition which, with the passage of time or the giving of notice, or both, would constitute an Event of Default thereunder.
9. Estimate of total project completion percentage: _____%
10. The undersigned is an Authorized Officer of the Governmental Agency duly authorized in the Loan Agreement to submit the Requisition.
11. The Governmental Agency reaffirms that all representations made by it in the Loan Agreement are true and accurate as of the date of this requisition, and that it shall continue to observe and perform all of its duties, covenants, obligations and agreements thereunder, at all times during the entire term of said Loan Agreement.

Dated: _____.

**TOWN OF SAGUACHE, COLORADO,
ACTING BY AND THROUGH ITS WATER AND SEWER ENTERPRISE**

By: _____.

Title: _____ & Authorized Officer

Print Name _____

You should receive all payments no later than 10 working days after receipt of requisition unless otherwise notified.

The undersigned approves the disbursement of the requisitioned amount from the Project Loan Account established in the **Water Pollution Control Revolving Fund** Project Account.

COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

By: _____
Finance Director

Dated: _____

For Colorado Department of Public Health and Environment, Water Quality Control Division purposes only:

Payment approved by _____

Dated: _____