SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-D**

FROM: Steve Mack, General Manager

Meeting Date : April 5, 2018

SUBJECT: APPROVAL OF RESOLUTION 18-07, Authorizing the Execution of a Credit Agreement with Cobank for Interim Financing for Construction of the 2018 CIP

RECOMMENDED ACTION: Approve Resolution 18-07 authorizing the District to execute a Credit Agreement with CoBank which allows the District to borrow up to approximately $1.5 million for interim financing to complete the 2018 Capital Improvement Project.

FISCAL IMPACT: We estimate that the cost of the interim financing will be approximately $7,000.

DISCUSSION:
The District has agreed to move forward with a U.S. Department of Agriculture Rural Development (USDA) loan obligation to fund completion of the 2018 Capital Improvement Project (CIP). The 2018 CIP is replacement of approximately 4,600 ft of existing main and 58 services on Old River Rd at Morningside east to the eastern section of Foothill Drive near where Old River Road intersects with River Road, and includes Orchard Rd and Foothill Drive. The USDA loan obligation will have a total value of approximately $1.5 million and will have a 40 year amortization.

USDA will forward the loan funds only upon substantial completion of the construction project. Because the contractor, Piazza Construction, will require monthly reimbursement for its approved costs, the District needs funding for these monthly construction contract reimbursements for the duration of the construction period - this is called interim financing. USDA recommended two entities with which they have considerable experience. CoBank had the best terms - no application fee because the District is a member of Cal Rural Water Association, and an annual interest rate of 2% above the monthly LIBOR index (currently at 1.6% for a total interest of 3.6%). The LIBOR Index changes; we expect the Index and thus interest rate to be higher this summer.

The interim financing will have the following characteristics:

- Interest rate of LIBOR Index plus 2%; no application fee.
- Interest is calculated on total borrowed to date and paid monthly.
- The total amount borrowed will be paid back when USDA funds are transferred to the District upon substantial completion of the project which we expect to be in October 2018.

Staff intends to use District Reserve funds to the extent possible. With this approach this interim financing can be viewed as a reserve for District Reserves - we will only borrow money from the interim financing when we need it during the construction of the 2018 CIP. That approach will minimize the interest paid for the interim financing. But it will be available for the entire amount of the construction contract and inspection fees, to the extent needed, and if other unanticipated expenses arise.

Resolution 18-07 authorizes the execution of a Credit Agreement with Cobank (included in the electronic package). CoBank will work with USDA to coordinate funding requests (USDA has to approve draws from the CoBank account) and the final repayment of the interim financing. There are other documents related to this action which will need signatures at the Board meeting.

Resolution No. 18-07

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SWEETWATER SPRINGS WATER DISTRICT, GUERNEVILLE CA, AUTHORIZING THE DISTRICT TO BORROW INTERIM FINANCING FUNDING FOR THE 2018 CIP FROM COBANK

WHEREAS, the above named entity (the "Borrower"), under its articles of organization, operating agreement, or other organizational documents (the "Organizational Documents"), has full power and authority to borrow money, to secure the same with its own property and property delivered to it for marketing or otherwise and to perform all obligations associated therewith.

WHEREAS, the Board of Directors of the Borrower (the "Board") has determined that it is in the best interest of the Borrower to enter into the transactions with CoBank, ACB ("Lender") described in this Resolution.

WHEREAS, all prerequisite acts and proceedings preliminary to the adoption of this Resolution have been taken and done in due and proper form, time and manner, with the Board having full power and authority under the Organizational Documents to adopt this Resolution and legally bind the Borrower to the terms hereof.

NOW, THEREFORE, BE IT RESOLVED, that each of the following persons or positions (line out any not to be authorized under this Resolution) **President, Vice President, Financial Coordinator, General Manager,** (the "Authorized Signatories") of the Borrower are hereby jointly and severally authorized and empowered to obtain for and on behalf of the Borrower from time to time, from Lender, a loan or loans or other financial accommodations (including, without limitation, interest rate swaps, hedges, caps, collars or similar arrangements designed to protect against fluctuations in interest rates (the "Hedging Transactions"), letters of credit, note purchase agreements and bankers acceptances) (each, a "Loan") and for such purposes: (1) to execute and deliver such application or applications (including exhibits, amendments or notes thereto) as may be required for such Loan and all borrowings thereunder; (2) to obligate the Borrower to repay all amounts borrowed and pay such rate or rates of interest as the Authorized Signatories so acting shall deem proper, and in connection therewith to purchase such interest rate risk management products as may be offered from time to time by Lender; (3) to obligate the Borrower to such other terms and conditions as the Authorized Signatories so acting shall deem proper; (4) to execute and deliver to Lender or its nominee all such written loan agreements, interest rate swap, hedge, cap, collar or similar agreement, including any master agreement published by the International Swap and Derivatives Association, Inc. and such other documents and instruments as may be required by Lender in regard to or as evidence of any Loan made or Hedging Transaction entered into pursuant to the terms of this Resolution, and such Loan Documents shall include the Borrower's consent to suit for enforcement of the Loan Documents and all appropriate judicial remedies available at law or equity, even though sovereign immunity may otherwise bar such suit; (6) to pledge, grant a security interest or lien in, or assign property of the Borrower or property of others on which it is entitled to borrow, of any kind and in any amount as security for any or all obligations (past, present and/or future) of the Borrower to Lender, and to execute and deliver to Lender or its nominee all such security

agreements, pledges, mortgages, deeds of trust, financing statements and other documents as may be required by Lender in connection therewith; (7) from time to time to extend, amend, renew or refinance any such Loan and to execute and deliver all agreements, notes, instruments and other documents as may be required in connection therewith; (8) to reborrow from time to time all or any part of the amounts repaid to Lender on any Loan made pursuant hereto (whether for the same or a different purpose); (9) to execute and deliver to Lender such agreements, addenda, documents or instruments as may be required by Lender in the event that the Borrower elects to use Lender's electronic banking system (the "System"); (10) to execute and deliver to Lender any agreements, addenda, authorization forms and other documents or instruments as may be required by Lender in the event that the Borrower elects to use any services or products related to a Loan that are offered by Lender now or in the future, including without limitation an automated clearing house (ACH) service; (11) to direct and delegate to designated employees of the Borrower the authority to direct, by written or telephonic instructions or electronically, if the Borrower has agreed to use the System for such purpose, the disposition of the proceeds of any Loan authorized herein, and to direct Lender to deliver any property of the Borrower at any time held by Lender; and (12) to delegate to designated employees of the Borrower the authority to request by telephonic or written means or electronically, if the Borrower has agreed to use the System for such purpose, loan advances and/or other financial accommodations, and in connection therewith, to fix rates and agree to pay fees and to direct the proceeds of advances to authorized accounts. In the absence of any direction or delegation authorized in (11) or (12) above, all existing directions and/or delegations shall remain in full force and effect and shall be applicable to any Loan authorized herein.

RESOLVED FURTHER, that each of the Authorized Signatories is hereby jointly and severally authorized to: (1) establish a Cash Investment Services Account with Lender; (2) make such investments therein as any Authorized Signatory shall deem proper; (3) direct by written or telephonic instructions or electronically, if the Borrower has agreed to use the System for such purposes, the disposition of the proceeds therein; (4) delegate to designated employees of the Borrower the authority set forth in (2) and (3) above; and (5) execute and deliver all documents and agreements necessary to carry out this authority.

RESOLVED FURTHER, that each of the Authorized Signatories is hereby jointly and severally authorized and directed to do or cause to be done, from time to time, all things which may be necessary or proper to carry out the terms and intent of this Resolution.

RESOLVED FURTHER, that every act and action of any person heretofore executing any document or instrument delivered to Lender or its designee or required to create, make, enter into, perform, amend or confirm any obligation of the Borrower to or in favor of Lender, is hereby ratified, approved, adopted and confirmed as if it had been validly and lawfully authorized upon and as of the date of such act or action, notwithstanding any invalidity, defect or insufficiency that may exist or may have existed in the power or authority of such person then executing such document or instrument, and every such person and each of the Authorized Signatories are hereby jointly and delegated all necessary power and authority to effect the foregoing.

RESOLVED FURTHER, that this Resolution shall remain in full force and effect until a certified copy of a duly adopted resolution effecting a revocation or amendment, as the case may be, shall have been received by Lender; provided that no such revocation or amendment shall affect the validity of any action or actions made or taken in reliance on such resolution(s) prior to the effective date of revocation. In addition, all authorities herein granted shall apply with equal force and effect to the successors in office of the Authorized Signatories herein named.

RESOLVED FURTHER, that effective on the date when this Resolution is delivered to Lender, any and all prior resolutions authorizing and empowering Authorized Signatories of the Borrower to take actions as described herein are hereby revoked; provided that no such revocation shall affect the validity of any action or actions made or taken by Lender prior to the effective date of revocation.

RESOLVED FURTHER, that the Secretary or Assistant Secretary of the Borrower is hereby authorized and directed to certify to Lender a copy of this Resolution, the names and specimen signatures of the Authorized Signatories, and if and when any change is made in the personnel of any Authorized Signatories, the fact of such change and the name and specimen signatures of the new Authorized Signatories. Lender shall be entitled to rely on any such certification until a new certification is actually received by Lender.

CERTIFICATE

The undersigned, Secretary or Assistant Secretary of the Borrower, California quasi-government water utility, hereby certifies that: (a) the Board of Directors of the Borrower, at a meeting duly called, noticed, convened and held on the 5th day of April, 2018, did adopt the foregoing resolutions in accordance with the Organizational Documents of the Borrower; (b) all approvals and authorizations required to effect the foregoing resolutions (including without limitation board, member, or stockholder approval, as applicable) have been obtained and remain in full force and effect; and (c) said resolutions are in full force and effect on the date hereof and have not been revoked or amended in any way.

Dated this _____ day of _____, 20___

By: _____

Printed Name: _Julie Kenny_____

Title: [X] Secretary [ ] Assistant Secretary

Agreement No. 00113226SLA

CREDIT AGREEMENT

THIS CREDIT AGREEMENT (this "**Agreement**"), dated as of March 21, 2018 is entered into by and between **SWEETWATER SPRINGS WATER DISTRICT**, Guerneville, California, a quasi-government water utility (the "**Borrower**"), and **COBANK, ACB**, a federally-chartered instrumentality of the United States ("**Lender**").

RECITALS

In consideration of the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and Lender agree as follows:

ARTICLE 1 Defined Terms; Accounting Principles. Certain capitalized terms used in this Agreement bear the definitions given to them in this Agreement. References to accounting standards are to United States generally accepted accounting principles, or those required of the regulatory agency having jurisdiction over the Borrower, including but not limited to the system of accounts established by the United States Department of Agriculture acting through Rural Development or the Rural Utilities Service or their predecessors ("**RD/RUS**"), if applicable, or such other commission or body as may be agreeable to Lender (the "**Accounting Standards**").

(A) The Facilities.

1. **Promissory Note.** In the event the Borrower desires to borrow from Lender and Lender is willing to lend to the Borrower, or in the event the parties desire to consolidate any existing loans hereunder, the parties will enter into a promissory note (a "**Promissory Note**"). Each Promissory Note will set forth Lender's commitment to make a loan or loans to the Borrower, the amount of the loan(s), the purpose of the loan(s), the interest rate or rate options applicable to the loan(s), the repayment terms of the loan(s), and any other terms and conditions applicable to the particular loan(s). Each Promissory Note will also contain the Borrower's promise to make payments of interest on the unpaid principal balance of the loan(s), and fees and premiums, if any, and to repay the principal balance of the loan(s). Each loan will be governed by the terms and conditions contained in this Agreement and in the Promissory Note relating to that loan.

2. **Availability.** Loans will be made available on any day on which Lender and the Federal Reserve Banks are open for business (a "**Business Day**") upon the telephonic or written request of an authorized employee of the Borrower. Requests for loans must be received by 12:00 p.m. Denver, Colorado time on the date the loan is desired. Loans will be made available by wire transfer of immediately available funds. Wire transfers will be made to such account or accounts as may be authorized by the Borrower.

3. **Security.** The Borrower's obligations under this Agreement and each Promissory Note will be secured by a statutory first lien on all equity that the Borrower may now own or hereafter acquire or be allocated in Lender. In addition, except as otherwise provided in a Promissory Note or in a closing instruction letter signed by the parties (an "**Instruction Letter**"), the Borrower's obligations hereunder and under each Promissory Note will be:

1. secured by a first priority lien (subject only to exceptions approved in writing by Lender) and shared pro rata with RD/RUS on all real and personal property of the Borrower, whether now existing or hereafter acquired. The Borrower agrees to take such steps, including, without limitation, the execution and recordation or filing, as applicable, of mortgages, deeds of trust, security agreements, intercreditor or parity agreements, pledge agreements, control agreements, financing statements, and amendments to any of the foregoing, and such other instruments and documents as Lender may require to enable Lender to obtain, perfect, and maintain a lien on such property, and the payment of any applicable mortgage recording, documentary stamp, or intangible taxes; and

2. guaranteed by an unsecured or secured, limited or continuing guarantee of payment, in form and substance and from such parties as may be required by Lender from time to time. If Lender requires such guarantee(s) to be secured by a lien on the real and/or personal property of a guarantor (a "**Guarantor**"), Borrower will cause each Guarantor to take such steps, including, without limitation, the execution and recordation or filing, as applicable, of mortgages, deeds of trust, security agreements, pledge agreements, control agreements, financing statements, and amendments to any of the foregoing, and such other instruments and documents as Lender may require to enable Lender to obtain, perfect, and maintain a lien on such property, and the payment of any applicable mortgage recording, documentary stamp, or intangible taxes.

4. **Payments Generally.** The Borrower's obligation to repay each loan will be evidenced by a Promissory Note. Lender will maintain a record of all loans, the interest accrued thereon, and all payments made with respect thereto, and such record will, absent proof of manifest error, be conclusive evidence of the outstanding principal and interest on the loans. Payments under each Promissory Note will be made by wire transfer of immediately available funds, by check, or by automated clearing house (ACH) or other similar cash handling processes as specified by separate agreement between the Borrower and Lender. Notwithstanding the foregoing, payments under each Promissory Note will be made by automated clearing house (ACH), unless otherwise agreed in writing by Lender. Wire transfers will be made to ABA No. 307088754 for advice to and credit of "CoBANK" (or to such other account as Lender may direct by notice). The Borrower will give Lender telephonic notice no later than 12:00 p.m. Denver, Colorado time on the day the Borrower intends to pay by wire of such intent, and funds received after 3:00 p.m. Denver, Colorado time will be credited on the next Business Day. Checks will be mailed to CoBANK, Department 167, Denver, Colorado 80291-0167 (or to such other place as Lender may direct by notice). Credit for payment by check will not be given until the later of the next Business Day after receipt of the check or the day on which Lender receives immediately available funds. If any installment of principal or interest is due on a date that is not a Business Day, then such installment will be due and payable on the next Business Day.

5. **Broken Funding Surcharge.** Notwithstanding the terms of any Promissory Note giving the Borrower the right to repay any loan prior to the date it would otherwise be due and payable, the Borrower agrees to provide three Business Days' prior written notice for any prepayment of a fixed rate balance and to pay to Lender a broken funding surcharge in the amount set forth below in the event the Borrower: (a) repays any fixed rate balance prior to the last day of its fixed rate period (whether such payment is made voluntarily, as a result of an acceleration, or otherwise); (b) converts any fixed rate balance to another fixed rate or to a variable rate prior to the last day of the fixed rate period applicable to such balance; or

(c) fails to borrow any fixed rate balance on the date scheduled therefor. The surcharge will be in an amount equal to the greater of (1) the sum of: (i) the present value of any funding losses imputed by Lender to have been incurred as a result of such payment, conversion or failure; plus (ii) a per annum yield of 0.50% of the amount repaid, converted or not borrowed for the period such amount was scheduled to have been outstanding at such fixed rate, or (2) $300.00. Any surcharge will be determined and calculated in accordance with methodology established by Lender, a copy of which will be made available upon request. Notwithstanding the foregoing, in the event of a conflict between the provisions of this section and of the broken funding charge section of a forward fix agreement between Lender and the Borrower, the provisions of the forward fix agreement will control.

6. **Taxes; Change in Law.** Any payment by the Borrower to Lender will be made net of any taxes (other than income and similar taxes imposed on or measured by Lender's overall net income). If any change in any law, rule, regulation, code, ordinance, order or the like to which the Borrower is subject, including, without limitation, all laws relating to environmental protection, and taxes (collectively, "**Laws**"), increases the cost of making or maintaining any loan (or any associated commitment to lend), or reduces the amount received or receivable by Lender hereunder then, upon request, the Borrower will pay to Lender such additional amount as will compensate Lender for such additional costs incurred or reduction suffered.

(B) Conditions Precedent.

7. **Conditions to Initial Promissory Note.** Lender's obligation to extend credit under the initial Promissory Note hereunder is subject to the condition precedent that Lender receive, in form and substance satisfactory to Lender, each of the following, except as otherwise provided in the Promissory Note or in an Instruction Letter:

   1. **This Agreement.** A duly executed copy of this Agreement, the other Loan Documents (as defined below), the Instruction Letter accompanying this Agreement, and all instruments and documents contemplated hereby and thereby.

   2. **Banking Service Agreements.** A duly completed and executed copy of any banking service agreement, including any agreement relating to the provision by Lender of cash management services, required by Lender from time to time. Lender will be entitled to rely on (and will incur no liability to the Borrower in acting on) any request or direction furnished in accordance with the terms thereof.

8. **Conditions to Each Promissory Note.** Lender's obligations to extend credit under each Promissory Note hereunder, including the initial Promissory Note, is subject to the condition precedent that Lender receive, in form and substance satisfactory to Lender, each of the following, except as otherwise provided in the Promissory Note or in an Instruction Letter:

   1. **Promissory Note.** A duly executed copy of the Promissory Note and all instruments and documents contemplated by the Promissory Note.

   2. **Instruction Letter.** Any and all items or requirements detailed in an Instruction Letter.

3. **Evidence of Perfection.** Such evidence as Lender may require that it has duly perfected liens as required under this Agreement.

4. **Evidence of Authority.** Such certified board resolutions, certificates of incumbency, and other evidence that Lender may require that the Promissory Note, all instruments and documents executed in connection therewith, and, in the case of the initial Promissory Note hereto, this Agreement, the other Loan Documents (as defined below) and all instruments and documents executed in connection herewith and therewith, including any security documents, have been duly authorized and executed.

5. **Fees and Other Charges.** Any fees or other charges provided for herein, in the Promissory Note or in any invoice provided by Lender.

6. **Insurance.** Such evidence as Lender may require that the Borrower is in compliance with Section 5.4 below.

7. **Consents and Approvals.** Evidence as Lender may require that all regulatory and other consents and approvals referred to in Section 4.6 below have been obtained and are in full force and effect.

8. **Opinion of Counsel.** An opinion of counsel to the Borrower (which counsel must be acceptable to Lender).

9. **Conditions to Each Loan.** Lender's obligation under each Promissory Note to make any loan to the Borrower thereunder is subject to the condition that no "**Event of Default**" (as defined in Section 8.1 below) or event that, with the giving of notice and/or the passage of time and/or the occurrence of any other condition, would ripen into an Event of Default (a "**Potential Default**") will have occurred and be continuing or would be caused by the making of such loan.

(C) Representations and Warranties.

The execution by the Borrower of this Agreement and each Promissory Note hereunder, or any renewal or extension by Lender of any Promissory Note hereunder, will constitute a representation and warranty by the Borrower that:

10. **Instruction Letter; Loan Documents.** Each representation and warranty and all information set forth in any Instruction Letter and/or any of the Loan Documents (as defined below) and/or any other document submitted in connection with, or to induce Lender to enter into, such Promissory Note is correct in all material respects as of the date of such Promissory Note.

11. **Compliance; Legal Proceedings.** The Borrower and its subsidiaries and all property owned or leased or proposed to be acquired with the proceeds of any Promissory Note hereunder by the Borrower and/or its subsidiaries and all of its/their operations are in compliance with all applicable Laws and the terms of the Loan Documents and no Event of Default or Potential Default exists or is continuing. In addition, there are no pending legal, arbitration, or governmental actions or proceedings to which the Borrower or any subsidiary is a party or to which any of its or any subsidiaries' property is subject which, if adversely determined, might have a material adverse effect on the financial condition, operations, properties, profits, or

business of the Borrower or any subsidiary, and to the best of the Borrower's knowledge, no such actions or proceedings are threatened or contemplated.

12. **Organization; Good Standing.** The Borrower (a) is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, (b) has the lawful power to own or lease its properties and to engage in the business it conducts or proposes to conduct, and (c) is duly qualified and in good standing in each jurisdiction where the property owned or leased by it or the nature of the business transacted by it makes such qualification necessary.

13. **Binding Agreement.** The Loan Documents constitute legal, valid, and binding obligations of the Borrower that are enforceable in accordance with their terms.

14. **Conflicting Agreements.** Neither this Agreement nor any Promissory Note, or other instrument or document securing or otherwise relating hereto or to any Promissory Note (each a "**Loan Document**" and collectively, at any time, the "**Loan Documents**") conflicts with, or constitutes (with or without the giving of notice and/or the passage of time and/or the occurrence of any other condition) a default under, any other agreement to which the Borrower is a party or by which it or any of its property may be bound or affected, and does not conflict with any provision of its bylaws, articles of incorporation or other organizational documents.

15. **Consents and Approvals.** No consent, permission, authorization, order or license of any governmental authority or of any party to any agreement to which the Borrower is a party or by which it or any of its property may be bound or affected, is necessary in connection with the project, acquisition or other activity being financed by such Promissory Note, or the execution, delivery, performance or enforcement of any Loan Document, except as have been obtained and are in full force and effect.

16. **Budgets; Full Disclosure.** All budgets, projections, feasibility studies, and other documentation submitted by the Borrower to Lender in connection with, or to induce Lender to enter into, such Promissory Note are based upon assumptions that are reasonable and realistic, and as of the date of such Promissory Note, no fact has come to light, and no event has occurred, that would cause any assumption made therein to not be reasonable or realistic. No Loan Document or other certificate, statement, agreement, or document furnished to Lender in connection with this Agreement or any other Loan Document (a) contains any untrue statement of a material fact, or (b) fails to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. The Borrower is not aware of any Material Adverse Change that has not been disclosed in writing to Lender. A "**Material Adverse Change**" means any material adverse change, as reasonably determined by Lender, in the condition, financial or otherwise, operations, business, liabilities (actual or contingent) or properties of the Borrower or in its ability to perform its obligations hereunder, under any security instrument or document, or under any other Loan Document.

17. **Accurate Financial Information.** Each submission of financial information or documents relating to the Borrower will constitute a representation and warranty by the Borrower that such information and documents (a) are true and accurate in all material respects, and (b) do

not fail to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

18. ERISA. The Borrower and its subsidiaries are in compliance in all material respects with the applicable provisions of the Employee Retirement Income Security Act of 1974, and the regulations and published interpretations thereunder from time to time ("**ERISA**").

19. **Margin Stock.** No Borrower is engaged or intends to engage principally, or as one of its important activities, in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U, T or X as promulgated by the Board of Governors of the Federal Reserve System of the United States of America (the "Board")). No part of the proceeds of any loan made by Lender to the Borrower has been or will be used, immediately, incidentally or ultimately, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or in any way that is inconsistent with the provisions of the regulations of the Board. No Borrower or any subsidiary, if any, of any Borrower holds or intends to hold margin stock in such amounts that more than 25% of the reasonable value of the assets of any Borrower or subsidiary, if any, of any Borrower are or will be represented by margin stock.

20. Water Rights and System Condition. The Borrower has water rights with such amounts, priorities and qualities as are necessary to service adequately the Borrower's customers and members. The Borrower controls, owns, or has access to all such water rights free and clear of the interest of any third party and has not suffered or permitted any transfer or encumbrance of such water rights, has not abandoned such water rights, or any of them, and has not done any act or thing which would impair or cause the loss of any such water rights. The Borrower's utility facilities reasonably meet present demand in all material respects, are constructed in a good and professional manner, are in good working order and condition, and comply in all material respects with all applicable law.

21. Rate Matters. The Borrower's rates for the provision of water have been approved, if applicable, by any and all necessary governmental regulatory authorities, including, without limitation, each public service commission or public utilities commission that may have jurisdiction over the operations and rates of the Borrower. Further, there is no pending, and to the Borrower's knowledge, no threatened proceeding before any governmental authority, the objective or result of which is or could be to materially reduce or otherwise materially adversely change any of the Borrower's rates for the provision of water and/or waste water services, or otherwise have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower.

(D) Affirmative Covenants.

Unless otherwise agreed to in writing by Lender, while this Agreement is in effect, the Borrower agrees to, and with respect to Sections 5.3, 5.4, 5.5, and 5.8, agrees to cause each subsidiary, if any, to:

22. Reports and Notices. Furnish to Lender:

1. **Annual Financial Statements.** As soon as available, but in no event more than 180 days after the end of each fiscal year of the Borrower occurring during the term hereof, annual

financial statements of the Borrower, prepared in a manner acceptable to Lender. Such financial statements will be prepared in reasonable detail acceptable to Lender.

2. **Interim Financial Statements.** Such interim financial statements as Lender may request from time to time prepared in reasonable detail acceptable to Lender.

3. **Notice of Default.** Promptly after becoming aware thereof, notice of the occurrence of an Event of Default or a Potential Default, including, without limitation, any error in the Borrower's financial information previously provided to Lender and the occurrence of any breach, default, event of default or event that, with the giving of notice and/or the passage of time and/or the occurrence of any other condition, would become a breach, default or event of default under any loan agreement, indenture, mortgage, or other credit or security agreement or instrument to which the Borrower is a party or by which it or any of its property may be bound or affected.

4. **Notice of Litigation, Environmental Matters, Etc.** Promptly after becoming aware thereof, notice of: (1) the commencement of any action, suit or proceeding before any court, arbitrator or governmental department, commission, board, bureau, agency, or instrumentality having jurisdiction over the Borrower, that, if adversely decided, could result in a Material Adverse Change; (2) the receipt of any notice, indictment, pleading or other communication alleging a condition that may require the Borrower to undertake or to contribute to a clean-up or other response under any environmental Law, or that seeks penalties, damages, injunctive relief, criminal sanctions or other relief as a result of an alleged violation of any such Law, or that claims personal injury or property damage as a result of environmental factors or conditions; and (3) any matter that could have a material adverse effect on the Borrower, including any decision of any regulatory authority or commission.

5. **Notice of Certain Events.** (1) Notice at least 30 days prior thereto, of any change in the Borrower's name or corporate structure; (2) notice at least 30 days prior thereto, of any change in the Borrower's organizational documents which changes must be approved in writing by Lender in its reasonable discretion; (3) notice at least 30 days prior thereto, of any change in the principal place of business of the Borrower or the office where its records concerning its accounts are kept; and (4) as soon as available after any changes thereto, copies of the Borrower's organizational documents certified by the Borrower's Secretary or equivalent officer acceptable to Lender.

23. Instruction Letter. Comply with any and all requirements detailed in an Instruction Letter.

24. Corporate Existence, Etc. Preserve and keep in full force and effect its existence and good standing in the jurisdiction of its incorporation or formation, qualify and remain qualified to transact business in all jurisdictions where such qualification is required, and obtain and maintain all licenses, certificates, permits, authorizations, approvals, and the like that are material to the conduct of its business or required by any Law.

25. **Insurance.**

26. Maintain insurance with reputable and financially sound insurance companies or associations, including self-insurance to the extent customary, acceptable to Lender in such amounts and

covering such risks as are usually carried by companies engaged in the same or similar business and similarly situated, and make such increases in the type or amount of coverage as Lender may reasonably request. All such policies insuring any collateral for the Borrower's obligations to Lender will have additional insured, mortgagee and lender's loss payee clauses or endorsements, as applicable, in form and substance satisfactory to Lender. At Lender's request, the Borrower agrees to deliver to Lender such proof of compliance with this section as Lender may require.

1. **Property Maintenance.** Maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the general practice of other businesses of similar character and size, all of those properties useful or necessary to its business, and make all alterations, replacements, and improvements thereto as may from time to time be necessary in order to ensure that its properties remain in good working order and condition. The Borrower agrees that at Lender's request, which request may not be made more than once a year, the Borrower will furnish to Lender a report on the condition of the Borrower's property prepared by a professional engineer satisfactory to Lender.

27. **Inspection.** Permit Lender or its agents, upon reasonable notice and during normal business hours or at such other times as the parties may agree, to inspect and visit any of its properties, examine and make excerpts from its books and records, and to discuss its business affairs, finances and accounts with its officers, directors, employees, and independent certified public accountants and to conduct reviews of any collateral.

28. **Books and Records.** Maintain and keep proper books and records of account in which full, true and correct entries of all its dealings, business and financial affairs will be made in accordance with the Accounting Standards.

29. **Compliance With Laws.** Comply in all material respects with all Laws and any patron or member investment program applicable to the Borrower. In addition, the Borrower agrees to cause all persons occupying or present on any of its properties to comply in all material respects with all Laws relating to such properties.

30. **Further Assurances and Other Information.** From time to time and at its expense, execute and deliver such documents and do such other acts and things as Lender in its sole discretion may deem necessary or advisable from time to time in order to more fully carry out the provisions and purpose of the Loan Documents, including delivery of such other information regarding the condition or operations, financial or otherwise, of the Borrower as Lender may from time to time reasonably request, including, but not limited to, copies of all pleadings, notices and communications referred to in Section 5.1(d) above.

31. **Capital.** INTENTIONALLY OMITTED

32. **Delivery of Original Loan Documents.** If copies of any executed Loan Documents are delivered to Lender as provided in Article 3 above, immediately deliver to Lender the original executed versions of such Loan Documents.

33. **Indemnity for Taxes.** At all times indemnify and hold and save Lender harmless from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage or expense of whatsoever kind and nature incurred by Lender as a result of the non-payment of

any documentary stamp tax, intangible tax, interest or penalties associated therewith or any other local, state or federal assessment required to be paid, but not paid in conjunction with the indebtedness evidenced by the Loan Documents. The Borrower agrees to pay to Lender, its successors and assigns, all sums of money requested by Lender hereunder within ten days of such request, which Lender will or may advance, pay or cause to be paid, or become liable to pay, on account of or in connection with failure to pay as required by the regulations of the governmental authority so imposing said payment. Lender will be entitled to charge for any and all disbursements made by it in good faith, under the reasonable belief that it or the Borrower is or was liable for the amount so assessed. Any default by the Borrower in making any payments required under this covenant will constitute a payment Event of Default under the Loan Documents and Lender may, at its option, declare the entire amount of principal plus accrued interest thereon due and payable without notice or demand.

34. ERISA. The Borrower and its subsidiaries, for so long as this Agreement remains outstanding, will remain in compliance in all material respects with the applicable provisions of **ERISA**, the failure to comply with which has or may have a material adverse effect on the Borrower.

35. Water Rights and/or Supplies. Maintain or procure water rights and/or supplies with such amounts, priorities and qualities as are necessary to service adequately the Borrower's customers and members. The Borrower will continue to control, own or have access to all such water rights and/or supplies free and clear of the interest of any third party, will not suffer or permit any transfer or encumbrance of such water rights and/or supplies, will not abandon such water rights and/or supplies, or any of them, and will not do any act or thing that would impair or cause the loss of any such water rights and/or supplies.

(E) Negative Covenants.

Unless otherwise agreed to in writing by Lender, while this Agreement is in effect, the Borrower will not:

36. **Other Indebtedness.** Create, incur, assume or allow to exist, directly or indirectly, any indebtedness or liability for borrowed money (including trade or bankers' acceptances), letters of credit, or for the deferred purchase price of property or services (including leases that should be capitalized on the books of the lessee in accordance with the Accounting Standards), except for:

    1. debt to Lender.

    2. accounts payable to trade creditors incurred in the ordinary course of business.

    3. current operating liabilities (other than for borrowed money) incurred in the ordinary course of business.

    4. debt of the Borrower to the State Revolving Fund ("SRF").

    5. debt of the Borrower to RD/RUS.

    6. purchase money security indebtedness, provided that such indebtedness does not exceed the purchase price of the asset(s) being acquired.

7. debt of the Borrower in existence on the date hereof to Citizens National Bank, on terms and conditions satisfactory to Lender.

37. Contingent Liabilities. Assume, guarantee, become liable as a surety, endorse, contingently agree to purchase, or otherwise be or become liable, directly or indirectly (including, but not limited to, by means of a maintenance agreement, an asset or stock purchase agreement, or any other agreement designed to ensure any creditor against loss), for or on account of the obligation of any person or entity, except by the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of the Borrower's business.

38. **Liens.** Create, incur, assume, or allow to exist any mortgage, deed of trust, pledge, lien (including the lien of an attachment, judgment, or execution), security interest, or other encumbrance of any kind upon any of its property, real or personal (collectively, "**Liens**"). The foregoing restrictions will not apply to:

1. Liens in favor of Lender .

2. Liens for taxes, assessments, or governmental charges that are not past due.

3. pledges and deposits under workers' compensation, unemployment insurance, and social security Laws.

4. pledges and deposits to secure the performance of bids, tenders, contracts (other than contracts for payment of money), and like obligations arising in the ordinary course of business as conducted on the date hereof.

5. Liens imposed by Law in favor of mechanics, material suppliers, warehouses, and like persons that secure obligations that are not past due.

6. easements, rights-of-way, restrictions, and other similar encumbrances that, in the aggregate, do not materially interfere with the occupation, use, and enjoyment of the property or assets encumbered thereby in the normal course of business or materially impair the value of the property subject thereto.

7. purchase money Liens to secure indebtedness permitted hereunder.

39. Transactions with Affiliates. Enter into any transaction with any affiliate except in the ordinary course of and pursuant to the reasonable requirements of its business and upon fair and reasonable terms no less favorable to it than it would obtain in a comparable arm's-length transaction with a person or entity that was not an affiliate.

40. **Loans and Investments.** Make any loan or advance to, or make any investment in, or make any capital contribution to, or purchase or make any commitment to purchase any stock, bonds, notes or other securities of any person or entity, except for:

1. securities or deposits issued, guaranteed or fully insured as to payment by the United States of America or any agency thereof.

2. obligation of, Lender.

41. Dividends and Distributions. Declare or pay any dividends or make any other distribution of assets to shareholders of the Borrower, or retire, redeem, purchase or otherwise acquire for value any capital stock of the Borrower.

42. Mergers, Acquisitions, Etc. Merge or consolidate with any other entity or acquire all or a material part of the assets of any other person or entity, or form or create any new subsidiary, or commence operations under any other name, organization, or entity, including any joint venture.

43. Transfer of Assets. Sell, transfer, lease, or otherwise dispose of any of its assets, except: (a) in the ordinary course of business; and (b) the sale, transfer or disposal of any obsolete or worn-out assets that are no longer necessary or required in the conduct of the Borrower's business.

44. Change in Business. Engage in any business activities or operations substantially different from or unrelated to the Borrower's present business activities or operations.

45. Use of Proceeds. Use the proceeds of any loan made by Lender to the Borrower, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

(F) Financial Covenants.

INTENTIONALLY OMITTED.

(G) Default.

46. Each of the following will constitute an "Event of Default" hereunder:

1. **Payment Default.** The Borrower should fail to make any payment to Lender when due.

2. **Representations and Warranties.** Any representation, warranty, certification or statement of fact made at any time by the Borrower, herein or in any other Loan Document, or in any certificate, other instrument or statement furnished to Lender by or on behalf of the Borrower, will have been false or misleading in any material respect as of the time it was made or furnished.

3. **Covenants.** The Borrower will default in the observance or performance of any covenant set forth in Article 5 (other than Sections 5.1(c), 5.1(d), 5.1(e)(1), and 5.1(e)(2) above), and such default continues for 30 days after written notice thereof will have been delivered to the Borrower by Lender.

4. **Other Covenants and Agreements.** The Borrower will default in the observance or performance of Sections 5.1(c), 5.1(d), 5.1(e)(1), and 5.1(e)(2) or any other covenant or agreement contained herein or in any other Loan Document or if Borrower uses the proceeds of any loan for any unauthorized purpose.

5. **Cross Default.** The Borrower should, after any applicable grace period, breach or be in default under the terms of any other Loan Document (including, without limitation, any security instrument or document) or any other agreement between the Borrower and Lender, or between the Borrower and any affiliate of Lender, including without limitation Farm Credit Leasing Services Corporation.

6. **Other Indebtedness.** The Borrower should fail to pay when due any indebtedness to any other person or entity for borrowed money or any long-term obligation for the deferred purchase price of property (including any capitalized lease), or any other event occurs that, under any agreement or instrument relating to such indebtedness or obligation, has the effect of accelerating or permitting the acceleration of such indebtedness or obligation, whether or not such indebtedness or obligation is actually accelerated or the right to accelerate is conditioned on the giving of notice, the passage of time, or otherwise.

7. **Judgments.** A judgment, decree, or order for the payment of money will have been rendered against the Borrower and either: (1) enforcement proceedings will have been commenced; (2) a Lien prohibited by this Agreement, any security instrument, or any other Loan Document, will have been obtained; or (3) such judgment, decree, or order will continue unsatisfied and in effect for a period of 30 consecutive days without being vacated, discharged, satisfied, bonded, or stayed pending appeal.

8. **Loan Document Unenforceable.** Any of the Loan Documents ceases to be a legal, valid, and binding agreement enforceable against the Borrower or any Guarantor, if any or is in any way terminated (except in accordance with its terms) or becomes or is declared ineffective or inoperative.

9. **Revocation of Guaranty.** Any guaranty, suretyship, subordination agreement, maintenance agreement, or other agreement furnished in connection with the Borrower's obligations hereunder and under any Promissory Note will, at any time, cease to be in full force and effect, or will be revoked or declared null and void, or the validity thereof will be contested by the Guarantor, surety or other maker thereof, or the Guarantor will deny any further liability or obligations thereunder, or will fail to perform its obligations thereunder, or any representation or warranty set forth therein will be breached, or the Guarantor will breach or be in default under the terms of any other agreement with Lender (including any loan agreement or security agreement), or a default set forth in sections (f) through (h) will occur with respect to the Guarantor.

10. **Insolvency, Etc.** The Borrower will: (1) become insolvent or will generally not, or will be unable to, or will admit in writing its inability to, pay its debts as they become due; or (2) suspend its business operations or a material part thereof or make an assignment for the benefit of creditors; or (3) apply for, consent to, or acquiesce in the appointment of a trustee, receiver, or other custodian for it or any of its property; or (4) have commenced against it any action or proceeding for the appointment of a trustee, receiver, or other custodian and such action or proceeding is not dismissed within 30 days of the date thereof, or a trustee, receiver, or other custodian is appointed for all or any part of its property; or (5) receive notice from any regulatory or governmental authority to the effect that such authority intends to replace the management of the Borrower or assume control over the Borrower; or (6) commence or have commenced against it any proceeding under

any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law of any jurisdiction.

11. **Material Adverse Change.** Any Material Adverse Change occurs, as reasonably determined by Lender.

47. Remedies. Upon the occurrence and during the continuance of an Event of Default or Potential Default, Lender will have no obligation to extend or continue to extend credit to the Borrower and may discontinue doing so at any time without prior notice or other limitation. In addition, upon the occurrence and during the continuance of any Event of Default, Lender may, upon notice to the Borrower:

1. Termination and Acceleration. Terminate any commitment and declare the unpaid principal balance of the loans, all accrued interest thereon, and all other amounts payable under this Agreement, each Promissory Note, and all other Loan Documents to be immediately due and payable. Upon such a declaration, the unpaid principal balance of the loans and all such other amounts will become immediately due and payable, without protest, presentment, demand, or further notice of any kind, all of which are hereby expressly waived by the Borrower.

2. Enforcement. Proceed to protect, exercise, and enforce such rights and remedies as may be provided by this Agreement, any security instrument or document, any other Loan Document, or under Law. Each and every one of such rights and remedies will be cumulative and may be exercised from time to time, and no failure on the part of Lender to exercise, and no delay in exercising, any right or remedy will operate as a waiver thereof, and no single or partial exercise of any right or remedy will preclude any future or other exercise thereof, or the exercise of any other right. Without limiting the foregoing, Lender may hold and/or set off and apply against the Borrower's obligations to Lender the proceeds of any equity in Lender, any cash collateral held by Lender, or any balances held by Lender for the Borrower's account (whether or not such balances are then due).

3. **Application of Funds.** Lender may apply all payments received by it to the Borrower's obligations to Lender in such order and manner as Lender may elect in its sole discretion.

(d) **CONSENT TO SUIT.** THE BORROWER CONSENTS TO THE REMEDIES PROVIDED HEREIN, INCLUDING WITHOUT LIMITATION, SUIT FOR ENFORCEMENT OF THE TERMS OF THIS AGREEMENT, EACH PROMISSORY NOTE, AND ALL OTHER LOAN DOCUMENTS, AND ALL APPROPRIATE REMEDIES AT LAW OR IN EQUITY, NOTWITHSTANDING PRINCIPLES OF SOVEREIGN IMMUNITY WHICH OTHERWISE MAY BE APPLICABLE.

In addition to the rights and remedies set forth above and notwithstanding any Promissory Note: (1) upon the occurrence and during the continuance of an Event of Default, at Lender's option in each instance, the entire indebtedness outstanding hereunder and under each Promissory Note will bear interest from the date of such Event of Default until such Event of Default will have been waived or cured in a manner satisfactory to Lender at 4.00% per annum in excess of the rate(s) of interest that would otherwise be in effect on that loan under the terms of the applicable Promissory Note; and (2) after the maturity of any loan (whether as a result of acceleration or otherwise), the unpaid principal balance of such loan

(including without limitation, principal, interest, fees and expenses) will automatically bear interest at 4.00% per annum in excess of the rate(s) of interest that would otherwise be in effect on that loan under the terms of the Promissory Note. All interest provided for herein will be payable on demand and will be calculated on the basis of a year consisting of 360 days.

(H) Miscellaneous.

48. Amendments; Waivers; Etc. No amendment, modification, or waiver of any provision of this Agreement or the other Loan Documents, and no consent to any departure by the Borrower herefrom or therefrom, will be effective unless approved by Lender and contained in a writing signed by or on behalf of Lender, and then such waiver or consent will be effective only in the specific instance and for the specific purpose for which given. In the event this Agreement is amended or restated, each such amendment or restatement will be applicable to all Promissory Notes hereto.

(I) Expenses; Indemnification; Damage Waiver.

49. Costs and Expenses. To the extent allowed by Law, the Borrower agrees to pay all reasonable out-of-pocket costs and expenses (including the fees and expenses of counsel retained or employed by Lender) incurred by Lender and any participants of Lender in connection with the origination, administration, collection and enforcement of this Agreement and the other Loan Documents, including, without limitation, all costs and expenses incurred in obtaining, perfecting, maintaining, determining the priority of, and releasing any security for the Borrower's obligations to Lender, and any stamp, intangible, transfer or like tax incurred in connection with this Agreement or any other Loan Document or the recording hereof or thereof.

50. Indemnification. The Borrower indemnifies Lender, its affiliates and its and their respective officers, directors, employees, agents and advisors (each an "**Indemnitee**") against, and holds each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including fees and expenses of employed or retained counsel) incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower arising out of or as a result of (a) the execution or delivery of any Loan Document, the performance or nonperformance by the Borrower of its obligations under any Loan Document or the consummation of the transactions contemplated thereby, including the use of the proceeds therefrom, (b) breach of representations, warranties or covenants of the Borrower under any Loan Document, or (c) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, including any such items or losses relating to or arising under environmental Laws or pertaining to environmental matters, regardless whether any Indemnitee is a party thereto; provided that such indemnity will not, as to an Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

51. Waiver of Consequential Damages. To the fullest extent permitted by applicable Law, the Borrower will not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages arising out of, in connection with, or as a result of, any Loan Document, the transactions contemplated thereby or the use of the proceeds thereof.

52. Notices. All notices hereunder will be in writing and will be deemed to have been duly given when addressed to the party intended to receive the same at the address of such party set forth below (or such other address either party may specify by like notice), (a) upon delivery if personally delivered to a party at such address, (b) three days after the same is deposited in the United States mail as first class, certified mail, return receipt requested, postage paid, (c) one business day after the same has been deposited with Federal Express or another nationally recognized overnight courier service if designated for next-day delivery, and (d) upon delivery if sent by facsimile or electronic mail with confirmation of delivery of the same:

If to Lender, as follows:

For general correspondence purposes:
P.O. Box 5110
Denver, Colorado 80217-5110

For direct delivery purposes, when desired:
6340 South Fiddlers Green Circle
Greenwood Village, Colorado 80111-1914

Attention: Credit Information Services
Fax No.: (303) 224-6101

If to the Borrower, as follows:

Sweetwater Springs Water District
P.O. Box 48
Guerneville, California 95446

17081 Highway 116
Guerneville, California 95446

Attention: General Manager
Fax No.: ( ) -

53. Effectiveness and Severability. This Agreement will continue in effect until: (a) all indebtedness and obligations of the Borrower under this Agreement and the other Loan Documents have been paid or satisfied; (b) Lender has no commitment to extend credit to or for the account of the Borrower under any Promissory Note; and (c) either party sends written notice to the other party terminating this Agreement. Any provision of this Agreement or any other Loan Document that is prohibited or unenforceable in any jurisdiction will be ineffective to the extent of such prohibition or unenforceable without invalidating the remaining provisions hereof or thereof.

54. Successors and Assigns.

1. **Successors and Assigns Generally.** This Agreement and the other Loan Documents will be binding upon and inure to the benefit of the Borrower and Lender and their respective successors and assigns, except that the Borrower may not assign or transfer its rights or obligations under this Agreement or the other Loan Documents without the prior written consent of Lender.

2. **Participations, Etc.** From time to time, Lender may sell to one or more banks, financial institutions, or other lenders a participation in one or more of the loans or other extensions of credit made pursuant to this Agreement. However, no such participation will relieve Lender of any commitment made to the Borrower hereunder. In connection with the foregoing, Lender may disclose information concerning the Borrower and its subsidiaries, if any, to any participant or prospective participant, provided that such participant or prospective participant agrees to keep such information confidential. Patronage distributions in the event of a sale of a participation interest will be governed

by Lender's Bylaws and Capital Plan (as each may be amended from time to time). A sale of a participation interest may include certain voting rights of the participants regarding the loans hereunder (including without limitation the administration, servicing, and enforcement thereof). Lender agrees to give written notification to the Borrower of any sale of a participation interest.

55. Integration; Other Types of Credit; Counterparts.

1. **Integration.** The Loan Documents are intended by the parties to be a complete and final expression of their agreement. Each Promissory Note will be deemed to incorporate all of the terms and conditions of this Agreement as if fully set forth therein. Without limiting the foregoing, any capitalized term utilized in any Promissory Note (or in any amendment to this Agreement or Promissory Note) and not otherwise defined in the Promissory Note (or amendment) will have the meaning set forth herein or, if applicable, in the Accounting Standards. In the event the Accounting Standards are changed after the date hereof, then all such changes will be applicable hereto, unless Lender otherwise specifies in writing.

2. **Other Types of Credit.** From time to time, Lender may issue letters of credit or extend other types of credit to or for the account of the Borrower. In the event the parties desire to do so under the terms of this Agreement, then the agreement of the parties with respect thereto may be set forth in a Promissory Note and this Agreement will be applicable thereto.

3. **Counterparts.** This Agreement, each Promissory Note and any other Loan Document may be executed in counterparts, each of which will constitute an original, but all of which when taken together will constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement, each Promissory Note and any other Loan Document by facsimile or other electronic means will be as effective as delivery of a manually executed counterpart of each such agreement.

56. Applicable Law; Submission to Jurisdiction; Service of Process; Waiver of Venue; Waiver of Jury Trial.

1. **Applicable Law.** Without giving effect to the principles of conflict of laws and except to the extent governed by federal law, the Laws of the State of Colorado, without reference to choice of law doctrine, will govern this Agreement, each Promissory Note and any other Loan Document for which Colorado is specified as the applicable law, and all disputes and matters between the parties to this Agreement, including all disputes and matters whatsoever arising under, in connection with or incident to the lending and/or leasing or other business relationship between the parties, and the rights and obligations of the parties to this Agreement or any other Loan Document by and between the parties for which Colorado is specified as the applicable law.

2. **Submission to Jurisdiction; Service of Process.** The Borrower hereby irrevocably consents to the nonexclusive jurisdiction of any state or federal court in Denver, Colorado, and consents that Lender may effect any service of process in the manner and at the Borrower's address set forth herein for providing notice or demand; provided that nothing contained in this Agreement will prevent Lender from bringing any action,

enforcing any award or judgment or exercising any rights against the Borrower individually, against any collateral or against any property of the Borrower within any other county, state or other foreign or domestic jurisdiction.

3. **Waiver of Venue.** The Borrower acknowledges and agrees that the venue provided above is the most convenient forum for the Borrower and Lender. The Borrower waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Agreement.

4. **Waiver of Jury Trial.** The Borrower and Lender each hereby irrevocably waives any right it may have to a trial by jury in connection with any action directly or indirectly arising out of or relating to this Agreement or any other Loan Document. Each party hereto (1) certifies that no representative, administrative agent or attorney of any other person has represented, expressly or otherwise, that such other person would not, in the event of litigation, seek to enforce the foregoing waiver and (2) acknowledges that it and the other parties hereto have been induced to enter into this Agreement and other Loan Documents by, among other things, the mutual waivers and certifications in this section.

57. USA Patriot Act Notice. Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify, and record information that identifies the Borrower in accordance with the USA Patriot Act. The Borrower covenants and agrees it will not, and agrees to cause each of its subsidiaries not to, at any time, directly or indirectly be (a) a person with whom Lender is restricted from doing business under any Anti-Terrorism Law, (b) engaged in any business involved in making or receiving any contribution of funds, goods or services to or for the benefit of such a person or in any transaction that evades or avoids, or has the purpose of evading or avoiding, the prohibitions set forth in any Anti-Terrorism Law, or (c) otherwise in violation of any Anti-Terrorism Law (the Borrower will and will cause each of its subsidiaries to provide to Lender any certifications or information that Lender requests to confirm compliance by the Borrower and its subsidiaries with any Anti-Terrorism Law). "**Anti-Terrorism Law**" means any Law relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by the United States Treasury Department's Office of Foreign Asset Control, as any of the foregoing Laws may from time to time be amended, renewed, extended, or replaced.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE TO CREDIT AGREEMENT

IN WITNESS WHEREOF, the parties hereto, by their duly authorized officers, have executed this Agreement.

SWEETWATER SPRINGS WATER DISTRICT

By: _____

Name: _____

Title: _____

SIGNATURE PAGE TO CREDIT AGREEMENT

IN WITNESS WHEREOF, the parties hereto, by their duly authorized officers, have executed this Agreement.

COBANK, ACB

By: _____

Name: _____

Title: _____