

**ORIGINAL**



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AZ CORP COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

8 GARY PIERCE, CHAIRMAN  
9 PAUL NEWMAN  
10 SANDRA D. KENNEDY  
11 BOB STUMP  
12 BRENDA BURNS

Arizona Corporation Commission

**DOCKETED**

OCT 02 2012

DOCKETED BY *JM*

12 IN THE MATTER OF THE APPLICATION OF  
13 INDIADA WATER COMPANY, INC., FOR  
14 APPROVAL OF A PERMANENT INCREASE  
15 IN ITS WATER RATES.

DOCKET NO. W-02031A-10-0168

16 IN THE MATTER OF THE APPLICATION OF  
17 ANTELOPE RUN WATER COMPANY FOR  
18 APPROVAL OF A PERMANENT INCREASE  
19 IN ITS WATER RATES.

DOCKET NO. W-02327A-10-0169

20 IN THE MATTER OF THE APPLICATION OF  
21 BOB B. WATKINS DBA EAST SLOPE  
22 WATER COMPANY FOR APPROVAL OF  
23 ITS PERMANENT INCREASE IN ITS  
24 WATER RATES.

DOCKET NO. W-01906A-10-0170

25 IN THE MATTER OF THE APPLICATION OF  
26 BOB B. WATKINS DBA EAST SLOPE  
27 WATER COMPANY, INDIADA WATER  
28 COMPANY, INC., AND ANTELOPE RUN  
WATER COMPANY FOR APPROVAL OF A  
TRANSFER OF ASSETS AND  
CERTIFICATES OF CONVENIENCE AND  
NECESSITY.

DOCKET NO. W-01906A-10-0171  
DOCKET NO. W-02031A-10-0171  
DOCKET NO. W-02327A-10-0171

IN THE MATTER OF THE APPLICATION OF  
BOB B. WATKINS DBA EAST SLOPE

DOCKET NO. W-01906A-10-0183

1 WATER COMPANY FOR AUTHORITY TO  
2 INCUR LONG-TERM DEBT.

3 IN THE MATTER OF THE APPLICATION OF  
4 INDIADA WATER COMPANY, INC. FOR  
5 AUTHORITY TO INCUR LONG-TERM  
6 DEBT.

7 IN THE MATTER OF THE APPLICATION OF  
8 ANTELOPE RUN WATER COMPANY FOR  
9 AUTHORITY TO INCUR LONG-TERM  
10 DEBT.

DOCKET NO. W-02031A-10-0184

DOCKET NO. W-02327A-10-0185

**NOTICE OF FILING  
FINANCING DOCUMENTS**

11 Pursuant to Decision No. 73091, the East Slope Water Company (“Company”)  
12 hereby submits copies of all executed financing documents related to the WIFA loan.  
13 *See Attachment 1.*

14 RESPECTFULLY SUBMITTED this 2nd day of October, 2012.

15  
16 **MOYES SELLERS & HENDRICKS LTD.**

17  
18   
19 \_\_\_\_\_  
20 Steve Wene  
21 Attorneys for the Companies

22 Original and 13 copies of the foregoing  
23 filed this 2nd day of October, 2012, with:

24 Docket Control  
25 Arizona Corporation Commission  
26 1200 West Washington  
27 Phoenix, Arizona 85007

28   
\_\_\_\_\_

# **ATTACHMENT 1**

Bob B. Watkins dba East Slope Water Company and  
Water Infrastructure Finance Authority of Arizona  
Loan Agreement

**WIFA File Copy – Table of Contents**

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## **GENERAL BORROWING RESOLUTIONS**

To: Water Infrastructure Finance Authority of Arizona

THIS IS TO CERTIFY that, at a meeting of the Board of Directors of Bob B. Watkins dba East Slope Water Company, Inc., a corporation duly organized and existing under the laws of the State of Arizona, which meeting was properly and duly called in accordance with the Bylaws and Articles of Incorporation of said corporation, and held on the 29<sup>th</sup> day of August, 2012, at which meeting at least a quorum of said Board of Directors was present and those present constituted a legally sufficient number qualified to act and transact matters as outlined below, the following Resolutions were adopted and the same have not been altered, amended or revoked:

RESOLVED THAT this corporation is hereby authorized and empowered to enter into a loan transaction with WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA ("Lender") and borrow pursuant thereto, and that, Bob Watkins the Chairman of this corporation, be, and he is hereby, authorized and empowered to act on behalf of this corporation, and in such capacity such officer is authorized and empowered to borrow from time to time on behalf of, and in the name of, the corporation from Lender such sums of money as such authorized officer or person may deem expedient, not exceeding in the aggregate at any one time the principal sum of two hundred eighty two thousand seven hundred forty eight dollars (\$282,748), on such terms and conditions as such authorized person or officer so acting hereunder may approve, including, without limitation, conferring the power to appoint a receiver, and to pledge, set over, transfer, assign, mortgage, hypothecate, grant security interests in, and otherwise encumber as security for the repayment of each of such loans, any assets of the corporation as may be required and agreed upon between such authorized officer or person and Lender, and to execute and deliver to Lender on behalf of, and in the name of, the corporation, the corporation's evidence(s) of indebtedness stating the corporation's promise and obligation to pay said principal sum(s), together with any other amounts which may be provided for in such instrument(s) evidencing said indebtedness and from time to time, when any obligation evidencing any of such loans matures, to renew the loan(s) in whole or in part until the same are paid in full; and

FURTHER RESOLVED, that such authorized officer or person, be, and he is hereby, authorized and empowered to execute on behalf of, and in the name of, the corporation from time to time loan agreements, instruments granting Lender a security interest in any assets of the corporation, and supplements to each, together with any and all other security agreements, instruments and documents as may be required and agreed upon between such officer or person and Lender or which such officer or person may deem expedient in carrying out the intents and purposes of the Resolutions set forth herein; and

FURTHER RESOLVED, that these Resolutions relate solely to general corporate borrowing and do not in any manner whatsoever limit the amount of any corporate borrowing heretofore or hereafter made under any other financing arrangement, and that these Resolutions are mutually exclusive, cumulative as to amounts and shall not serve to revoke or alter any Resolutions previously delivered to Lender or (unless specifically otherwise provided) be revoked by any Resolutions subsequently

delivered to Lender relating to general or specific financing arrangements between Lender and the corporation; and

RESOLVED FURTHER, that for action of the Lender in reliance thereon, the Secretary of this corporation certify and deliver to the said Lender a copy of these Resolutions, and that these Resolutions shall remain in full force and effect until written notice of their repeal shall have been received by Lender and until all indebtedness which may have been incurred as aforesaid shall have been paid and satisfied.

WE FURTHER CERTIFY that the authority conferred is not inconsistent with the Laws of the State of Arizona or the State wherein this corporation was chartered, nor the Charter or Bylaws of this corporation.

IN WITNESS WHEREOF, the President and Secretary of this corporation have hereunto set their hands officially and affixed the seal of this corporation this 30 day of, August 2012

Nathaniel  
President

ATTEST:  
P. Williams  
Secretary

(SEAL)

***Loan Resolution 2013-001 - Bob B. Watkins dba East Slope Water Company***  
***Water Infrastructure Finance Authority of Arizona***

**Section 1: Resolution**

WHEREAS, the Water Infrastructure Finance Authority of Arizona (the "Authority") has received from Bob B. Watkins dba East Slope Water Company (the "Local Borrower") a request for a loan (the "Loan"); and

WHEREAS, the Authority has determined that the Local Borrower has met the requirements of Arizona Revised Statutes §49-1201 et seq. (the "Act") and the rules promulgated thereunder (the "Rules"); and

WHEREAS, the terms and conditions under which a Loan will be made and the obligations of the Local Borrower will be set forth in a loan agreement or bond purchase agreement (the "Loan Agreement") to be executed by the Local Borrower and the Authority.

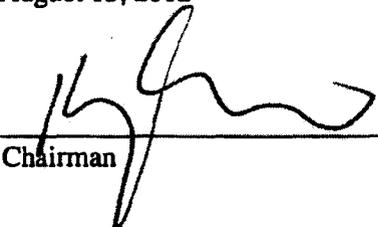
NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUTHORITY AS FOLLOWS:

The Executive Director of the Authority is hereby authorized and directed to execute a Loan Agreement with the Local Borrower to evidence a Loan in accordance with the Act, the Rules, the Local Borrower's applications to the Authority, and the Project Summary detailed in Section 2 of this Loan Resolution.

The Executive Director and other Authority officials, as appropriate, are authorized and directed to sign any document and take such actions as necessary and appropriate to consummate the transactions contemplated by this Resolution and the Loan Agreement and to ensure that the Local Borrower has completed all requirements of the Authority as detailed in Section 3, Section 4, and Section 5 of this Loan Resolution.

This Resolution shall take effect immediately and shall terminate one year from the date of Board Action.

Dated: August 15, 2012

By:   
Chairman

Attest:   
Executive Director

***Loan Resolution 2013-001 – Bob B. Watkins dba East  
Slope Water Company  
Water Infrastructure Finance Authority of Arizona***

**Section 2: Project Summary**

**2.1 Project Number(s)**

DW 010-2013

**2.2 Project Priority Data**

<u>PL Rank</u>	<u>Funding Cycle</u>	<u>Population Served</u>	<u>Subsidy Rate</u>
12	DW 2013	3,787	90%

**2.3 Project Description(s)**

The East Slope water system and two neighboring systems, Antelope Run Water Company and Indiada Water Company, are aging water systems with a variety of problems. The Arizona Corporation Commission (ACC) has approved the Transfer of Assets and Certificates of Convenience and Necessity of Antelope Run and Indiada Water to Bob Watkins dba ESWC. The following capital improvement projects are proposed for the three combined systems:

- Water main additions and replacements
- Well site improvements, including new storage tanks, well pumps, variable frequency drive pumps, fencing, security lighting, generators and utility relocation

ESWC has received ACC approval to finance a total of \$2,748,504 in improvements. However, the system is still in the planning stages of combining the three systems and may not move forward with the full list of ACC-approved projects.

ESWC is therefore requesting a 3-year planning and design loan for the planning and design portion of the ACC-approved project costs. When design is near completion and the final list of construction projects and costs have been determined, the remaining funds from the total ACC-approved amount will be requested through a second Project Priority List Application and Project Finance Application. Upon approval of the construction loan, the planning and design loan will be incorporated into the construction loan for a total amount not to exceed \$2,748,504. All planning, design and future construction must comply with the approved list of proposed projects in Exhibit B of ACC Decision Number 73091.

# ***Loan Resolution 2013-001 – Bob B. Watkins dba East Slope Water Company***

***Water Infrastructure Finance Authority of Arizona***

## **2.4 Previous Board or Committee Actions**

June 25, 2009 – Board awarded Technical Assistance grant TA DW-007-2010 to Antelope Run Water Company in the amount of \$35,000 to conduct a preliminary analysis of combining Antelope Run with the Indiada and East Slope systems.

## **2.5 Project Finance Committee Recommendations**

Not reviewed by the Project Finance Committee.

## **Section 3: Financial Assistance Terms & Conditions** (Section 7.1 of Due Diligence)

**Financial Assistance Amount:** \$282,748

**Primary Repayment Source:** Revenues

**Secondary Repayment Source:** None

**Loan Term:** 3 years

**Frequency of Repayment:** Monthly

**Loan Structure:** Non-governmental short-term design loan - Level 2

**Debt Service Reserve Fund Requirements:** No Reserve

**Repair and Replacement Fund Requirements:** None

**Requirements Prior to Loan Execution:**

**Require Legal Opinion:** Yes

**Other:** No Requirement

**Requirements Prior to Construction:** No Requirement

**Requirement During Construction:** No Requirement

**Requirements Prior to Final Disbursements:** No Requirement

**Loan Category:** Not Qualified

***Loan Resolution 2013-001 – Bob B. Watkins dba East  
Slope Water Company***

***Water Infrastructure Finance Authority of Arizona***

**Policy Exceptions: None**

**Section 4: Technical Terms & Conditions** (Section 7.2 of Due Diligence)

**Withholding Percentage: 10%** (released after deliverables received)

**Requirements Prior to Loan Execution: No Requirement**

**Requirements Prior to Final Disbursements:**

**Require Final Approval: Yes**

**Other: No Requirement**

**Policy Exceptions: None**

**Section 5: Additional Notice & Reporting Requirements** (Section 7.3 of Due Diligence)

**WIFA to generate Press Release: Yes**

**Other: No Additional Requirements**

**Loan Agreement**

between

**Water Infrastructure Finance Authority of Arizona**  
(the "Authority")

and

**Bob B. Watkins dba East Slope Water Company**  
(the "Local Borrower")

Evidencing a Loan from the  
Authority to the Local Borrower

Dated as of September 21, 2012

**WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA  
LOAN AGREEMENT**

This Loan Agreement (as it may be amended or supplemented from time to time, this "Agreement") is made and entered into as of the date set forth below by and between Borrower and Lender set forth below.

This Loan Agreement includes the attached Exhibits and the attached Standard Terms and Conditions. Any capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Exhibits and Standard Terms and Conditions.

**Section 1. Party Names And Addresses.**

Borrower:	Bob B. Watkins dba East Slope Water Company
Borrower Mailing Address:	P.O. Box 85160 Tucson, Arizona 85754 (520) 623-5172 (520) 792-0377
Attention:	Nathan Watkins, Owner
Borrower Business Office Address:	P.O Box 85160 Tucson, Arizona 85754
Lender:	Water Infrastructure Finance Authority of Arizona
Lender Address:	1110 West Washington Street, Suite 290 Phoenix, Arizona 85007
Attention:	Executive Director

**Section 2. Loan Information.** The terms of the Loan include the terms set forth in the Exhibits, which are part of this Agreement:

Exhibit A	Financial Assistance Terms and Conditions
Exhibit B	Technical Terms and Conditions
Exhibit C	Reporting Requirements
Exhibit D	Debt Service Reserve and Replacement Reserve Provisions
Exhibit E	Limits on Additional Indebtedness without Lender Consent
Exhibit F	Form of Promissory Note
Exhibit G	Form of Opinion of Counsel to Borrower
Exhibit H	Borrower Disclosure

**Section 3. The Loan.** Subject to the terms and conditions of this Agreement, Lender agrees to make the Loan to Borrower by means of one or more disbursements ("Disbursements") in an

aggregate principal amount not to exceed the Loan Amount (the "Commitment"). The undisbursed portion of the Commitment shall expire on but not include the earliest of (i) the date on which the Loan has been fully disbursed by Lender, or (ii) the first Principal Repayment Date set forth in the Exhibit A. The obligation of Borrower to repay the Loan is evidenced by the Promissory Note in the form attached hereto as Exhibit F, dated of even date herewith, of Borrower payable to Lender, as it may be amended, modified, extended, renewed, restated, or supplemented from time to time (the "Note"). In the event of a conflict between the Note and this Agreement, the terms of this Agreement shall be deemed controlling. The Loan shall not constitute a revolving loan, and amounts repaid may not be reborrowed.

**Section 4. Advances. Section 4. Disbursements.** Lender may disburse funds by check, by electronic means or by means of magnetic tape or other transfer medium. In making Disbursements, Lender shall be entitled to rely upon, and shall incur no liability to Borrower in acting upon, any request made by a person identifying himself or herself as one of the persons authorized by Borrower to request Disbursements. Disbursements of the Loan will be made only upon satisfaction of the conditions set forth in this Agreement, including the following:

(a) Lender has received a draw request from Borrower, in form and substance satisfactory to Lender, not less than ten (10) days prior to the date for which such Disbursement is requested, specifying the amount and purpose of the Disbursement requested. Lender will furnish an acceptable form of draw request to Borrower. Lender may revise the form of draw request from time to time.

(b) Except as hereinafter provided, disbursements shall be made only upon certification of an authorized officer of Lender that such disbursement is proper. An authorized officer of Lender shall approve disbursements in payment of the invoices, demands for payment, approved contractors' estimates or other evidence of cost incurrence directly to the persons or entities entitled to payment or to Borrower in the case of reimbursement for costs of services already paid, and shall provide Borrower with a copy of the approval and the date approved.

(c) Lender has received such other items or documents as Lender may reasonably require.

**Section 5. Payment Of Principal, Interest And Fees.** The outstanding principal balance of the Loan, together with all unpaid accrued interest due under the Note, shall be paid by "automatic debit" from the Borrower Deposit Account. The Borrower Deposit Account shall be a Demand Deposit Account in the name of the Borrower, Account Number 252-453614 maintained with Bank of America. Borrower shall cause monthly payments to be made by direct debit to the Lender in accordance with routing instructions within Exhibit A.

**Section 6. Loan And Security Documents.** The Loan shall be secured by the Continuing Security Agreement of even date herewith executed by Borrower for the benefit of Lender (the "Continuing Security Agreement") granting Lender a security interest in the collateral described therein by the provisions of this Agreement providing for the holding of, and granting Lender a security interest in, the Debt Service Reserve Fund and the Replacement Reserve Fund (as described in Exhibit D). The Continuing Security Agreement, any Deed of Trust and any other agreements, documents or instruments securing the Loan are referred to as the "Security

Documents". This Agreement, the Note, the Security Documents and any other agreements, documents or instruments evidencing, securing or otherwise relating to the Loan, and all exhibits thereto, are referred to as the "Loan Documents".

IN WITNESS WHEREOF, the Authority and Borrower have caused this Loan Agreement to be executed and delivered as of the date of execution hererof.

DATED as of September 21, 2012.

Bob B. Watkins dba East Slope Water Company

By:   
Name: Bob B. Watkins  
Title: Owner

Water Infrastructure Finance Authority of Arizona

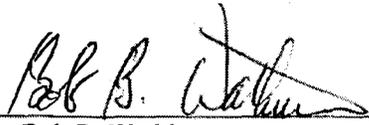
By:   
Sandra Sutton, Executive Director

Documents". This Agreement, the Note, the Security Documents and any other agreements, documents or instruments evidencing, securing or otherwise relating to the Loan, and all exhibits thereto, are referred to as the "Loan Documents".

IN WITNESS WHEREOF, the Authority and Borrower have caused this Loan Agreement to be executed and delivered as of the date of execution herof.

DATED as of September 21, 2012.

Bob B. Watkins dba East Slope Water Company

By: 

Name: Bob B. Watkins

Title: Owner

Water Infrastructure Finance Authority of Arizona

By: 

Sandra Sutton, Executive Director

**Exhibit A of Loan Agreement**

Section 1: Financial Assistance Terms and Conditions  
Bob B. Watkins dba East Slope Water Company  
19-Sep-12

**Loan Number**..... 920233-13

**Closing Date**..... 09/21/12

**Financial Assistance Terms and Conditions**

Original Loan Amount as of the Closing Date..... \$ 282,748.00

Loan Term..... 3

Combined Interest & Fee Rate 1.000%

First Fixed Monthly Payment..... 04/01/13

Final Fixed Monthly Payment..... 09/01/15

**Monthly Payment**

**Period #7 - 1st Debt Service Payment**

Maximum Payment (Includes interest payable from Closing to 1st Payment)..... \$ 1,492.28

Minimum Payment ..... \$ -

*WIFA will calculate the first payment due on Period #7; payment will depend on actual loan draws.*

Periods #8 through #35..... \$ 235.62

Period #36..... \$ 282,748.00

**Section 2: Loan Repayment Schedule, Repayment Periods 1 through 80**  
**Bob B. Watkins dba East Slope Water Company**  
**19-Sep-12**

Period	Monthly Payment Dates	Combined Interest and Fee Rate	Fixed Monthly Payment	Period	Monthly Payment Dates	Combined Interest and Fee Rate	Fixed Monthly Payment
1	10/01/12	1.000%	0.00	41	02/01/16	0.000%	0.00
2	11/01/12	1.000%	0.00	42	03/01/16	0.000%	0.00
3	12/01/12	1.000%	0.00	43	04/01/16	0.000%	0.00
4	01/01/13	1.000%	0.00	44	05/01/16	0.000%	0.00
5	02/01/13	1.000%	0.00	45	06/01/16	0.000%	0.00
6	03/01/13	1.000%	0.00	46	07/01/16	0.000%	0.00
7	04/01/13	1.000%	1,492.28	47	08/01/16	0.000%	0.00
8	05/01/13	1.000%	235.62	48	09/01/16	0.000%	0.00
9	06/01/13	1.000%	235.62	49	10/01/16	0.000%	0.00
10	07/01/13	1.000%	235.62	50	11/01/16	0.000%	0.00
11	08/01/13	1.000%	235.62	51	12/01/16	0.000%	0.00
12	09/01/13	1.000%	235.62	52	01/01/17	0.000%	0.00
13	10/01/13	1.000%	235.62	53	02/01/17	0.000%	0.00
14	11/01/13	1.000%	235.62	54	03/01/17	0.000%	0.00
15	12/01/13	1.000%	235.62	55	04/01/17	0.000%	0.00
16	01/01/14	1.000%	235.62	56	05/01/17	0.000%	0.00
17	02/01/14	1.000%	235.62	57	06/01/17	0.000%	0.00
18	03/01/14	1.000%	235.62	58	07/01/17	0.000%	0.00
19	04/01/14	1.000%	235.62	59	08/01/17	0.000%	0.00
20	05/01/14	1.000%	235.62	60	09/01/17	0.000%	0.00
21	06/01/14	1.000%	235.62	61	10/01/17	0.000%	0.00
22	07/01/14	1.000%	235.62	62	11/01/17	0.000%	0.00
23	08/01/14	1.000%	235.62	63	12/01/17	0.000%	0.00
24	09/01/14	1.000%	235.62	64	01/01/18	0.000%	0.00
25	10/01/14	1.000%	235.62	65	02/01/18	0.000%	0.00
26	11/01/14	1.000%	235.62	66	03/01/18	0.000%	0.00
27	12/01/14	1.000%	235.62	67	04/01/18	0.000%	0.00
28	01/01/15	1.000%	235.62	68	05/01/18	0.000%	0.00
29	02/01/15	1.000%	235.62	69	06/01/18	0.000%	0.00
30	03/01/15	1.000%	235.62	70	07/01/18	0.000%	0.00
31	04/01/15	1.000%	235.62	71	08/01/18	0.000%	0.00
32	05/01/15	1.000%	235.62	72	09/01/18	0.000%	0.00
33	06/01/15	1.000%	235.62	73	10/01/18	0.000%	0.00
34	07/01/15	1.000%	235.62	74	11/01/18	0.000%	0.00
35	08/01/15	1.000%	235.62	75	12/01/18	0.000%	0.00
36	09/01/15	1.000%	282,983.62	76	01/01/19	0.000%	0.00
37	10/01/15	0.000%	0.00	77	02/01/19	0.000%	0.00
38	11/01/15	0.000%	0.00	78	03/01/19	0.000%	0.00
39	12/01/15	0.000%	0.00	79	04/01/19	0.000%	0.00
40	01/01/16	0.000%	0.00	80	05/01/19	0.000%	0.00

Mortgage calculator

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<a href="#">30 Year Fixed</a>	2.750%	3.037%	<a href="#">Americasave</a>	<a href="#">30 Year Fixed</a>	2.750%	3.480%	<a href="#">Americasave</a>	<a href="#">15 Year Fixed</a>	2.250%	2.901%	<a href="#">Americasave</a>
<a href="#">15 Year Fixed</a>	2.250%	2.585%	<a href="#">Americasave</a>	<a href="#">5 Year ARM</a>							

\$360K loan FL 60% CL TV ARM 5 1162 Effective 09/19/2012 Terms apply [Americasave](#) Direct Mortgage Lender

**MORTGAGE**

**Prime rate, fed funds, COFI**

By Bankrate.com  
 The prime rate, as reported by the Wall Street Journal's bank survey, is among the most widely used benchmark in setting home equity lines of credit and credit card rates. It is in turn based on the fed funds rate, which is set by the Federal Reserve. The COFI (11th District cost of funds index) is a widely used benchmark for adjustable-rate mortgages.

Click on the links below to find a fuller explanation of the term.

	Updated 9/12/2012		
	This week	Month ago	Year ago
<a href="#">WSJ Prime Rate</a>	3.25	3.25	3.25
<a href="#">Federal Discount Rate</a>	0.75	0.75	0.75
<a href="#">Fed Funds Rate (Current target rate 0-0.25)</a>	0.25	0.25	0.25
<a href="#">11th District Cost of Funds</a>	1.094	1.116	1.350

**Ratings methodology**

What's included? The fed funds rate is the primary tool that the Federal Open Market Committee uses to influence interest rates and the economy. Changes in the fed funds rate have far-reaching effects by influencing the borrowing cost of banks in the overnight lending market, and subsequently the returns offered on bank deposit products such as certificates of deposit, savings accounts, and money market accounts. Changes in the fed funds rate and the discount rate also dictate changes in the Wall Street Journal Prime Rate, which is of interest to borrowers. The prime rate is the underlying index for most credit cards, home equity loans and lines of credit, auto loans, and personal loans. Many small business loans are also indexed to the Prime rate. The 11th District Cost of Funds is often used as an index for adjustable-rate mortgages.

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<a href="#">15 Year Fixed</a>	2.250%	2.585%	<a href="#">Americasave</a>
<a href="#">40 Year Fixed</a>			
<a href="#">20 Year Fixed</a>	2.750%	3.229%	<a href="#">Americasave</a>
<a href="#">7 Year ARM</a>	1.750%	2.909%	<a href="#">Americasave</a>
<a href="#">5 Year ARM</a>	1.250%	2.918%	<a href="#">Americasave</a>
<a href="#">3 Year ARM</a>			
FHA	Rate	APR	
<a href="#">30 Year Fixed</a>	2.750%	3.480%	<a href="#">Americasave</a>
<a href="#">15 Year Fixed</a>	2.250%	2.901%	<a href="#">Americasave</a>
<a href="#">5 Year ARM</a>	2.250%	2.966%	<a href="#">Americasave</a>
<a href="#">3 Year ARM</a>			

\$360K loan FL 60% CL TV ARM 5 1162 Effective 09/19/2012 Terms apply

**Americasave**  
Direct Mortgage Lender

**Compare Mortgage Rates »**

Click for the best Mortgage rates in your state

FIXED RATES		ADJUSTABLE RATES (ARMS) AND INTEREST ONLY (IOS)					
10 year fixed	15 year fixed refi	1 year ARM	1 year ARM ref	3/1 ARM (IO)	5/1 ARM (IO) refi		
15 year fixed	20 year fixed refi	3/1 ARM	3/1 ARM ref	5/1 ARM (IO)	7/1 ARM (IO) refi		
20 year fixed	30 year fixed refi	5/1 ARM	5/1 ARM ref	7/1 ARM (IO)	30 year fixed (IO) refi		
30 year fixed	30 year FHA refi	7/1 ARM	7/1 ARM ref	30 year fixed (IO)	See all ARMs		
30 year FHA	See all fixed	10/1 ARM	10/1 ARM ref	3/1 ARM (IO) refi	See all IOS		

**Sponsored Ads**

**WELLS FARGO** Double Discount promotion – Take advantage of our interest rate discount on select new home equity loans. [wellsfargo.com/doublediscount](#)

**2.25% Mortgage Refinance** – \$160,000 Mortgage for \$611/Mo. No Hidden Fees. 4 Free Quotes. 3.1% APR. [eLendingSaver.com](#)

**Mortgage Overnight Averages**

About this index

Product	Rate	±	Last week
30 yr fixed mtg	3.51%	▼	3.54%
15 yr fixed mtg	2.93%	▲	2.91%
5/1 ARM	2.85%	▲	2.91%
30 yr fixed mtg refi	3.59%	▼	3.61%

View rates in your area: Zip Code

**Exhibit B**

**Technical Terms and Conditions**

**Section 1  
Budget**

<b>Uses by Budget Item</b>	<b>Amount Budgeted</b>
Planning.....	\$39,490.00
Design & Engineering.....	\$157,960.00
Legal/Debt Authorization.....	\$0.00
Financial Advisor.....	\$0.00
Land/System Acquisition.....	\$0.00
Equipment/Materials.....	\$0.00
Construction/Installation/Improvement.....	\$0.00
Inspection & Construction Management.....	\$0.00
Project Officer.....	\$0.00
Administration.....	\$39,490.00
Staff Training.....	\$0.00
Capitalized Interest.....	\$0.00
Refinance Loan.....	\$0.00
Other.....	\$45,808.00
<b>Total Budget.....</b>	<b>\$282,748.00</b>

**Section 2  
Project Description**

The East Slope water system and two neighboring systems, Antelope Run Water Company and Indiada Water Company, are aging water systems with a variety of problems. The Arizona Corporation Commission (ACC) has approved the Transfer of Assets and Certificates of Convenience and Necessity of Antelope Run and Indiada Water to Bob Watkins dba ESWC. The following capital improvement projects are proposed for the three combined systems:

- Water main additions and replacements
- Well site improvements, including new storage tanks, well pumps, variable frequency drive pumps, fencing, security lighting, generators and utility relocation

ESWC has received ACC approval to finance a total of \$2,748,504 in improvements. However, the system is still in the planning stages of combining the three systems and may not move forward with the full list of ACC-approved projects.

ESWC is therefore requesting a 3-year planning and design loan for the planning and design portion of the ACC-approved project costs. When design is near completion and the final list of construction projects and costs have been determined, the remaining funds from the total ACC-approved amount will be requested through a second Project Priority List Application and Project Finance Application. Upon approval of the construction loan, the planning and design loan will be incorporated into the construction loan for a total amount not to exceed \$2,748,504. All planning, design and future construction must comply with the approved list of proposed projects in Exhibit B of ACC Decision Number 73091.

### **Section 3 Requirements Prior To Final Disbursements**

**Section 3.1 Design & Engineering Deliverables.** Prior to the release of the withholding, the Local Borrower will submit to the Authority (a) as-built drawings by a professional engineer that document all changes from the original plans and specifications (b) copies of all testing results performed by or under the supervision of a professional engineer as required by the specifications, and (c) Arizona Department of Environmental Quality (ADEQ) approval of construction or an engineer's Certificate of Completion certifying that all construction was completed in accordance with the plans and specifications or that any changes made are in conformance with the Arizona Revised Statutes, ADEQ and Environmental Protection Agency rules, permits and guidelines and are documented in the as-built drawings. Based on a review of the information submitted, the Authority reserves the right, prior to the release of the withholding, to request modifications to the Project, the system, or the materials submitted pursuant to this section.

**Section 3.2 Federal Clean Water Act.** The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Clean Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

**Section 3.3 Federal Safe Drinking Water Act.** The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Safe Drinking Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

## Exhibit C

### Reporting Requirements

Section 1. **Annual Loan Review.** The Authority's Annual Loan Review Form and annual financial statements in a format approved by the Authority, including the report of any annual audit(s) and all audit reports required by governmental auditing standards and any applicable Arizona rules, shall be provided by the Local Borrower to the Authority within one-hundred and eighty (180) days after the end of each fiscal year of the Local Borrower. The Local Borrower shall complete all audits and submit all reports required by the federal Single Audit Act within the time limits under that federal law, currently within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the federal agency that provided the funding or a different period is specified in a program-specific audit guide.

Section 2. **Records and Accounts.** The Local Borrower shall keep accurate records and accounts for the System, including the Project (the "*System Records*"), separate and distinct from its other records and accounts (the "*General Records*"). To the extent required by law, such System Records shall be maintained in accordance with generally accepted government or other applicable accounting standards and shall be audited annually, if required by law, by an independent accountant, which audit may be part of the annual audit of the General Records of the Local Borrower. Such System Records and General Records shall be made available for inspection by the Authority at any reasonable time.

Section 3. **Notice of Change In Key Personnel.** Promptly after becoming aware thereof, the Local Borrower shall provide notice in writing to the Authority of any change to the information in Section 1 of the Loan Agreement and any other change in key personnel connected to the Project and Loan.

Section 4. **Notice of Material Adverse Change.** The Local Borrower shall promptly notify the Authority of any material adverse change in the activities, prospects or condition (financial or otherwise), of the Local Borrower relating to the System, or in the ability of the Local Borrower to make all Loan Repayments from the Source of Repayment described in this Loan Agreement and otherwise to observe and perform its duties, covenants, obligations and agreements hereunder.

Section 5. **Disadvantaged Business Enterprise (DBE) Program.** The Local Borrower must report DBE participation to the Authority based on guidance from the Authority.

Section 6. **Notice of Default.** Promptly after becoming aware thereof, Local Borrower shall give notice to the Authority of (i) the occurrence of any Event of Default under the Loan Agreement or (ii) the occurrence of any breach, default, Event of Default, or event which with the giving of notice or lapse of time, or both, could become a material breach, default, or Event of Default (a "Future Breach") under any agreement, indenture, mortgage, or other instrument (other than the Loan Agreement) to which the Local Borrower is a party or by which it or any of its property is bound or affected. Local Borrower shall provide written notice to the Authority if the effect of such breach, default, Event of Default or Future Breach is to accelerate, or to permit

the acceleration of, the maturity of any indebtedness under such agreement, indenture, mortgage, or other instrument; provided, however, that the failure of the Local Borrower to give such notice shall not affect the right and power of the Authority to exercise any and all of the remedies specified herein.

Section 7. **Notice of Construction Commencement.** The Local Borrower shall promptly notify the Authority immediately upon commencement of construction activities.

Section 8. **Notice of Non-Environmental Litigation.** Promptly after the commencement or overt threat thereof, Local Borrower shall provide the Authority with written notice of the commencement of all actions, suits, or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting Local Borrower which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 9. **Notice of Environmental Litigation.** Without limiting the provisions of Section 7 above, promptly after receipt thereof, Local Borrower shall provide the Authority with written notice of the receipt of all pleadings, orders, complaints, indictments, or other communication alleging a condition that may require Local Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury to any person or property damage as a result of environmental factors or conditions or which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 10. **Regulatory and Other Notices.** Promptly after receipt or submission thereof, Local Borrower shall provide the Authority with copies of any notices or other communications received from or directed to any governmental authority with respect to any matter or proceeding which could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or the ability of Local Borrower to perform its obligations under the Loan Agreement, or which reveals a substantial non compliance with any applicable law, regulation or rule.

Section 11. **Other Information.** The Local Borrower shall submit to the Authority other information regarding the condition (financial or otherwise), or operation of the Local Borrower as the Authority may, from time to time, reasonably request.

Section 12. **Additional Reporting Requirements.** No additional reporting requirements

**Exhibit D**

**Debt Service Reserve And Replacement Reserve Requirements**

**No Debt Service Reserve or Replacement Reserve Required**

The Local Borrower shall not be required to fund a Debt Service Reserve Fund in cash nor shall they be required to maintain a Replacement Reserve in connection with this Loan Agreement.

## Exhibit E

### Limits On Additional Indebtedness Without Lender Consent

Unless otherwise agreed to in writing by Lender, while this Agreement is in effect, whether or not any Advance is outstanding, Borrower shall not:

(a) Borrowings. Create, incur, assume, or allow to exist, directly or indirectly, any indebtedness or liability for borrowed money, for the deferred purchase price of property or services, or for the lease of real or personal property which lease is required to be capitalized under GAAP or which is treated as an operating lease under regulations applicable to the Borrower but which otherwise would be required to be capitalized under GAAP (a "Capital Lease"), except for (i) accounts payable to trade creditors and current operating liabilities (other than for borrowed money) incurred in the ordinary course of Borrower's business, and (ii) Capital Leases, the aggregate amount of which exceeds at any one time \$10,000.

(b) Leases. Create, incur, assume, or permit to exist any obligations as lessee for the rental or hire of any real or personal property, except leases which do not in the aggregate require Borrower to make payments (including, without limitation, taxes, insurance maintenance, and other charges) in any fiscal year of Borrower occurring during the term hereof in excess of \$10,000.

**Exhibit F**  
**PROMISSORY NOTE**

§ 282,748.00

Phoenix, Arizona  
September 21, 2012

For Value Received, Bob B. Watkins dba East Slope Water Company ("Borrower"), promise to pay to WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA ("Lender") or order the aggregate principal amount outstanding on Borrower's loan as shown on Lender's records which shall at all times be conclusive and govern, with interest thereon at an annual rate equal to one percent (1%). Interest shall be calculated on a 360-day year for all advances, but, in any case, shall be computed for the actual number of days in the period for which interest is charged. Principal and interest shall be payable at the times and in the manner set forth in the Loan Agreement (as hereinafter defined).

Lender and Borrower have established specific instructions and procedures by which draws against said credit will be presented for disbursement pursuant to the terms and conditions of that certain Loan Agreement of even date herewith (the "Loan Agreement"), but nothing contained herein shall create a duty on the part of Lender to make said disbursement if Borrower is in default. The undersigned shall not be entitled to total disbursements hereunder exceeding two hundred eighty two thousand seven hundred forty eight dollars (\$282,748), such lesser amount determined in accordance with the Loan Agreement with respect to the Loan (as defined in the Loan Agreement).

All amounts payable hereunder shall be paid in lawful money of the United States. Principal and interest shall be payable at 1110 West Washington, Suite 290, Phoenix, Arizona 85007, or at such other place as the holder hereof may designate. Borrower may prepay the Loan, in whole or in part, at any time without premium or penalty pursuant to Section 1(a) of the Standard Terms and Conditions relating to the Loan.

Absent a default under this Note or the Loan Agreement, any payments received by the holder hereof shall be applied first to sums, other than principal and interest, due the holder hereof, next to the payment of all interest accrued to the date of such payment, and the balance, if any, to the payment of principal. Any payments received by the holder hereof after any Event of Default (as defined in the Loan Agreement) shall be applied to the amounts specified in this paragraph in such order as the holder hereof may, in its sole discretion, elect.

If any payment of interest and/or principal is not received by the holder hereof when such payment is due, then, as additional remedies, (a) a late charge of six percent (6%) of the amount due and unpaid will be added to the delinquent amount for any payment past due in excess of fifteen (15) days and (b) all past due payments of principal and/or interest shall bear interest from their due date until paid at an annual rate equal to the sum of (i) six percent (6%) and (ii) the interest rate specified herein, payable on demand (the "Default Rate").

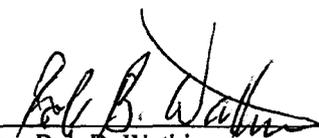
This Note shall become immediately due and payable at the option of the holder hereof without presentment or demand or any notice to Borrower or any other person obligated hereon, upon default in the payment of any of the principal hereof or any interest thereon when due, or if any event occurs or condition exists which authorizes the acceleration of the maturity hereof under the Loan Agreement. Time is of the essence with regard to all payment obligations in this Note. Failure to exercise any remedy or right hereunder shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

In the event any holder hereof utilizes the services of an attorney in attempting to collect the amounts due hereunder or to enforce the terms hereof or of any agreements related to this indebtedness or if any holder hereof becomes party plaintiff or defendant in any legal proceeding in relation to the property described in any instrument securing this Note or for the recovery or protection of the indebtedness evidenced hereby, Borrower, its successors and assigns, shall repay to such holder hereof, on demand, all costs and expenses so incurred, including reasonable attorney's fees, including those costs, expenses and attorney's fees incurred after the filing by or against the Borrower of any proceeding under any chapter of the Bankruptcy Code, or similar federal or state statute, and whether incurred in connection with the involvement of any holder hereof as creditor in such proceedings or otherwise.

Borrower and all sureties, endorsers and guarantors of this Note waive demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notice, filing of suit and diligence in collecting this Note or the release of any part primarily or secondarily liable hereon and further agree that it will not be necessary for any holder hereof, in order to enforce payment of this Note by any of them, to first institute suit or exhaust its remedies against any maker or others liable herefor, and consent to any extension or postponement of time or payment of this Note or any other indulgence with respect hereto without notice thereof to any of them.

Notwithstanding any provision contained herein to the contrary, the applicable rate of interest agreed to herein shall include the applicable interest rate described herein, in accordance with the terms of this Note, and any additional charges, costs and fees incident to this loan to the extent they are deemed to be interest under applicable Arizona law. Should the applicable rate of interest as calculated under this Note exceed that allowed by law, the applicable rate of interest will be the maximum rate of interest allowed by applicable law.

Bob B. Watkins dba East Slope Water Company

By  \_\_\_\_\_

Name: Bob B. Watkins

Title: Owner

"Borrower"

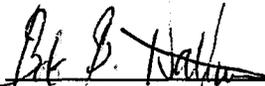
This Note shall become immediately due and payable at the option of the holder hereof without presentment or demand or any notice to Borrower or any other person obligated hereon, upon default in the payment of any of the principal hereof or any interest thereon when due, or if any event occurs or condition exists which authorizes the acceleration of the maturity hereof under the Loan Agreement. Time is of the essence with regard to all payment obligations in this Note. Failure to exercise any remedy or right hereunder shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

In the event any holder hereof utilizes the services of an attorney in attempting to collect the amounts due hereunder or to enforce the terms hereof or of any agreements related to this indebtedness, or if any holder hereof becomes party plaintiff or defendant in any legal proceeding in relation to the property described in any instrument securing this Note or for the recovery or protection of the indebtedness evidenced hereby, Borrower, its successors and assigns, shall repay to such holder hereof, on demand, all costs and expenses so incurred, including reasonable attorney's fees, including those costs, expenses and attorney's fees incurred after the filing by or against the Borrower of any proceeding under any chapter of the Bankruptcy Code, or similar federal or state statute, and whether incurred in connection with the involvement of any holder hereof as creditor in such proceedings or otherwise.

Borrower and all sureties, endorsers and guarantors of this Note waive demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notice, filing of suit and diligence in collecting this Note or the release of any part primarily or secondarily liable hereon and further agree that it will not be necessary for any holder hereof, in order to enforce payment of this Note by any of them, to first institute suit or exhaust its remedies against any maker or others liable herefor, and consent to any extension or postponement of time or payment of this Note or any other indulgence with respect hereto without notice thereof to any of them.

Notwithstanding any provision contained herein to the contrary, the applicable rate of interest agreed to herein shall include the applicable interest rate described herein, in accordance with the terms of this Note, and any additional charges, costs and fees incident to this loan to the extent they are deemed to be interest under applicable Arizona law. Should the applicable rate of interest as calculated under this Note exceed that allowed by law, the applicable rate of interest will be the maximum rate of interest allowed by applicable law.

Bob B. Watkins dba East Slope Water Company

By 

Name: Bob B. Watkins

Title: Owner

"Borrower"



# MOYES SELLERS & HENDRICKS

1850 N. Central Avenue, Suite 1100 • Phoenix, AZ 85004 • fax 602.274.9135

September 21, 2012

Water Infrastructure Finance Authority of Arizona  
1110 West Washington, Suite 290  
Phoenix, Arizona 85007  
Attention: Elmer Garcia, Senior Loan Officer

**Re: Loan ("Loan") from Water Infrastructure Finance Authority of Arizona  
("Lender") to Bob Watkins dba as East Slope Water Company, Inc.  
("Borrower")**

Ladies and Gentlemen:

We are attorneys admitted to practice in the State of Arizona and have acted as counsel to Borrower, which proposes to enter into a Loan Agreement (as hereinafter defined) with the Water Infrastructure Finance Authority of Arizona (the "Authority"). We have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents:

- A. Proposed Loan Agreement between Lender and Borrower;
- B. Promissory Note to be executed by Borrower and payable to Lender;
- C. Continuing Security Agreement to be executed by Borrower;
- D. UCC-1 Financing Statement;
- E. Articles of Incorporation of Borrower;
- F. Closing Certificate of the Borrower;
- F. Borrower's Resolution; and
- G. Evidence of the approval by the Arizona Corporation Commission of the borrowing represented by the Loan and of the rates, fees and charges of Borrower as currently in effect.

September 21, 2012

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Based upon the foregoing, and subject to the qualifications and limitations set forth below, it is our opinion that:

1. Borrower is an Arizona corporation duly organized, validly existing, and in good standing under the laws of the State of Arizona.
2. The Borrower has full legal right and authority to undertake and complete the Project (as such term is defined in the Loan Agreement); subject, however, to the effect of restrictions and limitations imposed by, or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally heretofore or hereafter enacted.
3. To the best of our knowledge, after such investigation as we have deemed appropriate, and as certified by appropriate parties, the resolutions identified above have been duly and lawfully adopted in accordance with applicable Arizona law.
4. To our knowledge, without investigation except as disclosed, the authorization, execution and delivery of the Loan Agreement by the Borrower, the observance and performance by the Borrower of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project, except as disclosed to the Authority, do not and will not contravene an existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Borrower or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Borrower is a party or by which it, the system or its property or assets is bound.
5. To the best of our knowledge, after such investigation as we have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on part of the Borrower in connection with the authorization, execution, delivery and performance of the Loan Agreement and the undertaking and completion of the Project have been obtained or made.

We are qualified to practice law in the State of Arizona, and we do not purport to be an expert on, or to express an opinion concerning, any law other than the law of the State of Arizona. This opinion is limited in all respects of the laws in the State of Arizona now in effect, to the matters set forth herein, and to the date hereof, and we assume no obligation to revise or supplement this letter should any such law be

September 21, 2012

Page 3

changed by legislative action, judicial decision or otherwise. The representations, warranties, covenants and similar statements made by the Borrower in the Loan Agreement and Documents are the sole responsibility of the Borrower and are not in any way adopted by us as part of this opinion. No opinion may be inferred or implied beyond the manner expressly stated herein and only in the context of the assumptions and qualifications herein described.

This opinion is issued to you and is not to be relied upon for any other purpose or by any other person or entity. This opinion is not to be referred to or recorded in any document or report filed with or delivered to any governmental agency or other person without our prior written consent.

Respectfully,

**MOYES SELLERS & HENDRICKS**

A handwritten signature in black ink, appearing to read "Steven Wene", written in a cursive style.

By: Steven L. Wene

**Exhibit H  
Borrower Disclosure**

1. Exception(s) to Subsection 3(e) of the Standard Terms and Conditions entitled "Compliance with Laws": (borrower to insert exceptions or "None")

None

2. Exception(s) to Subsection 3(f) of the Standard Terms and Conditions entitled "Environmental Compliance": (borrower to insert exceptions or "None")

None

3. Exception(s) to Subsection 3(g) of the Standard Terms and Conditions entitled "Litigation": (borrower to insert exceptions or "None")

None

4. Exception(s) to Subsection 3(h) of the Standard Terms and Conditions entitled "Title to Property": (borrower to insert exceptions or "None")

None

5. Exception(s) to Subsection 3(k) of the Standard Terms and Conditions entitled "Subsidiaries": (insert exceptions or "None")

None

Bob B. Watkins dba East Slope Water Company

By: \_\_\_\_\_

Name: Bob B. Watkins

Title: Owner

Date: September 21, 2012

## LOAN AGREEMENT STANDARD TERMS AND CONDITIONS

### Water Infrastructure Finance Authority of Arizona

This document sets forth the Standard Terms and Conditions applicable to Loans made by the Water Infrastructure Finance Authority of Arizona the ("Lender") to a Borrower. These Standard Terms and Conditions are a part of the Loan Agreement to which this document is attached. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

#### **Section 1. Repayment; Prepayment.**

(a) **Loan Repayment Schedule.** Borrower shall pay to Lender the amounts shown in the Loan repayment schedule in Exhibit A hereto on or before the dates shown in Exhibit A as the same may be adjusted as provided below to reflect the revised principal repayment schedule of the Loan. At the expiration of the Commitment, if the total amount of the Disbursements is less than the maximum Loan Amount, the amount of each principal installment due as set forth in the Loan repayment schedule contained in Exhibit A shall be adjusted based on (A) the principal balance then outstanding, (B) the amortization schedule as provided in Exhibit A and (C) the Combined Interest and Fee Rate. Upon such adjustment, Lender shall compute the adjusted interest payment amounts for each Interest Payment Date to reflect the adjusted principal amounts and shall enter the results in the Loan repayment schedule and furnish the revised schedule to Borrower.

(b) **Prepayment.** The Borrower may at any time deliver to the Authority a written request for approval to prepay the principal of the Loan in whole or in part. The request must specify the proposed prepayment date. If the proposed prepayment date is on or after the tenth anniversary of the final loan draw, the Authority will approve prepayment without penalty so long as the request is received at least 60 days before the proposed prepayment date. If the proposed prepayment date is before the tenth anniversary of the final loan draw, the Authority will determine, in its sole discretion, whether to permit such prepayment, when the prepayment may occur and the terms and conditions of any prepayment approval. If the Borrower makes partial prepayments of the unpaid principal under the Loan, the amount of each principal installment due as set forth in the Loan repayment schedule contained in Exhibit A shall be adjusted based on (A) the principal balance then outstanding, (B) the amortization schedule as provided in Exhibit A and (C) the Combined Interest and Fee Rate. Upon such adjustment, Lender shall compute the adjusted interest payment amounts for each Interest Payment Date to reflect the adjusted principal amounts and shall enter the results in the Loan repayment schedule and furnish the revised schedule to Borrower.

(c) **Application of Payments.** Absent a default under the Note or this Agreement, any payments received by Lender shall be applied first to sums, other than principal and interest, due Lender, next to the payment of all interest accrued to the date of such payment, and the balance, if any, to the payment of principal. Any payments received by Lender after any Event of Default shall be applied to the amounts specified in this paragraph in such order as Lender may, in its sole discretion, elect.

(d) **Late Payments.** If any payment of interest and/or principal is not received by Lender when such payment is due, then, as additional remedies, (a) a late charge of six percent (6%) of the amount due and unpaid will be added to the delinquent amount for any payment past due in excess of fifteen (15) days and (b) all past due payments of principal and/or interest shall bear interest from their due date until paid at the annual rate equal to the sum of (i) six percent (6%) and (ii) the Interest Rate specified in Exhibit A, payable on demand.

(e) **Calculations of Interest.** Interest shall be calculated on the actual number of days each Disbursement is outstanding on the basis of a year consisting of 360 days. In calculating interest, the date each Disbursement is made shall be included and the date each such Disbursement is repaid shall be excluded.

(f) **Payment on Maturity Date.** On the final Principal Repayment Date, Borrower shall make one (1) final payment of principal, accrued and unpaid interest, and all other amounts due and payable hereunder and under all of the Loan Documents.

## **Section 2. Conditions Precedent.**

(a) **Conditions Precedent to Initial Disbursement.** This Agreement and Lender's obligation to make the initial Disbursement shall become effective only upon satisfaction, at Borrower's sole cost and expense, of the following conditions precedent, as determined by Lender in its absolute and sole discretion on or before the date of such Disbursement:

(i) **Loan Documents.** That Lender receive duly executed originals of this Agreement, the Note, the Security Agreement and all other instruments and documents contemplated hereby.

(ii) **Company Existence and Authorization.** That Lender receive copies of (A) all company resolutions, documents and proceedings of Borrower authorizing the execution, delivery, and performance of the Loan Documents to which it is a party, certified to be true and correct by the Secretary of Borrower; (B) Borrower's Articles of Incorporation or other organizational documents, with all amendments certified by the Arizona Corporation Commission; (C) certificate as to Borrower's good standing from the Arizona Corporation Commission and (D) Borrower's Bylaws or similar documents with all amendments certified by the Secretary of Borrower.

(iii) **Approvals.** That Lender receive evidence satisfactory to it that all consents and approvals which are necessary for, or required as a condition of, the validity and enforceability of the Loan Documents have been obtained and are in full force and effect.

(iv) **Opinion of Counsel.** That Lender receive an opinion of counsel for Borrower (who shall be acceptable to Lender) in form and content acceptable to Lender.

(v) **Perfection and Priority of Liens.** That Lender receive evidence satisfactory to it that Lender has, as of the date of the initial Disbursement, a duly perfected security interest on all security provided for herein.

(vi) **Permits.** That Lender receive evidence satisfactory to it that Borrower possesses all necessary operating permits, authorizations, approvals, and the like which are material to the conduct of Borrower's business or which may otherwise be required by law.

(vii) **Fees, Expenses.** That Borrower pay the costs and expenses to obtain, perfect and determine the priority of any security hereof. Further, if all costs and expenses of this transaction are not known at the time of the initial disbursement, Borrower agrees to pay such costs and expenses upon demand.

(viii) **Insurance.** That Lender receive evidence of insurance in such amount and covering such risks as are usually carried by companies engaged in the same or similar business.

(ix) **Debt Service Reserve and Replacement Reserve.** That Lender receive evidence that Borrower has established the Debt Service Reserve Fund and Replacement Reserve Fund as required in Exhibit D hereto.

(x) **Subordination Agreement.** That Lender receive a Subordination Agreement, in form and substance satisfactory to Lender, fully executed by the Borrower and the Subordinated Creditors.

(b) **Disbursements Generally.** Lender's obligation to make each Disbursement hereunder, including the initial Disbursement, is subject to the satisfaction of each of the following conditions precedent on or before the date of such Disbursement:

(i) **Event of Default.** That no Event of Default (as that term is defined in Section 6 hereof) exists, and that there has occurred no event which with the passage of time or the giving of notice, or both, could become an Event of Default (a "Default").

(ii) **Continuing Representations and Warranties.** That the representation and warranties of Borrower contained in this Agreement be true and correct on and as of the date of the initial Disbursement and each subsequent Disbursement as though made on and as of such date.

(iii) Other Items. That Lender receive such other items or documents as Lender may reasonably require.

### **Section 3. Representations And Warranties.**

(a) Organization: Power: Etc. Borrower (i) is duly organized, validly existing, and in good standing under the laws of its state of incorporation; (ii) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary; (iii) has all requisite corporate and legal power to own and operate its assets and to carry on its business and to enter into and perform the Loan Documents to which it is a party, (iv) has duly and lawfully obtained and maintained all licenses, certificates, permits, authorizations, approvals, and the like which are material to the conduct of its business or which may be otherwise required by law; (v) is eligible to borrow from Lender.

(b) Due Authorization: No Violations: Etc. The execution and delivery by Borrower of, and the performance by Borrower of its obligations under, the Loan Documents have been duly authorized by all requisite corporate action on the part of Borrower and do not and will not (i) violate any provision of any law, rule or regulations, any judgment, order or ruling of any court or governmental agency, the articles of incorporation or bylaws of Borrower, or any agreement, indenture, mortgage, or other instrument to which Borrower is a party or by which Borrower or any of its properties is bound or (ii) be in conflict with, result in a breach of, or constitute with the giving of notice or lapse of time, or both, a default under any such agreement, indenture, mortgage, or other instrument. No action on the part of any member or shareholder of Borrower is necessary in connection with the execution and delivery by Borrower of and the performance by Borrower of its obligations under the Loan Documents except for actions which have occurred.

(c) Consents. No consent, permission, authorization, order, or license of any governmental authority is necessary in connection with the execution, delivery, performance, or enforcement of the Loan Documents to which Borrower is a party, except such as have been obtained and are in full force and effect.

(d) Binding Agreement. Each of the Loan Documents to which Borrower is a party is, or when executed and delivered will be, the legal, valid, and binding obligation of Borrower, enforceable in accordance with its terms, subject only to limitations on enforceability imposed by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally.

(e) Compliance with Laws. Borrower is in compliance with all federal, state, and local laws, rules, regulations, ordinances, codes, and orders (collectively, "Laws"), the failure to comply with which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of Borrower, or on the ability of Borrower to perform its obligations under the Loan Documents, except as Borrower has disclosed on Exhibit H.

(f) Environmental Compliance. Without limiting the provisions of Subsection (e) above, all property owned or leased by Borrower and all operations conducted by it are in compliance in all material respects with all Laws relating to environmental protection, the failure to comply with which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of Borrower, or on the ability of Borrower to perform its obligations, under the Loan Documents, except as Borrower has disclosed on Exhibit H.

(g) Litigation. There are no pending legal, arbitration, or governmental actions or proceedings to which Borrower is a party or to which any of its property is subject which, if adversely determined, could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of Borrower, or on the ability of Borrower to perform its obligations under the Loan Documents, and to the best of Borrower's knowledge, no such actions or proceedings are threatened or contemplated, except as Borrower has disclosed on Exhibit H.

(h) Title to Property. Borrower holds good and marketable title to all of its real property and owns all of its personal property free and clear of any lien or encumbrance, except the liens and encumbrances specifically identified on Exhibit H.

(i) Financial Statements: No Material Adverse Change: Etc. All financial statements submitted to Lender in connection with the application for the Loan or in connection with this Agreement fairly and fully present the financial condition of Borrower and the results of Borrower's operations for the periods covered thereby, and are prepared in accordance with

generally accepted accounting principles for regulated utilities (“GAAP”) consistently applied. Since the dates thereof, there has been no material adverse change in the financial condition or operations of Borrower. All budgets, projections, feasibility studies, and other documentation submitted by Borrower to Lender are based upon assumptions that are reasonable and realistic, and as of the date hereof, no fact has come to light, and no event or transaction has occurred, which would cause any assumption made therein not to be reasonable or realistic.

(j) Principal Place of Business; Records. The principal place of business and chief executive office of Borrower and the place where the records required by Subsection (g) of Section 4 hereof are kept is at the business office street address of Borrower shown in Section 1 of the Agreement.

(k) Subsidiaries. Borrower has no subsidiary, except as Borrower has disclosed on Exhibit H.

(l) Water Rights and System Condition. Borrower has water rights with such amounts, priorities and qualities as are necessary to adequately service Borrower’s customers and members. 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, and has not abandoned such water rights, or any of them, nor has done any act or thing which would impair or cause the loss of any such water rights. Borrower’s utility facilities reasonably meet present demand in all material respects, are constructed in a good and workmanlike manner, are in good working order and condition, and comply in all respects with applicable laws.

**Section 4. Affirmative Covenants.** Unless otherwise agreed to in writing by Lender, while this Agreement is in effect, whether or not any Disbursement is outstanding, Borrower agrees to:

(a) Corporate Existence. Preserve and keep in full force and effect its corporate existence and good standing in the jurisdiction of its incorporation and its good standing and qualification to transact business in all places required by law.

(b) Compliance with Laws and Agreements. Comply with (i) all Laws, the failure to comply with which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of Borrower, or on the ability of Borrower to perform its obligations under the Loan Documents; and (ii) all agreements, indentures, mortgages, and other instruments to which it is a party or by which it or any of its property is bound.

(c) Compliance with Environmental Laws. Without limiting the provisions of Subsection (b) above, comply in all material respects with, and cause all persons occupying or present on any properties owned or leased by Borrower to so comply with all Laws relating to environmental protection, the failure to comply with which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of Borrower, or on the ability of Borrower to perform its obligations under the Loan Documents.

(d) Licenses; Permits; Etc. Duly and lawfully obtain and maintain in full force and effect all licenses, certificates, permits, authorizations, approvals, and the like which are material to the conduct of Borrower’s business or which may be otherwise required by law.

(e) Insurance. Maintain insurance with insurance companies or associations 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 request. All such policies insuring any collateral provided for herein, shall provide for loss payable clauses or endorsements in form and content acceptable to Lender. At the request of Lender, all policies (or such other proof of compliance with this Section as may be satisfactory) shall be delivered to Lender.

(f) Property Maintenance. Maintain and preserve at all times its property, and each and every part and parcel thereof, in good repair, working order and condition and in compliance with all applicable laws, regulations and orders.

(g) Books and Records. Keep adequate records and books of account in accordance with GAAP consistently applied.

(h) Inspection. Permit Lender or its agents, during normal business hours or at such other times as the parties may agree, to examine Borrower’s properties, books, and records, and to discuss Borrower’s affairs, finances, operations, and accounts with its respective officers, directors, employees, and independent certified public accountants.

(i) Debt Service Coverage. Achieve, at each fiscal year end a Debt Service Coverage Ratio (“DSC”) of 1.20. For the purposes of this Section, DSC shall be computed by adding net income plus interest expense, depreciation and amortization expenses and dividing the total by the sum of principal and interest payments required during the period. In the computation of net income, gains and losses and any taxes or reduction of taxes resulting from the sale or other disposition or abandonment of capital assets, or from increases or decreases in value of capital assets, or from the retirement or reacquisition or resale or reissuance of debt or capital stock, shall be disregarded.

(j) Use of Dividends and Surplus Revenues. Retain all existing capital and retained earnings in the business and retain all revenue which may accumulate over and above that needed to pay operating, maintenance, debt service, and Reserve requirements; or use same to reduce obligations due creditors; or invest same for capital expenditures related directly to Borrower’s ability to provide services to users.

(k) Water Rights. Maintain or procure water rights with such amounts, priorities and qualities as are necessary to service adequately Borrower’s customers and members, whether riparian, appropriative, or otherwise and whether or not appurtenant and whether groundwater or surface water, any shares of stock and certificates evidencing the same; and all grandfathered groundwater rights under A.R.S. Section 45-401, *et seq.* (collectively, the “Water Rights”). Borrower will continue to control, own or have access to all Water Rights free and clear of the interest of any third party, will not suffer any Transfer of the Water Rights, will not abandon the Water Rights, nor do any act or thing which would impair or cause the loss of any of the Water Rights. For purposes of this paragraph (m) “Transfer” means, respectively, each and all of the following”

(i) Any or all of the Water Rights, or any interest or right of Borrower in or to the Water Rights is conveyed to, or becomes vested in, any person, other than Borrower and Lender, voluntarily or involuntarily;

(ii) The occurrence of any event that results in any option, right of first refusal, other right to acquire, or any other claim, interest, or right in, to, or against, any or all of the Water Rights being held by a person other than Borrower or Lender, whether occurring voluntarily or involuntarily and whether arising by agreement, under any law, ordinance, regulation, or rule (federal, state, or local), or otherwise;

(iii) Any lease or assignment of any of the Water Rights; and

(iv) Borrower enters into any agreement the performance of which would result in a Transfer under any of the clauses (i) through (iii) above, and the consummation of such agreement is not expressly conditional upon the prior written consent of Lender in its sole and absolute discretion.

(l) Operation and Maintenance of System. Borrower shall, in accordance with prudent utility practice, (a) at all times operate the properties of the water system and any business in connection therewith in an efficient manner, (b) maintain its drinking water system in good repair, working order and operating condition, and (c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to its drinking water system so that at all times the business carried on in connection therewith shall be properly and advantageously conducted.

(m) Disadvantaged Business Enterprises. For Loan Agreements in excess of \$250,000:

The Borrower must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Disadvantage Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

(i) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(ii) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(iii) Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(iv) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(v) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce.

(vi) If the prime contractor awards subcontracts, require the prime contractor to take the steps in section (i) through (v) above.

These conditions must be included in all procurement contracts entered into by the Borrower for all DWRF and CWRF projects:

(i) The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the owner.

(ii) The prime contractor must notify the owner in writing prior to the termination of any Disadvantage Business Enterprise subcontractor for convenience by the prime contractor.

(iii) If a Disadvantage Business Enterprise contractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement contractor.

(iv) The prime contractor must continue to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

(v) The prime contractor must provide EPA Form 6100-2 DBE Program Subcontractor Participation Form to all of its Disadvantaged Business Enterprise subcontractors. Disadvantaged Business Enterprise subcontractors may send completed Form 6100-2 directly to the Region 9 DBE Coordinator listed below.

**Joe Ochab, EPA Region 9, 75 Hawthorne St. (P-22), San Francisco, CA 94105**

(vi) The prime contractor must have its Disadvantaged Business Enterprise subcontractors complete EPA Form 6100-3 – DBE Program Subcontractor Performance Form. The prime contractor must include all completed forms as part of the prime contractor's bid or proposal package to the Borrower.

(vii) The prime contractor must complete and submit EPA 6100-4 DBE Program Subcontractor Utilization Form as part of the prime contractor's bid or proposal package to the Borrower.

(viii) A Borrower must ensure that each procurement contract it awards contains the following terms and conditions:

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

**Section 5. Negative Covenants.**

Unless otherwise agreed to in writing by Lender, while this Agreement is in effect, whether or not any disbursement is outstanding, Borrower shall not:

(a) Liens. Create, incur, assume, or allow to exist any mortgage, deed of trust, deed to secure debt, 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. The foregoing restrictions shall not apply to (i) liens in favor of Lender; (ii) liens for taxes, assessments, or governmental charges that are not past due; (iii) liens, pledges, and deposits under workers' compensation, unemployment insurance, and social security laws; (iv) liens, deposits, and pledges to secure the performance of bids, tenders, contracts (other than contracts for the payment of money), and like obligations arising in the ordinary course of borrower's business as conducted on the date hereof; and (v) liens imposed by law in favor of mechanics, materialmen, warehousemen, and like persons that secure obligations that are not past due.

(b) Mergers; Acquisitions; Etc. Merge or consolidate with any other entity, or acquire all or substantially all of the assets of any person or entity, or form or create any new subsidiary or affiliate, or commence operations under any other name, organization, or entity, including any joint venture.

(c) Transfer of Assets. Sell, transfer, lease, or otherwise dispose of any of Borrower's assets, except in the ordinary course of its business or to effect any change in ownership.

(d) Change in Business. Engage in any business activities or operations substantially different from or unrelated to Borrower's present business activities or operations.

**Section 6. Events Of Default.** Each of the following shall constitute an "Event of Default" hereunder:

(a) Payment Default. Failure by Borrower to make any payment or investment required to be made hereunder, under the Note, or under any other Loan Document when due.

(b) Representations and Warranties. Any representation or warranty made by Borrower herein or in any other Loan Document shall prove to have been false or misleading in any material respect on or as of the date made, including deemed made in connection with each Disbursement.

(c) Covenants and Agreements. Borrower should fail to perform or comply with any covenant or agreement contained herein.

(d) Cross-Default. Borrower should, after any applicable grace period, breach or be in default under the terms of any agreement (other than the Loan Documents) between Borrower and Lender, including, without limitation, any other loan agreement, security agreement, mortgage, deed to secure debt, or deed of trust.

(e) Other Indebtedness. The occurrence of any breach, default, event of default, or event which with the giving of notice or lapse of time, or both, could become a default or event of default under any agreement, indenture, mortgage, or other instrument by which Borrower or any of its property is bound or affected (other than the Loan Documents) if the effect of such breach, default, event of default or event is to accelerate, or to permit the acceleration of, the maturity of any indebtedness under such agreement, indenture, mortgage, or other instrument.

(f) Judgments. Judgments, decrees, or orders for the payment of money in the aggregate in excess of the amount set forth in Exhibit E relating to Additional Indebtedness hereof shall be rendered against Borrower and either (i) enforcement proceedings shall have been commenced; or (ii) such judgments, decrees, and orders shall continue unsatisfied and in effect for a period of twenty (20) consecutive days without being vacated, discharged, satisfied, or stayed pending appeal.

(g) Insolvency; Etc. Borrower: (i) shall become insolvent or shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they come due; or (ii) shall suspend its business operations or a material part thereof or make an assignment for the benefit of creditors; or (iii) shall apply for, consent to, or acquiesce in the appointment of a trustee, receiver, or other custodian for it or any of its property or, in the absence of such application, consent, or acquiescence, a trustee, receiver, or other custodian is so appointed; or (iv) shall commence with respect to it or have commenced against it any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction.

(h) **Material Adverse Change.** Any material adverse change occurs, as reasonably determined by Lender, in Borrower's condition, financial or otherwise, operations, properties, or business or Borrower's ability to perform its obligations under the Loan Documents.

(i) **Failure to Amend Subordination Agreement.** The Borrower and any additional Creditor fail to amend the Subordination Agreement in accordance with Paragraph 2 of the Subordination Agreement.

**Section 7. Remedies Upon Event Of Default.** Upon the occurrence of and during the continuance of each and every Event of Default:

(a) **Termination; Etc.** Lender shall have no obligation to make disbursements hereunder and, upon notice to Borrower, may terminate the Commitment and declare the entire unpaid principal balance of the Note, all accrued interest thereon and all other amounts payable under this Agreement and all other agreements between Lender and Borrower, to be immediately due and payable. Upon such a declaration, the unpaid principal balance of the Note and all such other amounts shall become immediately due and payable, without protest, presentment, demand, or further notice of any kind, all of which are hereby expressly waived by Borrower.

(b) **Enforcement.** Lender may proceed to protect, exercise, and enforce such rights and remedies as may be provided by agreement or under law including, without limitation, the rights and remedies provided for in the Note. Each and every one of such rights and remedies shall 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 shall operate as a waiver thereof, nor shall any single or partial exercise of any rights or remedy preclude any other or future exercise thereof, or the exercise of any other right. In addition, Lender may hold and/or set off and apply against Borrower's indebtedness any and all cash, accounts, securities, or other property in Lender's possession or under its control.

(c) **Application of Payments.** After termination and acceleration of the Loan all amounts received by Lender shall be applied to the amounts owing hereunder and under the Note in whatever order and manner as Lender shall in its sole discretion elect.

**Section 8. Survival.** The representations, warranties, and covenants of Borrower in the Loan Documents shall survive the execution and delivery of the Loan Documents and the making of the Loan.

**Section 9. Integration, Change, Discharge, Termination, Or Waiver.** The Loan Documents contain the entire understanding and agreement of Lender and Borrower and supersede all prior representations, warranties, agreements, arrangements, and understandings. No provision of the Loan Documents may be changed, discharged, supplemented, terminated, or waived except in a writing signed by Lender and Borrower. No waiver of any breach or default shall be deemed a waiver of any breach or default occurring thereafter or a waiver of the time of the essence provision.

**Section 10. Parties And Binding Effect.** This Agreement is made solely between Lender and Borrower, and no other Person shall have any rights hereunder or be a third-party beneficiary hereof. This Loan Agreement shall be binding upon the undersigned, and upon the heirs, legal representatives, successors and assigns of the undersigned; and to the extent that the Borrower is either a partnership or a corporation, all references herein to the Borrower shall be deemed to include any successor or successors, whether immediate or remote, to such partnership or corporation. Borrower may not assign any of its rights or delegate any of its obligations under the Loan Documents without the prior express written consent of Lender, and any purported assignment by Borrower made in contravention hereof shall be void. Lender may from time to time assign, or sell participation interests in, any part or all of the Obligations and its rights and obligations under the Loan Documents in its absolute and sole discretion.

**Section 11. Costs And Expenses.** Borrower agrees to pay, on demand, all internal and external costs, expenses, and fees of Lender in respect of (i) application fees, (ii) enforcement of the Loan Documents and exercise of the rights and remedies of Lender, (iii) defense of the enforceability of the Loan Documents or of the perfection or priority of any Lien granted in the Loan Documents, (iv) any other matter relating to the Loan Documents, the collateral provided for herein, or the transaction described in the Loan Documents, and (v) preparation for matters within (ii), (iii), or (iv) whether or not any legal proceeding is brought. Such costs shall include, without limitation, all such costs

incurred in connection with any bankruptcy, receivership, or other court proceedings (whether at the trial or appellate level). At the option of Lender such costs, expenses, and fees may be deducted from the proceeds of the Loan.

**Section 12. Authority To File Notices.** Borrower irrevocably appoints Lender as its attorney-in-fact, with full power of substitution, to file for record, at the Borrower's cost and expense and in Borrower's name, any notices of completion, notices of cessation of labor, or any other notices that Lender considers necessary or desirable to protect its security.

**Section 13. Inconsistencies With Loan Documents.** In the event of any inconsistencies between the terms of this Agreement and any terms of any of the Loan Documents or any loan application, the terms of this Agreement shall govern and prevail.

**Section 14. No Waiver.** No disbursement of proceeds of the Loan shall constitute a waiver of any conditions to Lender's obligation to make further disbursements nor, in the event Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding Lender from thereafter declaring such inability a default under this Agreement.

**Section 15. Lender Approval Of Instruments And Parties.** All proceedings taken in accordance with transactions provided for herein; all surveys, appraisals and documents required or contemplated by this Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to approval by Lender. Lender's counsel shall be provided with copies of all documents which they may reasonably request in connection with the Agreement.

**Section 16. Lender Determination Of Facts.** Lender shall at all times be free to establish independently, to its satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Agreement.

**Section 17. Disclaimer By Lender.** Borrower is not and shall not be an agent of Lender for any purpose. Lender is not a joint venture partner with Borrower in any manner whatsoever. Approvals granted by Lender for any matters covered under this Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

**Section 18. Severability.** If any provision of this Agreement is unenforceable, the enforceability of the other provisions shall not be affected and they shall remain in full force and effect.

**Section 19. Waiver Of Jury Trial.** Borrower waives, and, by accepting this agreement, the lender shall be deemed to waive, any right to a trial by jury in any action or proceeding to enforce or defend any rights (a) under this agreement or under any amendment, instrument, document or agreement delivered or which may in the future be delivered in connection herewith or (b) arising from any banking relationship existing in connection with this agreement, and borrower agrees, and, by accepting this agreement, the lender shall be deemed to agree, that any such action or proceeding shall be tried before a court and not before a jury.

**Section 20. Time Of The Essence.** Time is of the essence with regard to each provision of this Agreement as to which time is a factor.

**Section 21. Notices And Demands.** All written demands and notices by Lender or Borrower relating to the Loan Documents shall be served by certified or registered mail, return receipt requested. Each such demand or notice shall be deposited in the United States Mail postage prepaid and addressed to the addressee's address first above stated. Service of any such demand or notice shall be deemed complete on the date of actual delivery as shown by the addressee's return receipt or at the expiration of the third Business Day after mailing, whichever is earlier. Rejection or refusal to accept the demand or notice by the addressee or inability to deliver the demand or notice due to a changed address of which no notice was given shall not affect deemed service. Lender or Borrower may from time to time, by

written notice served on the other, designate a different address or a different attention person for service of demands and notices.

**Section 22. No Construction Against Lender Or Borrower.** The Loan Documents are the result of negotiations between Borrower and Lender. Accordingly, the Loan Documents shall not be construed for or against Borrower or Lender, regardless of which party drafted the Loan Documents or any part thereof.

**Section 23. Rescission Or Return Of Payments.** If at any time or from time to time, whether before or after payment and performance of the Obligations, all or any part of any amount received by Lender in payment of, or on account of, any Obligation is or must be, or is claimed to be, avoided, rescinded, or returned by Lender to Borrower or any other Person for any reason whatsoever (including, without limitation, bankruptcy, insolvency, or reorganization of Borrower or any other Person), such Obligation and the Liens on property, and rights to property that were the collateral at the time such avoided, rescinded, or returned payment was received by Lender shall be deemed to have continued in existence or shall be reinstated, as the case may be, all as though such payment had not been received.

**Section 24. Indemnification Of Lender.** Borrower agrees to indemnify, hold harmless, and on demand defend Lender and its directors, officers, employees, agents, auditors, counsel, investment committee members and representatives for, from, and against any and all damages, losses, liabilities, costs, and expenses (including, without limitation, costs and expenses of litigation and reasonable attorneys' fees) arising from any claim or demand in respect of this Agreement, the Loan Documents, the collateral provided for herein, or the transaction described in the Loan Documents and arising at any time, whether before or after payment and performance of the Obligations. The obligations of Borrower and the rights of Lender under this Section 24 shall survive payment and performance of the Obligations and shall remain in full force and effect without termination.

**Section 25. Waiver Of Statute Of Limitations.** Borrower waives, to the full extent permitted by law, the right to plead and any statutes of limitations as a defense in any action or proceeding in respect of the Loan Documents.

**Section 26. Number And Gender.** In this Agreement the singular shall include the plural and the masculine shall include the feminine and neuter genders, and vice versa.

**Section 27. Headings And References.** The headings at the beginning of each section of this Agreement are solely for convenience and are not part of this Agreement. Reference herein to a section, attachment, exhibit, or schedule is to the respective section, attachment, exhibit, or schedule herein or hereto, unless otherwise specified.

**Section 28. Counterpart Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document.

**Section 29. State of Arizona Contract Provisions.**

(a) **Books and Records.** As required by the provisions of Arizona Revised Statutes Section 35-214, the Borrower agrees that all books, accounts, reports, files and other records relating to this Loan Agreement shall be retained and shall be subject at all reasonable times to inspection and audits by the Authority for five years after completion of this Loan Agreement, and that upon request by the Authority such records shall be produced at any of the Authority offices designated herein as the place at which notices to the Authority are to be given.

(b) **Prohibition Against Discrimination.** In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(c) Governing Law and Forum. This Loan Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Arizona, except as such laws may be preempted by any federal rules or regulations. The parties hereto expressly acknowledge and agree and all Borrowers by their acceptance thereof shall be deemed to have acknowledged and agreed that any judicial action to interpret or enforce the terms of this Loan Agreement against the Authority shall be brought and maintained in the Superior Court of the State of Arizona in and for Maricopa County or in the United States District Court in and for the District of Arizona.

(d) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(e) Notice of Arizona Revised Statutes Section 38-511 – Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this Loan Agreement under the law of the State of Arizona.

(f) Additional Warranties and Certifications from the Borrower.

(1) In compliance with Section 23-214(B) of the Arizona Revised Statutes, the Borrower warrants to the Lender that either (a) it is not an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) or (b) it is registered with and is participating in the employment verification pilot program as jointly administered by the United States department of homeland security and the social security administration or any of its successor programs (the "E-Verify Program") and that the proof submitted to the Lender of that registration and participation is true and correct. The Borrower agrees that, until the Loan is fully paid, at all times during which it is an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) it will be registered with and will participate in the E-Verify Program. The breach by the Borrower of the foregoing shall be deemed a material breach by the Borrower of this Loan Agreement and may result in penalties up to and including the termination of this Loan Agreement. If the Lender determines that the Borrower is not so registered and participating when required, the Lender will notify the Borrower by certified mail of the determination of noncompliance and the Borrower's right to appeal the determination. On a final determination of noncompliance, the Borrower shall repay all monies received as an economic development incentive (within the meaning of Arizona Revised Statutes Section 23-214(B)) to the Lender within thirty days of the final determination.

(2) Pursuant to Sections 35-391.06 and 35-393.06 of the Arizona Revised Statutes, the Borrower certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this subsection, the term "scrutinized business operations" shall have the meanings set forth in Sections 35-391 and 35-393 of the Arizona Revised Statutes, as applicable. If the Authority determines that the Borrower submitted a false certification, the Authority may impose remedies as provided by law, including cancelation or termination of this Loan Agreement.

### **Section 30. Compliance with Applicable Federal Laws And Authorities**

The Borrower agrees that the project will comply with the applicable terms and conditions of those federal laws and authorities listed below, as amended from time to time:

#### **Environmental:**

1. Archaeological and Historical Preservation Act of 1974, Pub. L. 93-291; 16 U.S.C. § 469a-1.
2. Clean Air Act, Pub. L. 95-95, as amended; 42 U.S.C. § 7401 et. seq.
3. Clean Water Act, Titles II, IV, and V, Pub. L. 92-500, as amended.
4. Coastal Barrier Resources Act, Pub. L. 97-348; 16 U.S.C. § 3501 et. seq.
5. Coastal Zone Management Act, Pub. L. 92-583, as amended; 16 U.S.C. § 1451 et. seq.

6. Endangered Species Act, Pub. L. 93-205, as amended; 16 U.S.C. § 1531 et seq.
7. Environmental Justice, Executive Order 12898.
8. Farmland Protection Policy Act, Pub. L. 97-98; 7 U.S.C. § 4201 et seq.
9. Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.
10. Floodplain Management, Executive Order 11988, as amended by Executive Order 12148.
11. Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265, as amended; 16 U.S.C. § 1801 et seq.
12. National Historic Preservation Act of 1966, Pub. L. 89-665, as amended; 16 U.S.C. § 470 et seq.
13. Protection and Enhancement of the Cultural Environment, Executive Order 11593.
14. Protection of Wetlands, Executive Order 11990, as amended by Executive Order 12608; Pub. L. 99-645, as codified at 16 U.S.C. § 3901 et seq.
15. Safe Drinking Water Act, section 1424(e), Pub. L. 92-523, as amended; 42 U.S.C. § 300f et seq.
16. Wild and Scenic Rivers Act, Pub. L. 90-542, as amended; 16 U.S.C. § 1271 et seq.

Social Legislation:

1. Age Discrimination Act, Pub. L. 94-135; 42 U.S.C. § 6102.
2. Civil Rights Act of 1964, Pub. L. 88-352, Title VI; 42 U.S.C. § 2000d.
3. Equal Employment Opportunity, Executive Order 11246, as amended.
4. Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.
  - a. Promoting the use of Small, Minority, and Women-owned Businesses, Executive Orders 11625, 12138 and 12432.
  - b. Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590.
  - c. Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389; 42 U.S.C. § 437d.
  - d. Title X Clean Air Act, Pub. L. 101-549; 42 U.S.C. § 7601 note.
5. Rehabilitation Act of 1973, Pub. L. 93-112; 29 U.S.C. § 794 (including Executive Order 11914 and 11250).
6. Section 13 of the Federal Water Pollution Control Act, Pub. L. 92-500; 33 U.S.C. § 1251.
7. The Drug Free Workplace Act Of 1988, Pub. L. 100-690.

Economic and Miscellaneous Authority:

1. Anti-Lobbying Provision (40 CFR Part 34) and New Restrictions on Lobbying, Section 319 of Pub. L. 101-121.

2. Debarment and Suspension, Executive Order 12549.
3. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended; 42 U.S.C. § 3331 et. seq.
4. Preservation of Open Competition and Government Neutrality, Executive Order 13502.
5. Prohibitions relating to violators of the Clean Air Act, Section 306 of the Clean Air Act, 42 U.S.C. § 7505; Section 508 of the Clean Water Act, 33 U.S.C. § 1368; Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.
6. Uniform Relocation and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as amended; 42 U.S.C. §§ 4601-4655.

## SUBORDINATION AGREEMENT

This SUBORDINATION AGREEMENT ("Subordination Agreement") is made as of September 21, 2012 by Bob B. Watkins dba East Slope Water Company (hereinafter called "Borrower"), and Bob Watkins & Nathan Watkins (hereinafter called "Creditor"), in favor of WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (hereinafter called "Lender").

### RECITALS

A. Borrower is or may hereafter become obligated to Lender to the extent permitted pursuant to that certain Loan Agreement of even date herewith (the "Loan Agreement") between Borrower and Lender.

B. It is a condition to the making of the Loan, as defined in the Loan Agreement, that Borrower and Creditor enter into this Subordination Agreement.

C. In order to induce the Lender to enter into the Loan and to from this time, or from time to time, at its option, make loans or extend credit or other accommodations or benefits to or for the account of Borrower, with or without security, or to purchase or extend credit upon any instrument or writing in respect of which the Borrower may be liable in any capacity in such manner and amount and upon terms and conditions as the Lender may deem advisable, and in consideration of any such loan, renewal or extension of credit which the Lender may make, the undersigned Creditor does hereby wholly subordinate, as hereinafter provided, any and all present and future indebtedness or obligations of Borrower to Creditor, absolute or contingent, and any instrument, negotiable or otherwise, evidencing any such indebtedness, and all claims, rights and remedies therefor, (sometimes hereinafter referred to as "Subordinated Indebtedness") to any and all indebtedness of Borrower to Lender, whether now existing or hereafter arising, direct or indirect, absolute or contingent, joint, several, or joint and several, secured or unsecured, due or not due (including, without limitation, all amounts due under the Loan Agreement and the Loan Documents thereunder), and whether arising directly between Borrower and Lender, or acquired outright, conditionally or as collateral security from another by the Lender, and any renewals, modifications or extensions thereof, and any interest thereon, and all costs of collecting the same, including, but not limited to reasonable attorneys' fees incurred by Lender (sometimes hereinafter referred to as "Superior Indebtedness").

NOW THEREFORE, so long as Borrower is indebted to Lender on account of Superior Indebtedness, the parties hereto undertake and agree as follows:

1. The words "Creditor" and "Borrower" as herein used shall include the plural as well as the singular and, if Creditor or Borrower includes two (2) or more, they shall be jointly and severally bound hereby.
2. The Borrower and Creditor agree to amend this Subordination Agreement for execution by additional Creditors.

3. The Subordinated Indebtedness shall, at all times and in all respects, be wholly subordinate and inferior in claim and right to the Superior Indebtedness, and all claims, rights and remedies and interests in collateral given as security therefor are hereby subordinated and made subsequent and inferior to the Superior Indebtedness and any claims, rights and remedies arising out of, or in connection therewith. Creditor shall not exercise any such claims, rights or remedies until repayment in full of the Superior Indebtedness.

4. So long as no Event of Default (as defined in the Loan Agreement) or event which with notice or lapse of time or both would become an Event of Default has occurred and is continuing, regularly scheduled payments on the Subordinated Indebtedness may be made by Borrower and accepted by Creditor as such payments become due.

5. During any period that an Event of Default, or an event which with notice or lapse of time or both would become an Event of Default, has occurred and is continuing, Borrower shall not make and Creditor shall not accept any payments with respect to the Subordinated Indebtedness.

6. In the event of any distribution, division, or application, partial or complete, voluntary or involuntary, by operation of law or otherwise, of all or any part of the assets of Borrower, or the proceeds thereof, to creditors of Borrower, by reason of the liquidation, dissolution, or other winding up of Borrower's business, or in the event of any sale, receivership, insolvency or bankruptcy proceedings by or against Borrower, or assignment for the benefit of creditors, or of any proceedings by or against Borrower for any relief under any bankruptcy or insolvency laws, or relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions, or of any other event whereby it becomes necessary or desirable to file or present claims against Borrower for the purpose of receiving payment thereof, or on account thereof, then and in any such event, any payment or distribution of any kind or character, either in cash or other property, which shall be made or shall be payable with respect to any Subordinated Indebtedness shall be paid over to Lender for application to the payment of the Superior Indebtedness, whether due or not due, and no payments shall be made upon or in respect of Subordinated Indebtedness unless and until the Superior Indebtedness shall have been paid and satisfied in full. In any such event, all claims of the Lender and all claims of the Creditor shall, at the option of the Lender, forthwith become due and payable without demand or notice.

7. Should any payment or distribution or security or proceeds thereof, other than the payments permitted pursuant to paragraphs 2 and 3 hereof, be received by Creditor upon or with respect to the Subordinated Indebtedness prior to the satisfaction of the Superior Indebtedness, Creditor will forthwith deliver the same to Lender in precisely the form as received except for the endorsement or assignment of Creditor where necessary for application on the Superior Indebtedness, whether due or not due, and until so delivered the same shall be held in trust by Creditor as property of the Lender. In the event of the failure of Creditor to make any such endorsement or assignment, the Lender, or any of its officers or employees, on behalf of the Lender, is hereby irrevocably authorized to make the same.

8. No renewal, modification or extension of time of payment of the Superior Indebtedness, and no release or surrender of any security for the Superior Indebtedness, or the obligations of any endorsers, sureties or guarantors thereof, or release from the terms of this or any other subordination agreement of any claims subordinated, and no delay or omission in exercising any right or power on account of or in connection with the Superior Indebtedness, or under this Subordination Agreement, shall, in any manner, impair or affect the rights and duties of Lender, the Creditor and Borrower. Lender, in its uncontrolled discretion, may waive or release any right or option under this Subordination Agreement without the consent of Borrower or Creditor, and without otherwise in any way affecting the obligations of Borrower and Creditor hereunder. Creditor hereby waives notice of the creation, existence, renewal, or modification or extension of the time of payment, of the Superior Indebtedness.

9. This Subordination Agreement shall be a continuing agreement and Lender may continue, without notice to Creditor, to lend monies, extend credit and make other accommodations to or for the account of Borrower on the faith hereof.

10. Creditor agrees that Lender, at any time and from time to time, may enter into such agreement or agreements with Borrower, as Lender may deem proper, extending the time of payment or renewing or otherwise altering the terms of all or any of the obligations of Borrower to Lender, or affecting any security underlying any or all of such obligations, or may exchange, sell or surrender or otherwise deal with any such security, or may release any balance of funds of Borrower with Lender, without notice to Creditor and without in any way impairing or affecting this Subordination Agreement.

11. No waiver shall be deemed to be made by Lender of any of its rights hereunder unless the same shall be in writing signed on behalf of the Lender, and each such waiver, if any, shall be a waiver only with respect to the specific matter or matters to which the waiver relates and shall in no way impair the rights of the Lender or the obligations of Creditor to Lender in any other respect at any other time.

12. This Subordination Agreement shall inure to the benefit of Lender and the successors and assigns of Lender, and any financing institution joining in making said loan(s) or extending said line(s) of credit, or committing itself to make any advances in connection therewith, or which may now, or hereafter, participate therein. Notice of acceptance of this Subordination Agreement is hereby waived and this Subordination Agreement shall be binding upon the Creditor, its heirs, personal representatives, successors and assigns, as the case may be, it being understood, however, that no assignment of the Subordinated Indebtedness due Creditor from Borrower, or any part thereof, shall be made to one not a party hereto without the written consent of the Lender first had and obtained, as hereinabove provided.

13. Creditor agrees not to commence or join with any other creditor of Borrower in commencing any bankruptcy, reorganization or insolvency proceedings against the Borrower.

14. This Subordination Agreement shall be deemed to have been executed, delivered and performed in Arizona, and construed according to the laws of the State of Arizona. Creditor and Borrower waive notice of acceptance hereof and all other notices or demands whatsoever.

15. In the event of a breach of any covenant or agreement made herein by either Creditor or Borrower, Lender may, at its option, declare all of the Superior Indebtedness and/or Subordinated Indebtedness immediately due and payable.

16. This Subordination Agreement may be executed in counterparts, all of which executed counterparts shall together constitute a single document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to form physically one document.

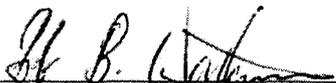
17. The parties hereto agree to use arbitration to the extent required by Section 12-1518 of the Arizona Revised Statutes, as amended.

18. This agreement shall be construed in accordance with and governed by the laws of the state of Arizona. The courts of Arizona, federal or state, shall have exclusive jurisdiction of all legal actions arising out of this agreement. By executing this agreement, the undersigned submits to the jurisdiction of the federal and state courts of Arizona.

19. To the extent applicable by provision of law, the parties acknowledge that this agreement is subject to cancellation pursuant to A.R.S. §38-511, the provisions of which are hereby incorporated herein.

IN WITNESS WHEREOF, this Subordination Agreement has been duly executed as of the date first written above.

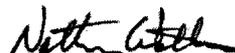
Bob B. Watkins dba East Slope Water Company

By:   
Name: Bob B. Watkins  
Title: Owner

"Borrower"

By:   
Name: Bob Watkins

"Creditor"

By:   
Name: Nathan Watkins

"Creditor"

15. In the event of a breach of any covenant or agreement made herein by either Creditor or Borrower, Lender may, at its option, declare all of the Superior Indebtedness and/or Subordinated Indebtedness immediately due and payable.

16. This Subordination Agreement may be executed in counterparts, all of which executed counterparts shall together constitute a single document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to form physically one document.

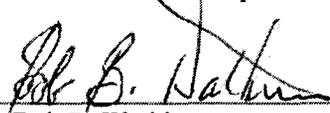
17. The parties hereto agree to use arbitration to the extent required by Section 12-1518 of the Arizona Revised Statutes, as amended.

18. This agreement shall be construed in accordance with and governed by the laws of the state of Arizona. The courts of Arizona, federal or state, shall have exclusive jurisdiction of all legal actions arising out of this agreement. By executing this agreement, the undersigned submits to the jurisdiction of the federal and state courts of Arizona.

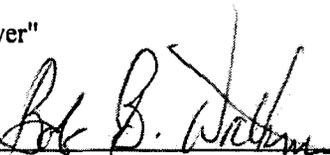
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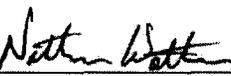
Bob B. Watkins dba East Slope Water Company

By:   
Name: Bob B. Watkins  
Title: Owner

"Borrower"

By:   
Name: Bob Watkins

"Creditor"

By:   
Name: Nathan Watkins

"Creditor"

## **CASH COLLATERAL AGREEMENT**

This Cash Collateral Agreement is made as of September 21, 2012 between Bob B. Watkins dba East Slope Water Company ("Pledgor"), and Water Infrastructure Finance Authority of Arizona ("Lender").

### **RECITALS:**

A. Pledgor and Lender have entered into that certain Loan Agreement of even date herewith (the "Loan Agreement"), pursuant to which Lender has made available to Pledgor a loan of up to two hundred eighty two thousand seven hundred forty eight dollars (282748) (the "Loan").

B. Pursuant to the Loan Agreement, certain funds are required to be deposited from time to time by Pledgor in a Debt Service Reserve Fund administered by the Lender and in a Replacement Reserve Fund administered by the Borrower, both of which are pledged to Lender to secure repayment with interest of the Loan. Amounts deposited with the Lender in the Debt Service Reserve Fund and in the Replacement Reserve Fund are referred to herein as the "Pledged Funds".

C. Pledgor and Lender desire to enter into this Cash Collateral Agreement to provide for the deposit and holding of the Pledged Funds.

D. The Loan Agreement, this Cash Collateral Agreement and all other documents securing or otherwise relating to the Loan shall be referred to collectively in this Cash Collateral Agreement as the "Loan Documents". All capitalized terms used in this Cash Collateral Agreement and not otherwise defined shall have the meanings given to such terms in the Loan Agreement.

E. It is a condition to the making of the Loan that Pledgor and Lender enter into this Cash Collateral Agreement.

NOW, THEREFORE, in order to induce Lender to make the Loan and in consideration thereof, Pledgor and Lender agree as follows:

### **1. Definitions.** The following terms shall have the following meanings:

"Cash Collateral Agreement" means this Cash Collateral Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

"Debt Service Reserve Fund" shall have the meaning ascribed thereto in Section 2 hereof.

"Obligations" shall mean all the obligations of Pledgor to Lender under the Loan Agreement and the Note and all other obligations and liabilities of Pledgor to Lender, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, arising under, out of, or in connection with, the Loan Agreement, this Cash Collateral Agreement or any of the Loan Documents.

"Pledged Funds" shall mean as defined in the Recitals to this Agreement.

"Replacement Reserve Fund" shall have the meaning ascribed thereto in Section 2 hereof.

**2. Establishment of Debt Service Reserve Fund and Replacement Reserve Fund.** Pledgor and Lender agree that concurrently with the execution and delivery of this Cash Collateral Agreement there is established and shall be maintained a Debt Service Reserve Fund pursuant to the Loan Agreement. At such time as is required pursuant to the Loan Agreement Borrower shall establish a Replacement Reserve Fund in the name of Borrower in which there shall be deposited by Pledgor all Pledged Funds as required by the provisions of the Loan Agreement.

**3. Grant of Security Interest.** As collateral security for the prompt and complete payment when due of all the Obligations, Pledgor has granted, bargained, sold, assigned, pledged, and set over and by these presents does hereby grant, bargain, sell, assign, pledge, transfer and set over unto the Lender, and its successors and assigns, all of Pledgor's right, title and interest in and to any Pledged Funds now or hereafter held or deposited in the Debt Service Reserve Fund and the Replacement Reserve Fund.

**4. Terms and Conditions.**

(a) The Debt Service Reserve Fund and all amounts deposited therein shall be held in the sole dominion and control of Lender and shall be administered by the Lender as a collateral account for the benefit of Lender, and Pledgor shall have no rights or powers with respect to, or control over, the Debt Service Reserve Fund or any part thereof. Pledgor's sole right with respect to the Pledged Funds in the Debt Service Reserve Fund shall be as provided herein and in the Loan Agreement.

(b) If no Event of Default, and no event which with the giving of notice or the passage of time or both could become an Event of Default, has occurred and is continuing, Pledgor from time to time may withdraw moneys from the Replacement Reserve Fund and apply the moneys withdrawn for one or more of the following purposes: (i) for the acquisition of new, or the replacement of obsolete or worn out, machinery, equipment, furniture, fixtures or other personal property for the Facility provided that the property is depreciable; (ii) for the performance of repairs with respect to the Facility which are of an extraordinary and non-recurring nature provided that the property is depreciable; (iii) for the acquisition or construction of additions to or improvements, extensions or enlargements to, or remodeling of, the Facility provided that the property is depreciable; and/or (iv) to make payments to Lender on the Loan.

(c) From and after the occurrence and during the continuation of an Event of Default, Lender may, in the sole and absolute discretion of Lender, apply the Pledged Funds in the Debt Service Reserve Fund, and, if there are insufficient Pledged Funds in the Debt Service Reserve Fund, in the Replacement Reserve Fund, to the Obligations in the following order: (i) all outstanding costs, expenses, fees and late charges due to Lender, (ii) interest at the rate or rates specified in the Loan Documents and (iii) the principal amount of the Obligations. All interest and other investment earnings amounts from time to time accrued and paid on the Pledged Funds in the Debt Service Reserve Fund and the Replacement Reserve Fund shall be retained in the Debt Service Reserve Fund

and the Replacement Reserve Fund and shall be applied in accordance with the Loan Agreement and this Cash Collateral Agreement.

(d) Lender shall have, with respect to the Pledged Funds, all rights and remedies of a secured party under Article 9 of the Arizona Uniform Commercial Code and other applicable laws.

**5. Further Assurances.** Pledgor will, at any time and from time to time, execute and deliver such further documents and do such further acts as shall be required by law or be reasonably requested by Lender to confirm or further assure the interest of Lender hereunder.

**6. No Liability for Lawful Actions.** Neither Lender nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates shall be liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Cash Collateral Agreement (except for gross negligence or willful misconduct).

**7. Notices.** All notices, requests, demands or other communications to or upon the parties hereto shall be deemed to have been given or made when mailed, delivered or transmitted in accordance with the requirements of the Loan Documents.

**8. No Failure, etc.** No failure to exercise and no delay in exercising on the part of Lender of any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other power or right. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

**9. Waiver; Amendments.** None of the terms and provisions of this Cash Collateral Agreement may be waived, altered, modified or amended except by an instrument in writing executed by the parties hereto.

**10. Representations and Warranties; Covenants.**

(a) Pledgor hereby represents and warrants to Lender, effective upon the date hereof and each deposit of Pledged Funds to the Debt Service Reserve Fund and the Replacement Reserve Fund, that:

(i) No filing, recordation, registration or declaration with or notice to any person or entity is required in connection with the execution, delivery and performance of this Cash Collateral Agreement by Pledgor or in order to preserve or perfect the first priority lien and charge intended to be created hereunder in the Pledged Funds.

(ii) Except for the security interest granted to Lender pursuant to this Cash Collateral Agreement, Pledgor is the sole owner of the Pledged Funds, having good and marketable title thereto, free and clear of any and all mortgages, liens, security interests, encumbrances, claims or rights of others.

(iii) No security agreement, financing statement, equivalent security or lien instrument or continuation statement covering all or any part of the Pledged Funds is on file or of record in any public office, except such as may have been filed by Pledgor in favor of Lender.

(iv) This Cash Collateral Agreement constitutes a valid and continuing first lien on and first security interest in the Pledged Funds in favor of Lender, prior to all other liens, encumbrances, security interests and rights of others, and is enforceable as such as against creditors of and purchasers from Pledgor.

(b) Without the prior written consent of Lender, Pledgor hereby covenants and agrees that it will not sell, assign, transfer, exchange or otherwise dispose of, or grant any option with respect to, the Pledged Funds, nor will it create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance with respect to any of the Pledged Funds, or any interest therein, except for the security interest provided for by this Cash Collateral Agreement.

(c) Pledgor hereby covenants and agrees that it will defend Lender's right, title and security interest in and to the Pledged Funds against the claims and demands of all persons whomsoever except to the extent which arise out of the willful misconduct or gross negligence of Lender.

**11. Lender's Expenses and Liabilities.** Pledgor shall pay all costs and out-of-pocket reasonable expenses of Lender in connection with the maintenance and operation of this Cash Collateral Agreement made in accordance with the terms hereof. Pledgor also agrees to pay all costs of Lender, including reasonable attorneys' fees, incurred with respect to the enforcement of Lender's rights hereunder.

**12. Governing Law.** This Cash Collateral Agreement shall be deemed to be a contract under, and for all purposes shall be governed by, and construed and interpreted in accordance with, the law of the State of Arizona.

**13. Severability.** Any provision of this Cash Collateral Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**14. Successors and Assigns.** This Cash Collateral Agreement and all obligations of Pledgor hereunder shall be binding upon the successors or assigns of Pledgor, and shall, together with the rights and remedies of Lender hereunder, inure to the benefit of Lender and its successors and assigns.

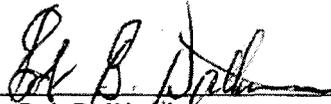
**15. Termination.** This Agreement shall terminate and, upon request of Pledgor, all monies (if any) remaining in the Debt Service Reserve Fund and the Replacement Reserve Fund shall be returned to Pledgor at such time as all of the following have occurred: (i) all amounts payable to Lender under the Loan Documents have been paid in full and all other obligations of Pledgor to Lender pursuant to

the Loan Agreement have been performed in full, and (ii) Lender has no further obligation to make any loans or advances to Pledgor pursuant to the Loan Agreement or any of the other Loan Documents.

**16. Counterparts.** This Agreement may be executed in counterparts, all of which executed counterparts shall together constitute a single document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to form physically one document.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be duly executed and delivered as of the date first above written.

Pledgor: Bob B. Watkins dba East Slope Water Company

By:  \_\_\_\_\_

Name: Bob B. Watkins

Title: Owner

Lender: Water Infrastructure Finance Authority of Arizona

By:  \_\_\_\_\_

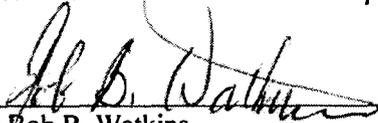
Sandra Sutton, Executive Director

the Loan Agreement have been performed in full, and (ii) Lender has no further obligation to make any loans or advances to Pledgor pursuant to the Loan Agreement or any of the other Loan Documents.

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Pledgor: Bob B. Watkins dba East Slope Water Company

By:   
Name: Bob B. Watkins  
Title: Owner

Lender: Water Infrastructure Finance Authority of Arizona

By:   
Sandra Sutton, Executive Director

**FINANCING STATEMENT - FOLLOW INSTRUCTIONS CAREFULLY**

This Financing Statement is presented for filing pursuant to the Uniform Commercial Code and will remain effective, with certain exceptions, for 5 years from date of filing.

A. NAME & TEL. # OF CONTACT AT FILER (optional)	B. FILING OFFICE ACCT. # (optional)
C. RETURN COPY TO: (Name and Mailing Address)	
<div style="border: 1px solid black; width: 80%; margin: 0 auto; padding: 10px;"> <p>Water Infrastructure Finance Authority of Arizona                      1110 West Washington Ste. 290                      Phoenix, AZ 85007                      Attention: Finance Director</p> </div>	

**THIS SPACE FOR USE OF FILING OFFICER**

**1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b)**

OR	1a. ENTITY'S NAME <b>Bob B. Watkins dba East Slope Water Company</b>	FIRST NAME	MIDDLE NAME	SUFFIX	
	1b. INDIVIDUAL'S LAST NAME				
1c. MAILING ADDRESS <b>P.O. Box 85160</b>		CITY <b>Tucson</b>	STATE <b>AZ</b>	POSTAL CODE <b>85754</b>	COUNTRY <b>USA</b>
1d. S.S. OR TAX I.D. # <b>86-0544681</b>	OPTIONAL ADD'NL. INFO RE ENTITY DEBTOR	1e. TYPE OF ORGANIZATION <b>Corporation</b>	1f. ENTITY'S STATE OR COUNTRY OF ORGANIZATION <b>Arizona</b>		1g. ENTITY'S ORGANIZATIONAL I.D. #, if any <b>NONE</b>

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b)**

OR	2a. ENTITY'S NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
	2b. INDIVIDUAL'S LAST NAME				
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
2d. S.S. OR TAX I.D. #	OPTIONAL ADD'NL. INFO RE ENTITY DEBTOR	2e. TYPE OF ENTITY	2f. ENTITY'S STATE OR COUNTRY OF ORGANIZATION		2g. ENTITY'S ORGANIZATIONAL I.D. #, if any <input type="checkbox"/> NONE

**3. SECURED PARTY'S (ORIGINAL S/P OR ITS TOTAL ASSIGNEE) EXACT FULL LEGAL NAME - insert only one secured party name (3a or 3b)**

OR	3a. ENTITY'S NAME <b>Water Infrastructure Finance Authority of Arizona</b>	FIRST NAME	MIDDLE NAME	SUFFIX	
	3b. INDIVIDUAL'S LAST NAME				
3c. MAILING ADDRESS <b>1110 West Washington Street, Suite 290</b>		CITY <b>Phoenix</b>	STATE <b>AZ</b>	POSTAL CODE <b>85007</b>	COUNTRY <b>USA</b>

4. This FINANCING STATEMENT covers the following types or items of property:

**See Exhibit A and Addendum attached hereto and incorporated herein.**

5. ALTERNATIVE DESIGNATION (if applicable): <input type="checkbox"/> LESSOR/LESSEE <input type="checkbox"/> CONSIGNEE/CONSIGNOR <input type="checkbox"/> BAILEE/BAILOR <input type="checkbox"/> SELLER/BUYER <input type="checkbox"/> AG. LIEN <input type="checkbox"/> NON-UCC FILING	
6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) <input type="checkbox"/> All Debtors <input type="checkbox"/> Debtor 1 <input type="checkbox"/> Debtor 2
8. OPTIONAL FILER REFERENCE DATA <b>WIFA Loan No. 920233-13</b>	

## **Exhibit A**

### **Collateral Description**

All of Debtor's present and future right, title, and interest in and to any and all of Debtor's Fixtures, Personal Property, General Intangibles, Accounts, Liens and Encumbrances and Proceeds as defined below, regardless of whether in the possession of Debtor, a bailee, a warehouseman, or any other Person; the agreements, documents, and instruments evidencing Accounts or granting such Liens and encumbrances and the filings and recordings relating to such Liens and Encumbrances; all books and records and all computer software, computer disks, computer tapes and other record-keeping media pertaining to any collateral listed in this Exhibit A; furniture, fixtures, machinery, and equipment of any kind or nature; and proceeds of any of the collateral listed in this Exhibit A; any accounts established for debt service or reserves, any certificate of authority, franchise or other right to conduct business as may be issued by any Governmental Authority (including, without limitation, cash and non-cash proceeds, insurance proceeds, proceeds of any proceeds, and proceeds of any taking by any Governmental Authority or any transfer in lieu of such a taking).

(a) the water utility plants and systems of the Debtor, including, but not limited to, all water works, generating stations, substations, pump houses, wells, distribution lines, whether located upon the Real Property or upon public or private easements, leaseholds or the like and which form a part of or are used in connection with the water utility plants or systems of the Debtor (the "Fixtures");

(b) all goods, (whether goods held for sale or returned or whether used in the business of the Debtor or to be installed in or on the Real Property), personal property, equipment, inventory, fixtures, furnishings, devices or tools and all replacements or substitutions of same (the "Personal Property");

(c) all of the franchises, certificates, authorizations by rule, privileges, permits, grants and consents for the construction, operation, and maintenance of water plants or systems in, on, and under streets, alleys, highways, roads, public grounds, easements and rights-of-way and all rights incident thereto which were granted by private persons or entities or the governing bodies of the cities, counties, state, and countries in which the Debtor operates and including, but not limited to, permits and certificates issued pursuant to the applicable provisions of the Arizona Water Code, and all development rights, utility commitments, water and wastewater taps, living unit equivalents, capital improvements project contracts, utility construction agreements with any governmental authority, including municipal utility districts or other constitutional conservation districts created under Article III, Section 52, or Article XVI, Section 59, of the Arizona Constitution, or with any utility companies (and all refunds and reimbursements thereunder) relating to the Real Property or Improvements, as any of the foregoing may be amended, and all plants and specifications for water utility plants or systems and all Debtor's rights (but not Debtor's obligations) under any documents, contract rights, accounts, commitments, construction contracts (and all payment and performance bonds, statutory or otherwise, issued by any surety in connection with any such construction contracts, and the proceeds of such bonds), architectural contracts, engineering contracts, and general intangibles (including without limitation trademarks, trade names, and symbols) arising from or by virtue of any transactions related to the Real Property, the Improvements, or the Personal Property, management contracts and all of the Debtor's rights under any contracts otherwise providing for the purchase, lease, sale or assignment of water or water rights (the "General Intangibles");

(d) all accounts arising from or by virtue of the sale, lease or disposition of any of the Real Property or Personal Property, or from any policy of insurance or the taking of any of the Real Property by right of eminent domain or condemnation or by private or other purchase in lieu thereof, including change of grade of street, curb cuts or other rights of access, for any public or quasi-public use under any law and all amounts due under current and future water supply customer accounts, including but not limited to those future accounts arising from any water utility plants or systems (or for delivery of water by any other means) (the "Accounts");

(e) all deposits, bank accounts, funds, instruments, notes or chattel paper of the Debtor, including, without limitation cash or securities deposited pursuant to leases to secure performance by the tenants of their obligations thereunder; and proceeds arising from or by virtue of the sale, lease or other disposition of the Real Property and proceeds (including premium refunds) of each policy of insurance relating to the Real Property (the "Proceeds")

(f) all of the following: (i) any lease or other right to use; (ii) any assignment as security, conditional sale, grant in trust, lien, mortgage, pledge, security interest, title retention arrangement, other encumbrance, or other interest or right securing the payment of money or the performance of any other liability or obligation, whether voluntarily or involuntarily created and whether arising by agreement, document, or instrument, under any law, ordinance, regulation, or rule (federal, state, or local), or otherwise; and (iii) any option, right of first refusal, other right to acquire, or other interest or right ("Liens and Encumbrances").

All other capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Uniform Commercial Code in effect in the State of Arizona (A.R.S. §§ 47-1101 through 47-9507).

**Addendum**

**Borrower's Legal Description of Property**

Well #1

Township 22 south, Range 21 East Section 30  
Beavers Rd, near Hwy 92  
Cochise County  
Sierra Vista AZ 85635

Fence, Well, Pressure Tank

Well #2

Township 22 south, Range 21 East Section 30  
5043 S Hwy 92  
Cochise County  
Sierra Vista AZ 85650

Fence, Well, Pressure Tank, 2 Booster Stations, Storage Tank

Well #3

Township 23 south, Range 21 East portion of Section 6  
4421 Rear Ramsey Rd  
Cochise County  
Sierra Vista AZ 85635

Fence, Well, Pressure Tank, 2 Booster Stations, Storage Tank

Well #4

Township 22 south, Range 21 East Section 31  
Turner Land off Glenn Rd  
Cochise County  
Sierra Vista AZ 85635

Fence, Well, Pressure Tank

Well #8

Township 23 south, Range 21 East portion of Section 6  
¼ Mile South of Ramsey Rd  
Cochise County  
Hereford, AZ 8615

Well, Well House, Bladder Tank

**East Slope Water Co. (Rancho San Pedro)**

Well #1

Township 23 south, Range 21 East portion of Section 5  
½ Mile South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

Fence, Well, Storage Tank, Pressure Tank, 2 Booster stations

Well #2  
Township 23 south, Range 21 East portion of Section 5  
½ Mile South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

Fence, Well

Well #3  
Township 23 south, Range 21 East portion of Section 5  
1/8 Mile South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

Fence, Well

Well #4  
Township 23 south, Range 21 East portion of Section 5  
Just South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

Fence, Well

**East Slope Water Co- West System (Route 6)**  
*(Previously Antelope Run Water)*

Well #3 & 5 (both wells at same site)  
Township 22 south, Range 20 East Section 26  
West-End of Kachina Trail, 1.5 miles west of HWY 92  
Cochise County  
Sierra Vista, AZ 85650

Fence, 2 wells, Pressure Tank

Booster Station  
Township 22 south, Range 20 East Section 26  
South-East Corner of Calle Encina & Pancho Trail  
Cochise County  
Sierra Vista, AZ 85650

Fence, Storage Tank, Pressure Tank, 2 Boosters

**East Slope Water Co- West System (Route 5)**  
*(Previously Indiada Water)*

Well #2  
Township 22 south, Range 20 East Section 35  
South-East Corner of Calle Metate 1/8 Mile North of Ramsey Canyon Rd  
Cochise County  
Sierra Vista, AZ 85650

Fence, Well, Storage Tank, 2 Bladder Tanks, Booster

**Well #3**

**Township 22 south, Range 20 East Section 35**

**1/8 Mile N Ramsey Canyon Rd. & Calle Encina**

**Cochise County**

**Sierra Vista, AZ 85650**

**Fence, Well, Pressure Tank**

**Well #4 Off Calle Coro**

**Township 22 south, Range 20 East Section 35**

**Cochise County**

**Sierra Vista, AZ 85650**

**Fence, Well, Pressure Tank**

**Continuing Security Agreement**

**Date:** September 21, 2012

**Parties:** **Obligor:** Bob B. Watkins dba East Slope Water Company

**Obligor** P.O. Box 85160  
**Address:** Tucson, Arizona 85754  
(520) 623-5172  
(520) 792-0377

**Secured** Water Infrastructure Finance Authority of Arizona  
**Party:**

**Secured** 1110 West Washington, Suite 290  
**Party** Phoenix, Arizona 85007  
**Address:**

**Attention:** Executive Director

**Agreement:** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Obligor agrees for the benefit of Secured Party as follows:

**1. Schedule Of Terms.**

Name in which Obligor conducts business: Bob B. Watkins dba East Slope Water Company

Locations of Collateral:

Well #1  
Township 22 south, Range 21 East Section 30  
Beavers Rd, near Hwy 92  
Cochise County  
Sierra Vista AZ 85635

Fence, Well, Pressure Tank

Well #2  
Township 22 south, Range 21 East Section 30  
5043 S Hwy 92  
Cochise County  
Sierra Vista AZ 85650

Fence, Well, Pressure Tank, 2 Booster Stations, Storage Tank

Well #3  
Township 23 south, Range 21 East portion of Section 6  
4421 Rear Ramsey Rd  
Cochise County  
Sierra Vista AZ 85635

Fence, Well, Pressure Tank, 2 Booster Stations, Storage Tank

Well #4  
Township 22 south, Range 21 East Section 31  
Turner Land off Glenn Rd  
Cochise County  
Sierra Vista AZ 85635

Fence, Well, Pressure Tank

Well #8  
Township 23 south, Range 21 East portion of Section 6  
¼ Mile South of Ramsey Rd  
Cochise County  
Hereford, AZ 8615

Well, Well House, Bladder Tank

**East Slope Water Co. (Rancho San Pedro)**

Well #1  
Township 23 south, Range 21 East portion of Section 5  
½ Mile South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

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Township 23 south, Range 21 East portion of Section 5  
½ Mile South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

Fence, Well

Well #3  
Township 23 south, Range 21 East portion of Section 5  
1/8 Mile South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

Fence, Well

Well #4  
Township 23 south, Range 21 East portion of Section 5  
Just South of Ramsey Rd.  
Cochise County  
Hereford, AZ 85615

Fence, Well

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Cochise County  
Sierra Vista, AZ 85650

Fence, Well, Pressure Tank

Well #4 Off Calle Coro  
Township 22 south, Range 20 East Section 35  
Cochise County  
Sierra Vista, AZ 85650

Fence, Well, Pressure Tank

**2. Definitions.** In this Agreement, the following terms shall have the following meanings, and all capitalized terms used in this Agreement not defined herein and used or defined in the Uniform Commercial Code will have their respective meanings in the Uniform Commercial Code:

**"Accounts"** means all accounts arising from or by virtue of the sale, lease or disposition of any of the Real Property or Personal Property, or from any policy of insurance or the taking of any of the Real Property by right of eminent domain or condemnation or by private or other purchase in lieu thereof, including change of grade of street, curb cuts or other rights of access, for any public or quasi-public use under any law and all amounts due under current and future Customer accounts, including but not limited to those future accounts arising from any water utility plants or systems (or for delivery of water by any other means);

**"Agreement"** means this Security Agreement as it may be amended, modified, extended, renewed, restated, or supplemented from time to time.

**"Collateral"** means all of Obligor's present and future right, title, and interest in and to any and all of the following types of property, regardless of whether in the possession of Obligor, a bailee, a warehouseman, or any other Person; Fixtures, Personal Property, Accounts, General Intangibles, Liens and Encumbrances and Proceeds; the agreements, documents, and instruments evidencing Accounts or granting such Liens and Encumbrances and the filings and recordings relating to such Liens and Encumbrances; all books and records and all computer software, computer disks, computer tapes, and other record keeping media pertaining to any of the Collateral; furniture, fixtures, machinery, and equipment of any kind or nature; and proceeds of any of the Collateral; any accounts established for debt service or reserves; any certificate of authority, franchise or other right to conduct business as may be issued by any Governmental Authority (including, without limitation, cash and non-cash Proceeds, insurance proceeds, proceeds of any proceeds, and proceeds of any taking by any Governmental Authority or any transfer in lieu of such a taking).

**"Commitment"** means any and all obligations of Secured Party from time to time to make advances to Obligor, or to make other financial accommodations for Obligor.

**"Customer"** means a water supply customer of Obligor.

**"Default Rate"** means a rate per annum of interest equal to the sum of (i) six percent (6%) per annum, and (ii) the rate per annum of interest applicable from time to time to the principal amount under the Note.

**"Event of Default"** shall have the meaning specified in Section 6.

**"Fixtures"** means the water utility plants and systems of the Debtor, including, but not limited to, all water works, generating stations, substations, pump houses, wells, distribution lines, whether located upon the Real Property or upon public or private easements, leaseholds or the like and which form a part of or are used in connection with the water utility plants or systems of the Debtor.

**"General Intangibles"** means all of the franchises, certificates, authorizations by rule, privileges, permits, grants and consents for the construction, operation, and maintenance of water plants or systems in, on, and under streets, alleys, highways, roads, public grounds, easements and

rights-of-way and all rights incident thereto which were granted by private persons or entities or the governing bodies of the cities, counties, state, and countries in which the Debtor operates and including, but not limited to, permits and certificates issued pursuant to the applicable provisions of the Arizona Water Code, and all development rights, utility commitments, water and wastewater taps, living unit equivalents, capital improvements project contracts, utility construction agreements with any governmental authority, including municipal utility districts or other constitutional conservation districts created under Article III, Section 52, or Article XVI, Section 59, of the Arizona Constitution, or with any utility companies (and all refunds and reimbursements thereunder) relating to the Real Property or improvements, as any of the foregoing may be amended, and all plants and specifications for water utility plants or systems and all Debtor's rights (but not Debtor's obligations) under any documents, contract rights, accounts, commitments, construction contracts (and all payment and performance bonds, statutory or otherwise, issued by any surety in connection with any such construction contracts, and the proceeds of such bonds), architectural contracts, engineering contracts, and general intangibles (including without limitation trademarks, trade names, and symbols) arising from or by virtue of any transactions related to the Real Property, any improvements thereon, or the Personal Property, management contracts and all of the Debtor's rights under any contracts otherwise providing for the purchase, lease, sale or assignment of water or water rights.

**"Governmental Authority"** means any government, any court, and any agency, authority, body, bureau, department, or instrumentality of any government.

**"Inventory"** means all goods and other tangible and intangible personal property (i) owned by Obligor or in which Obligor has rights or an interest under any agreement, document, instrument, or otherwise (including, without limitation, a lease) now or hereafter from time to time and (ii) either (A) consumed or to be consumed in the business of Obligor, (B) held for sale, lease, or other disposition by Obligor, (C) sold, leased, or furnished under contracts for service, or (D) used for demonstration, display, executive, model, or similar uses, or to be so used. Inventory includes, without limitation, (i) raw materials, scrap materials and by-products, work in progress, supplies, components, parts, spare parts, accessories, and finished goods, (ii) the rights and interest of Obligor in goods or other tangible or intangible personal property sold, leased, or furnished under contracts of service, (iii) goods or other tangible or intangible personal property sold, leased, or furnished under contracts of service and returned to or repossessed by Obligor, and (D) all accessions and additions to any goods or other tangible or intangible personal property included in Inventory.

**"Lien or Encumbrance"** and **"Liens and Encumbrances"** mean each and all of the following: (i) any lease or other right to use; (ii) any assignment as security, conditional sale, grant in trust, lien, mortgage, pledge, security interest, title retention arrangement, other encumbrance, or other interest or right securing the payment of money or the performance of any other liability or obligation, whether voluntarily or involuntarily created and whether arising by agreement, document, or instrument, under any law, ordinance, regulation, or rule (federal, state, or local), or otherwise; and (iii) any option, right of first refusal, other right to acquire, or other interest or right.

**"Loan Agreement"** means that certain Loan Agreement of even date herewith by and between Obligor and Secured Party, as it may be amended, modified, extended, renewed, restated or supplemented from time to time.

**"Loan Documents"** means the Loan Agreement, this Agreement and any and all other agreements, documents, and instruments from time to time evidencing, guarantying, securing, or otherwise relating to the Obligations (including, without limitation, any and all promissory notes, loan agreements, and guaranties), as they may be amended, modified, extended, renewed, restated, or supplemented from time to time.

**"Note"** means that certain promissory note of even date herewith executed by Obligor in favor of Secured Party, as it may be amended, modified, extended, renewed, restated or supplemented from time to time.

**"Obligations"** means (i) payment by Obligor of all sums due under and pursuant to the Note, the Loan Agreement, or any other Loan Document; (ii) performance by Obligor of all terms and conditions set forth in any or all of the Loan Documents; and (iii) any and all other liabilities and obligations of Obligor to Secured Party existing now or in the future (except indebtedness of any individual for personal, family, or household purposes), whether for the payment of money or otherwise, whether absolute or contingent, whether as principal, endorser, guarantor, or otherwise, whether originally due to Secured Party or to a third Person and assigned or endorsed to Secured Party, and whether several, joint, or joint and several, all as they may be amended, modified, extended, renewed, restated, or supplemented from time to time.

**"Permitted Exceptions"** means a Lien and Encumbrance granted by Obligor with the consent of Secured Party.

**"Person"** means a natural person, a partnership, a joint venture, an unincorporated association, a corporation, a limited liability company, a trust, any other legal entity, or any Governmental Authority.

**"Personal Property"** means all goods, (whether goods held for sale or returned or whether used in the business of the Debtor or to be installed in or on the Real Property), personal property, equipment, Inventory, fixtures, furnishings, devices or tools and all replacements or substitutions of same.

**"Proceeds"** means all deposits, bank accounts, funds, instruments, notes or chattel paper of Obligor, including, without limitation cash or securities deposited pursuant to leases to secure performance by the tenants of their obligations thereunder; and proceeds arising from or by virtue of the sale, lease or other disposition of the Real Property and proceeds (including premium refunds) of each policy of insurance relating to the Real Property.

**"Real Property"** means all real property owned by Obligor.

**"Remittance Account"** means an account established with a financial institution acceptable to Secured Party for the benefit of Secured Party and subject to the sole dominion and control of Secured Party.

**"Requirements"** means any and all obligations, other terms and conditions, requirements, and restrictions in effect now or in the future by which Obligor or any or all of the Collateral is bound or which are otherwise applicable to any or all of the Collateral or the business or operations of Obligor

including, without limitation, such obligations, other terms and conditions, restrictions, and requirements imposed by: (i) any law, ordinance, regulation, or rule (federal, state, or local); (ii) any approvals and permits; (iii) any Permitted Exceptions; (iv) any insurance policies; (v) any other agreement, document, or instrument to which Obligor is a party or by which Obligor or any of the Collateral is bound; or (vi) any judgment, order, or decree of any arbitrator, other private adjudicator, or Governmental Authority to which Obligor is a party or by which Obligor, any or all of the Collateral, or the business or operations of Obligor is bound.

**"Transfer"** means the occurrence of any of the following:

(i) Any or all of the Collateral, or any interest or right of Obligor in or to the Collateral, is conveyed to, or becomes vested in, any Person, other than Obligor and Secured Party, voluntarily or involuntarily;

(ii) The occurrence of any event that results in any option, right of first refusal, other right to acquire, or any other claim, interest, or right in, to, or against, any or all of the Collateral being held by a Person other than Obligor and Secured Party, whether occurring voluntarily or involuntarily and whether arising by agreement, under any law, ordinance, regulation, or rule (federal, state, or local), or otherwise; or

(iii) Obligor enters into any agreement the performance of which would result in a Transfer under clause (i) or (ii) above, and the consummation of such agreement is not expressly conditional upon the prior written consent of Secured Party in its absolute and sole discretion,

except (A) disposition of Inventory by lease, sale, or otherwise for fair consideration in the ordinary course of the business of Obligor, excluding from such exception bulk sales, dispositions to one or more creditors, and transfers in satisfaction of indebtedness, and (B) the Permitted Exceptions.

**"Uniform Commercial Code"** means the Uniform Commercial Code as in effect from time to time in the State of Arizona (currently, Arizona Revised Statutes Sections 47-1101 through 47-9507).

**3. Grant Of Security Interest.** Obligor grants to Secured Party a Security Interest in the Collateral to secure payment and performance of the Obligations.

**4. Obligor Representations And Warranties.** Obligor represents and warrants to Secured Party as of the date of this Agreement:

4.1 **Ownership of Collateral.** Obligor is the legal and beneficial owner of the Collateral, subject only to the Permitted Exceptions. There are no Liens and Encumbrances on the Collateral or claims thereof, except the Permitted Exceptions. There is no financing statement now filed or recorded covering any of the Collateral or in which Obligor is named or has signed as a Debtor, except financing statements related to the Permitted Exceptions.

4.2 **Validity, Perfection, and Priority of Security Interest.** The Security Interest granted in this Agreement (i) is legal, valid, binding, and enforceable, (ii) is a perfected security interest in all the Collateral, and (iii) is and shall remain prior to any security interest other than the Permitted Exceptions.

**4.3 Names; Location of Collateral; Place of Business or Chief Executive Office; and Books and Records.** Obligor conducts its business and other activities solely in the name(s) set forth in Section 1. The Collateral, the sole place of business or the chief executive office of Obligor, and all books and records of Obligor relating to the Collateral are at the location(s) set forth in Section 1.

**5. Obligor Covenants.** Until any Commitment terminates in full, and the Obligations are paid and performed in full, Obligor agrees that, unless Secured Party otherwise agrees in writing in Secured Party's absolute and sole discretion:

5.1 **Payment and Performance of Obligations.** Obligor shall pay and perform the Obligations. Obligor shall comply with and perform the Requirements.

5.2 **Transfer; Liens and Encumbrances; Defense of Obligor's Title and of Security Interest.**

5.2.1 Obligor shall not suffer to occur any Transfer. Except for Permitted Exceptions, Obligor shall not suffer to exist any Lien or Encumbrance on any or all of the Collateral, regardless of whether junior or senior to the security interest granted herein. Obligor shall notify Secured Party immediately of any claim of any Lien or Encumbrance on any or all of the Collateral. Except for financing statements relating to Permitted Exceptions, Obligor shall not execute or suffer to exist or to be filed or recorded any financing statement that covers any or all of the Collateral or in which Obligor is named or signs as Debtor.

5.2.2 Obligor shall defend the Collateral, the title and interest therein of Obligor represented and warranted in this Agreement, and the legality, validity, binding nature, and enforceability of the security interest granted herein, the perfection thereof, and the priority thereof against (i) any attachment, levy, or other seizure by legal process or otherwise of all or part of the Collateral, (ii), except for Permitted Exceptions, any Lien or Encumbrance or claim thereof on any or all of the Collateral, (iii) any attempt to realize upon any or all of the Collateral under any Lien or Encumbrance other than the Permitted Exceptions, regardless of whether junior or senior to the security interest herein, or (iv) any claim questioning the legality, validity, binding nature, enforceability, perfection, or priority of the security interest herein. Obligor shall notify Secured Party immediately in writing of any of the foregoing.

5.3 **Names; Books and Records; Location of Collateral; Place of Business or Chief Executive Office.** Obligor shall maintain complete and accurate books and records relating to the Collateral. Unless Obligor obtains the prior written consent of Secured Party and takes in advance all actions and makes all filings and recordings necessary or appropriate to assure the perfection and priority of the security interest granted herein, Obligor shall not change its name, shall conduct its business and other activities solely in the name(s), trade name(s), and fictitious name(s) in Section 1, and shall not move the Collateral, its sole place of business or chief executive office, or its books and records relating to the Collateral from the location(s) in Section 1. Anything in this Section 5.3 to the contrary notwithstanding, Obligor may move the Inventory between any of such locations and between any of such locations and any location at which services are rendered to Customers or where the Inventory is delivered to Customers.

**5.4 Inspection.** Secured Party and such persons as Secured Party may designate shall have the right, at any reasonable time from time to time, (i) to enter upon the premises at which any of the Collateral or any of the books and records relating to the Collateral is located, (ii) to inspect the Collateral, (iii) to make extracts and copies from Obligor's books and records relating to the Collateral, and (iv) to verify under reasonable procedures determined by Secured Party the amount, condition, quality, quantity, status, validity, and value of, or any other matter relating to, the Collateral (including, without limitation, in the case of Accounts or Collateral in the possession of a third Person by contacting the obligors of the Accounts or the third Persons possessing such Collateral for the purpose of making such verification). Obligor shall provide access to such premises. Secured Party shall have the absolute right to share any information it gains from any such inspection or verification with any other Person holding an interest or a participation in any of the Obligations.

**5.5 Further Assurances.** Obligor shall promptly execute, acknowledge, deliver, and cause to be duly filed and recorded all such additional agreements, documents, and instruments (including, without limitation, financing statements) and take all such other actions as Secured Party may reasonably request from time to time to better assure, perfect, preserve, and protect the security interest granted herein, the priority thereof, and the rights and remedies of Secured Party hereunder. If any amount payable under or in connection with any Receivable shall be evidenced by any Instrument or any of the Inventory by a Document, such Document or Instrument shall be immediately pledged and delivered to the Secured Party, duly endorsed in a manner satisfactory to the Secured Party.

**5.6 Maintenance of Inventory.** Obligor shall keep the Inventory in good and leasable, saleable, and usable condition and shall store the Inventory properly to protect it from damage, destruction, and deterioration. Obligor shall not misuse or conceal the Inventory nor take any action or fail to take any action with respect to Inventory that might affect any insurance coverage. Unless Secured Party approves in advance in writing, Obligor shall not use any Inventory for demonstration, executive, or any similar purpose, other than reasonable and customary quality control tests and inspections. Obligor shall pay promptly when due all liabilities and obligations incurred to acquire or lease Inventory or otherwise relating to Inventory.

**5.7 Insurance.** The risk of loss of, damage to, or destruction of the Collateral at all times shall be on Obligor. At its expense, Obligor will maintain insurance in form and amounts, and with companies, in all respects satisfactory to Secured Party, covering all of the insurable Collateral on an all-risk basis at full replacement value. Obligor shall deliver to Secured Party the original, or a certified copy, of each policy of insurance and evidence of payment of all premiums therefor within thirty (30) days of the date hereof. Such policies of insurance shall contain an endorsement or an independent instrument furnished to Secured Party, providing that such insurance company will give Secured Party at least 30 days prior written notice before any such policy or policies of insurance shall be altered or canceled. Obligor hereby agrees to apply all insurance proceeds received under the Insurance Policy to remedy the loss covered thereby (including reimbursing Obligor for funds expended to remedy such loss), to satisfy the indebtedness evidenced by the Note, or as otherwise consented to by Secured Party.

5.8 Taxes. Obligor shall promptly pay when due any and all property, excise, and other taxes and all assessments, duties, and other charges levied or imposed on any or all of the Collateral or imposed on Obligor in respect of any or all of the Collateral, this Agreement, or the security interest granted herein. Obligor shall also pay when due any and all lawful claims for labor, materials, and supplies, that, if unpaid, might become a Lien or Encumbrance on any or all of the Collateral.

5.9 Special Covenants Regarding Collateral.

5.9.1 Use of Inventory. Until an Event of Default, Obligor may possess, process, use, and consume in the manufacture or processing of finished goods, and lease, sell, or otherwise dispose of for fair consideration the Inventory, all in the ordinary course of Obligor's business, excluding, however, any bulk sale, any disposition to one or more creditors, and any transfer in satisfaction of indebtedness.

5.9.2 Proceeds of Inventory and Accounts and Notification to Accounts Obligors. Upon the occurrence of an Event of Default, to the extent applicable, (i) Obligor will notify the obligors of Accounts to make payments of any or all Accounts directly into a Remittance Account established in favor of Secured Party, and (ii) Obligor shall on the day of receipt by Obligor of any Accounts or any proceeds of Inventory or Accounts, transmit the same to Secured Party in the form received by Obligor. Obligor agrees to account to Secured Party for all Accounts and all proceeds of Inventory and Accounts and, pending transmittal of any proceeds to Secured Party, to hold the same in the form received separate and apart from, and not commingled with, any other property of Obligor and in trust for Secured Party. Amounts in the Remittance Account and any cash proceeds received by Secured Party will be applied periodically by Secured Party to payment of such of the Obligations, whether or not then due, determined by Secured Party in its absolute and sole discretion.

5.10 No Obligations and Limit of Liability of Secured Party. Secured Party does not assume and shall have no liability or obligation for any liabilities or obligations of Obligor relating to the Collateral. Secured Party shall have no obligation to notify Obligor with respect to the payment or performance or non-payment or non-performance of any third Person obligations included in the Collateral (including, without limitation, payment or non-payment of any Accounts) or to enforce the payment or performance by any third Person of obligations included in the Collateral (including, without limitation, payment of the Accounts). In exercising its rights and remedies in the Loan Documents and its other rights and remedies and in performing any obligations to Obligor, Secured Party and its stockholders, directors, officers, employees, agents, and representatives shall have no liability or responsibility whatsoever (including, without limitation, any liability or obligation for any injury to the assets, business, operations, or property of Obligor), other than for its gross negligence or willful misconduct. No action taken or omitted to be taken by the Secured Party with respect to all or part of the Collateral shall give rise to any claim, counterclaim, defense, or offset in favor of Obligor against Secured Party (except for claims for gross negligence or willful misconduct by Secured Party).

5.11 Costs and Expenses of Performance of Obligor's Covenants. Obligor will perform all its obligations under this Agreement at its sole cost and expense.

5.12 Actions by Secured Party; Power of Attorney.

5.12.1 If Obligor fails to pay or perform any of the Obligations under this Agreement, Secured Party in its absolute and sole discretion, without obligation so to do, without releasing Obligor from such Obligations, and without notice to or demand upon Obligor, may pay or perform the same in such manner and to such extent as Secured Party determines necessary or appropriate in its absolute and sole discretion.

5.12.2 Without limiting the general powers, whether conferred herein, in another Loan Document, or by law, upon an Event of Default or in exercising its rights under Section 5.12.1, Secured Party shall have the right but not the obligation to do any or all of the following from time to time, to the extent applicable: (i) to enter upon any premises where any of the Collateral or the books and records relating to the Collateral are located and take possession of the Collateral; (ii) to maintain, preserve, protect, repair, restore, assign, lease, pledge, sell, and otherwise dispose of and deal with the Collateral; (iii) to make additions, alterations, and improvements to the Collateral to keep the Collateral in good condition and repair; (iv) to enforce the rights and remedies of Obligor with respect to the Collateral; (v) to perform or cause compliance with the Requirements; (vi) to adjust, compromise, defend, deposit a bond or give security in connection with, discharge, enforce, make demands related to, pay or otherwise obtain the discharge or release, prosecute, release, settle, terminate, or waive any claim or legal proceeding relating to any or all of the Collateral (including, without limitation, claims under insurance policies and claims against Obligor or the Collateral that Secured Party believes to be valid, regardless of whether actually valid); (vii) to send verifications to obligors of Accounts and issuers of Documents evidencing or representing Collateral; (viii) to notify obligors of Accounts to make payments directly to Secured Party; (ix) to execute, deliver, file, record, amend, modify, extend, renew, restate, supplement, and terminate agreements, documents, and instruments included in or relating to the Collateral (including, without limitation, invoices, bills of lading, and Documents); (x) to receive, endorse, and collect Accounts (including, without limitation, checks, Instruments, and other orders for the payment of money made payable to Obligor or representing any Collateral), and to give receipts and full or partial discharge for the same; (xi) to obtain, realize upon, and release guaranties and security for obligations of third Persons included in the Collateral (including, without limitation, the Accounts); (xii) to obtain any insurance required under this Agreement, to pay the premiums for such required insurance, to file, prosecute, compromise, and settle proofs of claim under such insurance, and to receive insurance proceeds payable to Secured Party alone; (xiii) to commence, appear and participate in, prosecute, and terminate any legal proceeding relating to (A) the Collateral, (B) the security interest granted herein, (C) the perfection or priority of such security interest, or (D) the rights or remedies of Secured Party under the Loan Documents or the law; (xiv) to compromise, contest, deposit a bond or give security in connection with, discharge, pay, purchase, or settle any Lien or Encumbrance (including, without limitation, any Permitted Exception), whether senior or junior to the

security interest granted herein; (xv) to do all other acts and things that Secured Party may, in its absolute and sole discretion, determine to be necessary or appropriate to carry out the purpose of the Loan Documents, as fully and completely as if Secured Party were the absolute owner of the Collateral, and (xvi) to pay from Secured Party's own funds or from proceeds of advances of any unadvanced portion of any Commitment, which advances Obligor hereby authorizes Secured Party to make for account of Obligor, all related costs, expenses, and fees (including, without limitation, attorneys' fees and costs of legal proceedings) incurred by Secured Party, which costs, expenses, and fees, if paid from Secured Party's funds, Obligor agrees to pay to Secured Party upon demand together with interest thereon at the Default Rate from the date incurred until paid in full. All costs, expenses, and fees incurred by Secured Party shall be prima facie evidence of the necessity therefor and the reasonableness thereof. Nothing in this Agreement shall be construed as requiring or obligating Secured Party to make any inquiry as to the nature or sufficiency of any payment received by Secured Party, to present or file any claim or notice, or to take any other action with respect to the Collateral.

5.12.3 Obligor hereby appoints Secured Party as Obligor's attorney-in-fact for the purpose of carrying out the provisions of this Agreement (including, without limitation, the obligations of Obligor). This appointment is coupled with an interest and is irrevocable. Without limiting the generality of the foregoing, Secured Party shall have the power as attorney-in-fact to do the things described in Section 5.12.2 as and when provided in such section.

5.12.4 Nothing in this Agreement shall relieve Obligor of any of its obligations under any Loan Document or under any other agreement, document, or instrument or in any way limit the rights or remedies of Secured Party.

**6. Events Of Default.** Each of the following shall be an event of default ("Event of Default"):

6.1 Attachment, garnishment, levy of execution, or seizure by legal process of any or all of the Collateral.

6.2 Any legal proceeding or other action against or affecting any or all of the Collateral is commenced (including, without limitation, any prejudgment attachment or garnishment) and is not quashed, stayed, or released within thirty (30) days.

6.3 Giving of notice of a sale under the Uniform Commercial Code or any other action by any Person, other than Secured Party, to realize upon any of the Collateral under any Lien or Encumbrance, regardless of whether such Lien or Encumbrance is a Permitted Exception and regardless of whether junior or senior to the security interest granted herein.

6.4 Any Transfer occurs.

6.5 Any Lien or Encumbrance on any or all of the Collateral, other than the Permitted Exceptions, is created or exists, whether junior or senior to the security interest herein.

6.6 Any or all of the Collateral is lost, stolen, suffers substantial damage or destruction, or declines materially in value.

6.7 Obligor abandons any or all of the Collateral.

6.8 The occurrence of a default or any event or condition that with notice, passage of time, or both would be a default in respect of any Permitted Exception.

6.9 The occurrence of a default or condition or event designated as a default, an event of default, or an Event of Default in any other Loan Document or in any agreement, document, or instrument relating to any other indebtedness of Obligor to Secured Party.

**7. Rights And Remedies Of Secured Party.** Upon occurrence of an Event of Default, Secured Party may, at its option, in its absolute and sole discretion and without demand or notice, do any or all of the following:

7.1 Acceleration of Obligations. Declare any or all of the Obligations to be immediately due and payable, whereupon such Obligations shall be immediately due and payable within 30 days.

7.2 Possession and Other Actions Concerning Collateral. Either in person or by agent, with or without bringing any action or legal proceeding, without regard to the adequacy of its security, or by means of a court appointed receiver, enter upon any premises in which the Collateral or the books and records relating to the Collateral are located and take sole and exclusive possession of all or any part of the Collateral, and take any or all of the actions described in Section 5.12.2. In the event Secured Party demands, or attempts to take possession of the Collateral in the exercise of the rights under this Agreement, Obligor shall promptly turn over and deliver possession of the Collateral to Secured Party. Secured Party may enter upon any premises upon which any of the Collateral or any books and records relating to the Collateral are located in order to exercise Secured Party's right to take possession of the Collateral and may remove the Collateral from such premises or render the Collateral unusable.

7.3 Replevin. As a matter of right and without notice to Obligor or anyone claiming under Obligor, Secured Party shall be entitled to orders of replevin by a court of any or all Collateral from time to time.

7.4 Other Rights and Remedies. Exercise any and all other rights and remedies of Secured Party. In this regard, Secured Party may, among any other rights and remedies, sell all or any part of the Collateral at public or private sale for cash, upon credit, in exchange for other property, or for future delivery as Secured Party shall deem appropriate. As to sale or other disposition of the Collateral, except as to any of the Collateral that is perishable, threatens to decline speedily in value, or is of a type customarily sold on a recognized market as to which no notice shall be required, Secured Party will give Obligor reasonable notice of the time and place of any public sale or of the time after which any private sale or any other intended disposition is to be made. Obligor agrees that any such notice shall be sufficient if given at least ten (10) days prior to such sale or other disposition. Secured Party may be a purchaser at any sale. Secured Party may pay the purchase price at any sale by crediting the amount of the purchase price against the obligations.

**8. Application Of Proceeds.** All Collateral and all proceeds of Collateral received by Secured Party, before or after an Event of Default, will be applied by Secured Party to the Obligations, whether or not due, in such order as Secured Party shall determine in its absolute and sole discretion, subject to any requirements of law. Any Collateral and any balance of such proceeds remaining after payment of the Obligations in full will be paid to Obligor, its successors or assigns, or as the law or a court of competent jurisdiction may direct. Any proceeds of Collateral in the form of a check shall be credited against the Obligations only upon the expiration of such period of time after receipt thereof by Secured Party as Secured Party determines is reasonably sufficient to allow for clearance or payment thereof. Any other proceeds of Collateral will be credited against the Obligations only upon conversion into cash and receipt of such cash by Secured Party. Each such credit shall, however, be conditional upon final payment to Secured Party of the item giving rise to such credit.

**9. Provisions In Other Loan Documents Govern This Agreement.** This Agreement is subject to certain terms and provisions in the other Loan Documents, to which reference is made for a statement of such terms and provisions.

**10. Counterparts.** This Agreement may be executed in counterparts, all of which executed counterparts shall together constitute a single document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to form physically one document.

Dated as of the date first above stated.

September 21, 2012

By:  \_\_\_\_\_

Name: Bob B. Watkins  
Title: Owner  
"Obligor"

**8. Application Of Proceeds.** All Collateral and all proceeds of Collateral received by Secured Party, before or after an Event of Default, will be applied by Secured Party to the Obligations, whether or not due, in such order as Secured Party shall determine in its absolute and sole discretion, subject to any requirements of law. Any Collateral and any balance of such proceeds remaining after payment of the Obligations in full will be paid to Obligor, its successors or assigns, or as the law or a court of competent jurisdiction may direct. Any proceeds of Collateral in the form of a check shall be credited against the Obligations only upon the expiration of such period of time after receipt thereof by Secured Party as Secured Party determines is reasonably sufficient to allow for clearance or payment thereof. Any other proceeds of Collateral will be credited against the Obligations only upon conversion into cash and receipt of such cash by Secured Party. Each such credit shall, however, be conditional upon final payment to Secured Party of the item giving rise to such credit.

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