

RESOLUTION NO. 2017-02

A RESOLUTION OF THE PARK FOREST WATER DISTRICT OF EL PASO COUNTY, COLORADO, ESTABLISHING A WATER ENTERPRISE UNDER THE PROVISIONS OF TITLE 37, ARTICLE 45.1, COLORADO REVISED STATUTES; REPEALING ALL RESOLUTIONS OR OTHER ACTS IN CONFLICT HEREWITH.

WHEREAS, the Park Forest Water District of El Paso County, Colorado (the "District"), is a district and political subdivision of the State of Colorado, duly organized and operating under the constitution and laws of the State of Colorado; and

WHEREAS, pursuant to the provisions of Title 37, Article 45.1, Colorado Revised Statutes (the "Water Activity Law"), state and local governmental entities which have their own bonding capacity under applicable law are authorized: (i) to establish or continue to maintain water activity enterprises for the purpose of pursuing or continuing water activities, which includes the construction, operation, repair and replacement of wastewater facilities; and (ii) to issue or reissue bonds, notes, or other obligations payable from the revenues derived or to be derived from the function, service, benefits, or facility or from any other available funds of the enterprise, the terms and conditions of such bonds or other obligations to be as set forth in the resolution authorizing the same; and

WHEREAS, in order to qualify as a water activity enterprise under the Water Activity Law, the enterprise must consist of a government water activity business owned by a governmental entity such as the District, which enterprise receives under 10% of its annual revenues in grants from all Colorado state and local governments combined, and which is authorized to issue its own revenue bonds; and

WHEREAS, the District has heretofore determined and undertaken to acquire and develop or participate in the acquisition and development of certain properties and facilities for the collection, treatment, transmission, and supply of water, which facilities are operated and maintained as a single public utility and income-producing project (the "System"); and

WHEREAS, it is the intent of the District to operate the System as a water activity enterprise, and to formally establish a Water Enterprise under the Water Activity Law;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS:

Section 1. Establishment of Enterprise. There is hereby established, pursuant to the terms and provisions of the Water Activity Law, Title 37, Article 45.1, Colorado Revised Statutes, a Water Enterprise (the "Enterprise"). The Enterprise shall consist of the System which is the business represented by all of the District's water facilities and properties, now owned or hereafter acquired, whether situated within or without the District boundaries, as now constituted or as changed in the future, including all present or future improvements, extensions, enlargements, betterments, replacements, or additions thereof or thereto. The Enterprise shall have all of the authority, powers, rights, obligations, and duties as may be provided or permitted

by the Water Activity Law and the Colorado Constitution, and as may be further prescribed by ordinance or resolution of the District.

Section 2. Governing Body. The governing body of the Enterprise (the "Governing Body") shall be the Board of Directors of the District, and shall be subject to all of the applicable laws, rules, and regulations pertaining to the District. Whenever the District is in session, the Governing Body shall also be deemed to be in session. It shall not be necessary for the Governing Body to meet separately from the regular and special meetings of the District, nor shall it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the Enterprise. The Governing Body may conduct its affairs in the same manner and subject to the same laws which apply to the District for the same or similar matters; provided that in accordance with §37-45.1-104(2), C.R.S., the Governing Body may authorize the issuance of bonds by adoption of a resolution.

Section 3. Maintenance of Enterprise Status. The Enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water activity enterprise" within the meaning of §37-45.1-102, C.R.S., and as an "enterprise" within the meaning of Article X, Section 20, Colorado Constitution. Specifically, but not by way of limitation, the Enterprise is not authorized to, and shall not, receive 10% or more of its annual revenue in grants from all Colorado state and local governments combined.

Section 4. Issuance of Bonds. The Enterprise is authorized to issue bonds, notes, or other obligations payable from the revenues derived or to be derived from the System, in accordance with the Water Activity Law. The District may also authorize the issuance of such bonds, notes, or other obligations in accordance with the laws of the State of Colorado, and in so doing shall be deemed to be acting as both the Governing Body and the District.

Section 5. Water Enterprise Fees and Charges. The District may adopt by resolution for and on behalf of the Enterprise one or more of the following rates, fees, and charges:

- a. Minimum and sufficient water rates;
- b. Capital investment service charges;
- c. System improvement charges;
- d. Incremental user charges; and
- e. Other fees and charges as the Board of Directors deem necessary to cover the cost of inspection, testing fee for engineering design review, operations, maintenance, and extensions of the system.

Section 6. Water Enterprise Annual Budget. The Board shall adopt an annual budget for the Enterprise, separate from the District's general fund budget.

Section 7. Water Enterprise Fund Established. There is hereby established an enterprise fund, to be known as the "Water Enterprise Fund," in which shall be deposited all revenues from water billing and other revenues related to the System. All funds in the Water Enterprise Fund shall be used only for the operation, maintenance, debt service, replacement of

and additions to the System and, thereafter, for such items as the Board deems legally appropriate. All amounts on hand in such fund shall be invested by the District in investments proper for public funds.

The Enterprise may pledge all or any portion of the Water Enterprise Fund, including revenues anticipated to be collected, to the payment of principal, interest, premium, if any, and reserves for revenue bonds or any other obligations lawfully issued or otherwise contracted for by the Enterprise for the payment or other financing of costs of the System, or for the purpose of refunding any obligations issued or otherwise contracted for such purpose.

Section 8. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the District and the members of the Board of Directors, not inconsistent with the provisions of this Resolution, relating to the operation or creation of the Enterprise, are hereby ratified, approved, and confirmed.

Section 9. Repealer. All orders, bylaws, ordinances, and resolutions of the District, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed to the extent only of such inconsistency or conflict.

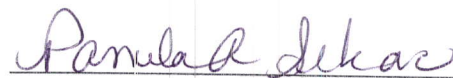
Section 10. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution, the intent being that the same are severable.

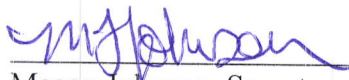
Section 11. Recording and Authentication. Upon adoption hereof, this Resolution shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the President and the Secretary.

INTRODUCED, READ AND PASSED AS A RESOLUTION at a regular meeting of the Park Forest Water District Board of Directors on the 10th day of May, 2017.

(S E A L)

ATTESTED:


Pam Sekac, President


Megan Johnson, Secretary