

RESOLUTION 2019-3-1

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

WHEREAS, the Three Lakes Water and Sanitation District (the "District"), in the County of Grand and State of Colorado, is duly organized and existing under the Constitution and the laws of the State of Colorado; and

WHEREAS, the District is a quasi-municipal corporation and a political subdivision of the State of Colorado, duly organized pursuant to the Three Lakes Water and Sanitation District Act (Title 32, Article 10, Part 1, Colorado Revised Statutes), existing as a special district under the Constitution and laws of the State of Colorado and operating pursuant to Title 32, Article 1, Colorado Revised Statutes; and

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

WHEREAS, the District has previously determined that its wastewater system (the "System") constitutes an enterprise (the "Enterprise") under Article X, Section 20 of the Colorado Constitution ("TABOR"); and

WHEREAS, the Board has determined the need to construct certain improvements to the System by installing a new reactive sand filter system for copper removal and associated appurtenances, including design, engineering, legal, financing and administrative costs relating thereto, and any other costs incidental thereto (the "Project"); and

WHEREAS, the Board has further determined that in order to finance all or a portion of the costs of the Project, it is necessary and advisable and in the best interests of the District to (i) enter into a loan agreement (the "Loan Agreement") with the Colorado Water Resources and Power Development Authority ("CWRPDA"), a body corporate and political subdivision of the State of Colorado, pursuant to which CWRPDA shall loan the District an amount not to exceed \$3,000,000 without interest (the "Loan") for such purposes, and (ii) to

issue a governmental agency bond (the “Bond”) to CWRPDA to evidence the District’s payment obligations under the Loan Agreement; and

WHEREAS, TABOR requires an election to incur any multiple fiscal year obligation unless such obligation is incurred for an enterprise; and

WHEREAS, under TABOR, the Enterprise is a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, in 2018, the System, as operated by the Enterprise, received grants from all Colorado state and local governments combined which were less than 10% of the annual revenue of the System; and

WHEREAS, the Loan Agreement and the Bond (collectively, the “Financing Documents”) shall be revenue obligations of the District payable from the Pledged Property (as defined in the Loan Agreement) and pursuant to TABOR may be approved by the Board without an election; and

WHEREAS, the District has heretofore issued a governmental agency bond to the Colorado Water Resources and Power Development Authority to evidence a loan (the “2014 Loan”) made pursuant to a Loan Agreement dated as of April 24, 2014, as amended by that certain Amendment to Loan Agreement dated November 4, 2016 (the “2014 Loan Agreement”), secured by a pledge of the Net Revenues of the System; and

WHEREAS, the District is not delinquent in the payment of any principal or interest requirements under 2014 Loan; and

WHEREAS, the Loan and the Bond can be issued on a parity with the 2014 Loan; and

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE THREE LAKES WATER AND SANITATION DISTRICT, AS THE GOVERNING BODY OF THE THREE LAKES WATER AND SANITATION ENTERPRISE:

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

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

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

Section 3. Delegation.

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

- (i) The interest rate on the Loan;
- (ii) The principal amount of the Loan;

(iii) The amount of principal of the Loan maturing in any given year and the final maturity of the Loan;

(iv) The dates on which the principal of and interest on the Loan are paid; and

(v) The existence and amount of reserve funds for the Loan, if any.

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

(i) the interest rate on the Loan shall not exceed 2.5%;

(ii) the principal amount of the Loan shall not exceed \$3,000,000;

(iii) the final maturity of the Loan shall not be later than December 31, 2058.

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

Section 5. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bond and the Loan Agreement provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Resolution. The amounts pledged to the payment of the Bond and the Loan Agreement shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have the priority described in the Loan Agreement. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the District irrespective of whether such persons have notice of such liens.

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

Section 7. Limited Obligation; Special Obligation. The Financing Documents are payable solely from the Pledged Property and the Financing Documents do not constitute a debt within the meaning of any constitutional or statutory limitation or provision.

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

Section 9. Disposition and Investment of Loan Proceeds. The proceeds of the Loan shall be applied only to pay the costs and expenses of acquiring, designing, constructing and equipping the Project, including costs related thereto and reimbursement to the District for capital expenditures heretofore incurred and paid from District funds in anticipation of the incurrence of long-term financing therefor, and all other costs and expenses incident thereto, including without limitation the costs of obtaining the Loan. Neither CWRPDA nor any subsequent owner(s) of the Loan Agreement shall be responsible for the application or disposal by the District or any of its officers of the funds derived from the Loan. In the event that all of the proceeds of the Loan are not required to pay such costs and expenses, any remaining amount shall be used for the purpose of paying the principal amount of the Loan and the interest thereon.

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

Section 11. Estimated Life of Improvements. It is hereby determined that the estimated life of the Project to be financed with the proceeds of the Loan is not less than the final maturity of the Loan.

Section 12. Direction to Take Authorizing Action. The appropriate officers of the District and members of the Board are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Resolution, including but not limited to completion and execution of such certificates and affidavits as may reasonably be required by CWRPDA.

Section 13. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the District, District Manager of the District and members of the Board, not inconsistent with the provisions of this Resolution, relating to the Financing Documents or the undertaking and completion of the Project, or actions to be taken in respect thereof, are hereby authorized, ratified, approved, and confirmed.

Section 14. Repealer. All acts, orders, ordinances, or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 15. Severability. Should any one or more sections or provisions of this Resolution be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 16. Resolution Irrepealable. After the Bond is issued, this Resolution shall be and remain irrepealable until the Bond and the interest thereon, as applicable, shall have been fully paid, satisfied and discharged.

ADOPTED on March 11, 2019.

THREE LAKES WATER AND SANITATION
DISTRICT, ACTING BY AND THROUGH ITS
THREE LAKES WATER AND SANITATION
ENTERPRISE

(SEAL)




Vice Chairman and President

Attest:


Secretary

ADOPTED on March 11, 2019.


THREE LAKES WATER AND SANITATION
DISTRICT, ACTING BY AND THROUGH ITS
THREE LAKES WATER AND SANITATION
ENTERPRISE

(SEAL)



Attest:


Secretary


Vice Chairman and President

STATE OF COLORADO)
)
COUNTY OF GRAND) SS.
)
THREE LAKES WATER AND SANITATION)
DISTRICT)

I, Leslie Shankland the duly qualified and acting Secretary of Three Lakes Water and Sanitation District, Grand County, Colorado (the "District"), do hereby certify:

(a) The foregoing pages are a true and correct copy of a resolution (the "Resolution") passed and adopted by the Board of Directors (the "Board") of the District at a regular meeting held on March 11, 2019.

(b) The Resolution was duly moved and seconded and the Resolution was adopted at the regular meeting of March 11, 2019, by an affirmative vote of a majority of the members of the Board, as follows:

<u>Name</u>	<u>"Yes"</u>	<u>"No"</u>	<u>Absent</u>	<u>Abstain</u>
Patricia Farmer, Chairman	✓			
Matthew Reed-Tolonen, Vice Chairman	✓			
Leslie Shankland, Secretary/Treasurer	✓			
Scott Huff, Director	✓			
Judy Acierno, Director			✓	

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

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

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

(f) Notice of the regular meeting of March 11, 2019, in the form attached hereto as Exhibit A was posted in at least three public places within the limits of the District, and, in addition, such notices were posted in the office of the Grand County Clerk and Recorder not less than 72 hours prior to the meetings in accordance with law.

WITNESS my hand and the seal of said District affixed this 11th day of March,
2019.


Secretary

(SEAL)



WITNESS my hand and the seal of said District affixed this 11th day of March,
2019.


Secretary

(SEAL)



EXHIBIT A

(Attach Notice of Meeting)



AGENDA

REGULAR BOARD MEETING OF THE BOARD OF DIRECTORS
THREE LAKES WATER AND SANITATION DISTRICT
MONDAY, MARCH 11, 2019 – 6:30 PM

1. Call to Order: Chairwoman Farmer
2. Comments by the Chair
3. Introductions of Public Present
4. Acceptance of Minutes: January 14, 2019
5. Matters Before the Board
 - a. Resolution 2019-3-1; a resolution approving a loan from the CWRPDA pledging Enterprise revenues in relation to the Copper Removal project
 - b. Consideration of engaging services of Kennedy/Jenks Consultant Inc. for engineering services for the Copper Removal project
 - c. Consideration of Amendment No. 1 to the Integrated Project Delivery Contract for construction services with Conroy Excavating for the Copper Removal project to be signed upon full execution of the CWRPDA Loan
6. Public Comment

This time is reserved for members of the public to make a presentation to the Board on items or issues that are not scheduled on the Agenda. The Board will not discuss/debate those items, nor will the Board make any decisions on items presented during this time. Rather, the Board will refer the items to staff for follow-up.
7. Financial Reports:
 - a. Motion for approval of Check Lists for months of January, 2019 and February, 2019
 - b. Acceptance of Financial Statements for months of January, 2019 and February, 2019
8. Matters for Discussion as Brought Forth by Board Members
9. Chief Operator Report
10. District Manager Report