

CENTRAL UTAH WATER CONSERVANCY DISTRICT

RESOLUTION 2023-11-21

A RESOLUTION APPROVING THE WITHDRAWAL OF SANPETE COUNTY FROM THE CENTRAL UTAH WATER CONSERVANCY DISTRICT

WHEREAS, Utah Code § 17B-1-504, *et seq.*, provides for the initiation of the withdrawal of an area from the boundaries of a special district and sets forth the requirements and procedures with respect thereto; and

WHEREAS, Central Utah Water Conservancy District (the “District”) received a Resolution for Sanpete County (“County”) to leave the Central Utah Water Conservancy District dated June 6, 2023 (“County’s Resolution”); and

WHEREAS, in response to the County’s Resolution, the Board of Trustees (the “Board”) of the District adopted Resolution No. 2023-06-07 on June 21, 2023, which initiated the process to consider the withdrawal of Sanpete County, Utah, from the boundaries of the District; and

WHEREAS, the Board held a duly noticed public hearing in Sanpete County, Utah on August 28, 2023; and

WHEREAS, the Board is willing to approve the withdrawal of the County from the boundaries of the District, as provided herein; and

NOW, THEREFORE, be it resolved by the Board of Trustees of the Central Utah Water Conservancy District as follows:

Section 1. Approval of Withdrawal. Based upon and subject to the terms and provisions of that certain Agreement for Withdrawal of Sanpete County from the Central Utah Water Conservancy District, dated November 15, 2023, a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference, the Board hereby approves the withdrawal of Sanpete County, Utah, from the boundaries of the District.

Section 2. Area to be Withdrawn. The area to be withdrawn from the District includes the entirety of Sanpete County, Utah, and is more particularly described in Exhibit “B” attached hereto and incorporated herein by this reference.

Section 3. Directives. The Board directs staff of the District to complete the statutory process to withdraw the boundaries of the County from the boundaries of the District by doing the following:

- (a) Within 10 days from the date of adoption of this Resolution, file with the

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Johnson, For: CENTRAL UTAH WATER CONSERVANCY DISTRICT
Tallisha Johnson, Sanpete Recorder



Lieutenant Governor, on behalf of the Board,: (i) a copy of the Notice of Impending Boundary Action, as defined in Utah Code § 67-1 a-6.5 that meets the requirements of Utah Code § 67-1 a-6.5(3), and (ii) a copy of an approved Final Local Entity Plat, as defined in Utah Code § 67-1a-6.5.

(b) Upon the Lieutenant Governor's issuance of a Certificate of Withdrawal under Utah Code § 67-1 a-6.5, file with the recorder of Sanpete County: (i) the original Notice of an Impending Boundary Action, the Certificate of Withdrawal, and the approved Final Local Entity Plat; and (ii) a certified copy of this Resolution.

(c) Upon the Lieutenant Governor's issuance of a certificate of withdrawal under Utah Code § 67-1 a-6.5, file with the recorder of each of the other remaining counties within the District: certified copies of the Notice of an Impending Boundary Action, the Certificate of Withdrawal, the approved Final Local Entity Plat, and this Resolution.

(d) Publish in a local newspaper of general circulation in the County and on the public legal notice website, a notice of withdrawal of the County, which sets forth the name of the District, that the entirety of Sanpete County, Utah has been withdrawn from the District, a brief explanation of the grounds upon which the Board determined to approve the withdrawal, and that a copy of this Resolution will be available, for a period of 30 days, for examination during regular business hours at the District's Office located at 1426 E. 750 North, Ste. 400, Orem, Utah, and on the District's website at www.cuwcd.gov.

Section 4. Effective Date of Withdrawal. Pursuant to Utah Code § 17B-1-512(2)(a), the withdrawal of the County shall be effective upon the Lieutenant Governor's issuance of a Certificate of Withdrawal, subject to the conditions of this Resolution.

Section 5. Effective Date of this Resolution. This Resolution shall take effect immediately upon its approval and adoption by the Board.

APPROVED AND ADOPTED this 15 day of November, 2023.

CENTRAL UTAH WATER CONSERVANCY DISTRICT

By: 
Acting Chair

Attest:

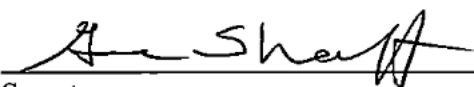

Secretary

EXHIBIT A
(Agreement for Withdrawal of Sanpete County from
the Central Utah Water Conservancy District)

**AGREEMENT FOR WITHDRAWAL OF SANPETE COUNTY
FROM THE CENTRAL UTAH WATER CONSERVANCY DISTRICT**

THIS AGREEMENT ("*Agreement*"), is made and entered into effective this 15th day of November, 2023, by and between CENTRAL UTAH WATER CONSERVANCY DISTRICT, a water conservancy district organized under the laws of the State of Utah (the "*District*"), and SANPETE COUNTY, UTAH, a body corporate and politic of the State of Utah (the "*County*"). The District and the County are sometimes referred to herein collectively as the "*Parties*" and individually as a "*Party*."

RECITALS

WHEREAS, Utah Code Ann. § 17B-1-501, et seq., in effect as of the date hereof (the "*Act*"), applicable to the District pursuant to Utah Code Ann. § 17B-2a-1003(1), provides for the withdrawal of an area from the boundaries of a water conservancy district and sets forth the requirements and procedures with respect thereto; and

WHEREAS, in response to a written request of the duly elected officials of Sanpete County, the District's Board of Trustees (the "*Board*"), pursuant to the authority of Section 17B-1-504 of the Act, has adopted Resolution 2023-06-07 (the "*Initiating Resolution*"), pursuant to which proceedings were commenced for consideration of the withdrawal of the County from the boundaries of the District, and a public hearing, as called for in the Initiating Resolution, has been held pursuant to legal notice in conformance with the requirements of the Act; and

WHEREAS, in conformance with the provisions of § 17B-1-510(5)(e) of the Act, the District and the County agree on the allocations that are an engineering consultant's responsibility pursuant to § 17B-1-510(5)(f) of the Act and the determinations that are an accounting consultant's responsibility pursuant to § 17B-1-510(5)(h) of the Act, to determine the County's proportionate share of any redemption premium and principal of and interest on the District's revenue and general obligation bonds issued and outstanding at the time of adoption of the Initiating Resolution, thereby negating the need to engage an engineering consultant nor an accounting consultant to determine the allocations; and

WHEREAS, the Board has found and determined, consistent with the requirements of the Act and the formal policy of the Board pertaining to the withdrawal of an area from the District (the "*Withdrawal Policy*"), that:

1. the entirety of the County is to be withdrawn from the District; and
2. the County is eligible for withdrawal on the basis that the District is not providing water service anywhere within the County and will be unable to do so within the reasonably foreseeable future; and
3. the withdrawal of the County from the District will not: (i) result in a breach or default by the District, or otherwise adversely affect the ability of the District to make any payment or perform any other material obligation under its agreements with the United States, or

under any note, bond or other debt or revenue obligation of the District; (ii) result in any reduction or withdrawal of any rating on any outstanding note, bond or other debt or revenue obligation of the District; (iii) create an island or peninsula of non-district territory within the District; (iv) impair, in any way, the operations of the District; or (v) require the District to materially increase the fees it charges or property taxes it levies in order to provide the remainder of the District the same level and quality of service that was provided prior to the County's withdrawal; and

WHEREAS, all proceedings having been accomplished in conformance with the requirements of the Act, and based upon the findings set forth herein, the Board is willing to approve the withdrawal of the County from the boundaries of the District, subject to the terms and conditions to withdrawal set forth in this written Agreement in conformance with the provisions of § 17B-1-510(6) of the Act.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into and made a part of this Agreement.
2. Approval of Withdrawal: Terms and Conditions. Subject to the terms and conditions set forth herein, the District approves the withdrawal of the County from the boundaries of the District.
 - a. The withdrawal of the County is approved subject to the following terms and conditions:
 - i. The County shall collect and remit to the District, and the District shall retain all revenues generated by ad valorem property taxes heretofore levied by the District, including the District's tax levy for the year 2023, and any delinquent tax revenues collected through June 30, 2024, and the District shall apply the same in full satisfaction of the County's proportionate share of the District's outstanding contracts with the United States and its share of any notes, bonds or other debt or revenue obligations of the District.
 - ii. From and after the effective date of the County's withdrawal, the County shall be relieved of all taxes, assessments, and charges levied by the District, and the County shall have no remaining obligation to pay any share of any amount due and owing by the District under any contract with the United States or any note, bond or other debt or revenue obligation of the District.

- b. It is hereby acknowledged and agreed that the terms and conditions for withdrawal set forth in this Section are sufficient to mitigate any adverse impacts occasioned by the withdrawal of the County from the District, and are fair, reasonable, and in the best interest of the District and the County.
3. District Contribution for Approved Shovel Ready Water Projects. District agrees to contribute up to a total of \$5,000,000 towards one or more shovel ready water projects which meet the criteria in this Section set forth below and approved by the District on or before December 31, 2023. The District agrees to contribute up to a total of \$2,500,000 towards one or more shovel ready water projects which meet the criteria in this Section set forth below and approved by the District between January 1, 2024 through December 31, 2024. Any contributions for shovel ready water projects approved by the District on or before December 31, 2023 will apply to the contributions approved by the District between January 1, 2024 and December 31, 2024. As an illustrative example, if a \$200,000 shovel ready water project is approved by the District before December 31, 2023, then \$2,300,000 would be available for one or more shovel ready water projects which meet the criteria in this Section set forth below and approved by the District between January 1, 2024 through December 31, 2024. As of January 1, 2025, the District's financial contribution obligation under this Section will cease.
 - a. A water project qualifies as a shovel ready water project under this Section if it meets all of the following requirements:
 - i. Each water project is approved in writing by the County Commission; and
 - ii. Each water project is consistent with the intent and purposes of water conservancy districts in Utah Code Section 17B-2a-1002; and
 - iii. Each water project is completely located within the boundaries of Sanpete County, Utah; and
 - iv. Each water project receives matching funds of 25% from sources outside of the District and such sources provide a written commitment letter to the District; and
 - v. Each water project is entitled/permitted and ready to be developed; and
 - vi. Each water project has completed all due diligence, including but not limited to the following:
 1. Environmental studies and soil analysis, if applicable; and

2. Environmental permits, if applicable; and
 3. Infrastructure and design work, if applicable; and
 4. Zoning compliance, if applicable; and
- vii. Each water project is compliant with local, state and federal regulations; and
 - viii. Each water project has clear title so as to expedite the transfer of ownership, if applicable; and
 - ix. Each water project is construction ready and a copy of all bid documents depicting timing and costs are provided to the District; and
 - x. Each water project indemnifies and holds the District harmless from liability related to the water project and such indemnification is in a form acceptable to the District; and
- b. Itemized invoices must be provided to District detailing actual costs for acquisition, design, and construction of each water project before payments are made; and
 - c. District agrees to pay within 30 days of receiving acceptable itemized invoices establishing the validity of the direct costs of each water project approved by the District consistent with this Agreement; and
 - d. If there are multiple shovel ready water projects which meet the criteria in this Agreement and if the total amounts of all of those shovel ready water projects exceed the amount of the District's contribution as set forth in this Agreement, then the County Commission shall set forth in writing to the District the order of priority of approval of the shovel ready water projects to receive the District's contribution.
 - e. Each water project must begin construction on or before the applicable deadline in this Agreement (i.e. December 31, 2023 or December 31, 2024); and
 - f. Each water project must be diligently pursued and completed within two (2) years of commencing construction; and
 - g. The total maximum amount of all payments for water projects from the District shall not exceed the total amounts set forth in this Agreement. Any total costs for all water projects which exceed the total amounts set forth in this Agreement shall

not be the District's responsibility. Any contribution amounts for water projects not utilized as set forth in this Agreement shall be retained by the District. The use of County, irrigation companies, canals companies, or water companies' equipment and/or employee time for water projects shall not be reimbursable by the District; and

- h. District and its designees, upon reasonable notice reserves the right to enter upon the location of the water projects to inspect the same to verify compliance with this Agreement; and
 - i. Except as otherwise expressly stated in this Agreement, all expenses for water projects located within Sanpete County, Utah shall not be the responsibility of the District.
4. Full and Final Settlement of Claims. Satisfaction of the terms and conditions set forth in this Agreement shall constitute the full and final settlement of any and all claims, obligations, and responsibilities which either Party may have had or now have in connection with or arising out of: (i) the County's inclusion within the boundaries of the District, (ii) any water or other projects accomplished or otherwise anticipated in connection with its inclusion in the District, (iii) the County's obligation to pay their proportionate share of any outstanding District bond or other obligation, pursuant to Utah Code Sections 17B-1-510 and 17B-1-511, and (iv) the withdrawal of the County from the District and all proceedings related thereto.
5. Waiver of Payment of Costs and Expenses. The District hereby waives the requirement under the Withdrawal Policy that the County pay all costs and expenses incurred by the District in reviewing, considering, and implementing the withdrawal of the County from the District.
6. Binding Effect: Amendment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. This Agreement cannot be altered or amended except pursuant to an instrument in writing executed by the Parties.
7. Severability. If any provision of this Agreement is held to be void or unenforceable, in whole or in part: (i) such holding shall not affect the validity and enforceability of the remainder of this Agreement, including any other provision, paragraph or subparagraph, and (ii) the Parties agree to attempt in good faith to reform such void or unenforceable provision to the extent necessary to render such provision enforceable and to carry out its original intent.
8. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all other prior agreements,


understandings, statements, representations and warranties, oral or written, express or implied, by and among the Parties and their respective affiliates, representatives and agents in respect of the subject matter hereof.

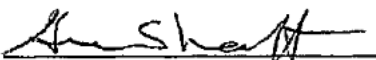
9. Construction. This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.
10. Further Action. The Parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.
11. Warranty of Authority. The individuals executing this Agreement on behalf of the Parties hereby warrant that they have the requisite authority to execute this Agreement on behalf of the respective Parties and that the respective Parties have agreed to be and are bound hereby.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

CENTRAL UTAH WATER CONSERVANCY DISTRICT


ATTEST:

By: 
Acting Chair, Board of Trustees


Secretary

SANPETE COUNTY, UTAH

ATTEST:

By: 
Chair, Board of County Commissioners

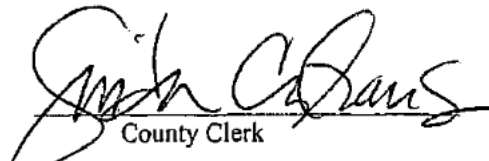

County Clerk

EXHIBIT B
(Legal Description of Sanpete County, Utah)

The geographic boundaries of Sanpete County are described as follows: Beginning at the intersection of the line between townships 11 and 12 south and the section line running north and south through the middle of range 6 east, Salt Lake meridian, thence west along the township line between townships 11 and 12 south to the northwest corner of township 12 south, range 3 east; thence south on range line between ranges 2 and 3 east to the southwest corner of section 6, township 12 south, range 3 east; thence east on section line to the northwest corner of section 8; thence south on section line to the southwest corner of section 8; thence east on section line to the southeast corner of section 9; thence south on section line to the southwest corner of section 27; thence west on section line to the northwest corner of section 31; thence south on the range line between ranges 2 and 3 east, to the southwest corner of township 12 south, range 3 east; thence west on township line between townships 12 and 13 south to the northeast corner of section 2, township 13 south, range 2 east; thence south on section line to the quarter corner common to sections 1 and 2; thence west on the quarter section line through said section 2 to quarter corner common to sections 2 and 3; thence south on section line to the southwest corner of section 2; thence west on section line to quarter corner common to sections 3 and 10; thence south on quarter line through section 10 to the quarter corner common to sections 10 and 15; thence west on section line to the northwest corner of section 16; thence south on section line to the northwest corner of section 4, township 16 south, range 2 east; thence west on township line between townships 15 and 16 south, range 2 east to the northwest corner of township 16 south, range 2 east; thence south on range line between ranges 1 and 2 east to the southeast corner of section 25, township 16 south, range 1 east; thence west on the section line to the northwest corner of section 34, township 16 south, range 1 west; thence south on section lines to the southwest corner of section 34; thence west on the township line to the southwest corner of section 32, township 16 south, range 1 west, said section corner being about half a mile northerly of the Upper Bluffs or Painted Rocks on the Sevier River; thence south on section line to the southwest corner of section 8, township 17 south, range 1 west; thence west on section line to the northwest corner of lot 11 in section 18, township 17 south, range 1 west; thence south on the range line between ranges 1 and 2 west and between ranges 1-1/2 west and 2 west to a point west of the point where the road between Gunnison and Salina crosses Willow Creek at the forks of said creek; thence east to the east bank of the Sevier River; thence southerly along the east bank of said river to a point one mile north of the fourth standard parallel south; thence east to the line between ranges 5 and 6 east; thence north to the third standard parallel south; thence east to the line running north and south through the middle of range 6 east; thence north to the point of beginning.