

TOWN COUNCIL  
TOWN OF GYPSUM, STATE OF COLORADO

RESOLUTION NO. 5 (SERIES 2021)

A RESOLUTION APPROVING THE SECOND AMENDMENT TO THE RAW WATER  
SERVICE AGREEMENT DATED MARCH 13, 2018 BETWEEN THE TOWN OF GYPSUM  
AND GLOBAL ASSET RECOVERY, LLC

WHEREAS, the Town of Gypsum, Colorado (“Town”), is a home rule municipality of the State of Colorado, duly organized and existing under Article XX of the Colorado Constitution and the Gypsum Home Rule Charter effective October 21, 1982; and

WHEREAS, the members of the Town Council (“Council”) have been duly elected, chosen and qualified; and

WHEREAS, the Town and Global Asset Recovery, LLC (“Global”) entered into a Raw Water Service Agreement (the “Agreement”) dated March 13, 2018 and recorded with the Eagle County Clerk and Recorder at Reception No. 201805305; and

WHEREAS, the Town and Global amended the Agreement on October 11, 2019 (“First Amendment”) and recorded it with the Eagle County Clerk and Recorder at Reception No. 201919595; and

WHEREAS, the First Amendment of the Agreement required Global to diligently pursue approval from the Colorado Department of Public Health and Environment (“CDPHE”) for an onsite wastewater treatment plant (“WWTP”) and pumpback system to process wastewater from domestic and commercial indoor water uses at the River Dance RV Park. The First Amendment of the Agreement also required Global to install and operate the WWTP and pump back system by December 31, 2020.

WHEREAS, the First Amendment of the Agreement provides the parties will in good faith negotiate an extension to the December 31, 2020 deadline, if circumstances beyond the control of Global prevent it from obtaining state approvals with sufficient time to construct the WWTP by December 31, 2020.


WHEREAS, Global received site approval in 2019 and design approval from CDPHE on September 14, 2020.

WHEREAS, due to the amount of time necessary to obtain approval from CDPHE approval, Global requested a Second Amendment to the Agreement to extend the deadline to install and operate the WWTP and pump back system to December 31, 2021. A copy of the Second Amendment to the Agreement is attached as **Exhibit A**.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Gypsum, Colorado, that the Second Amendment to the Agreement is hereby approved.

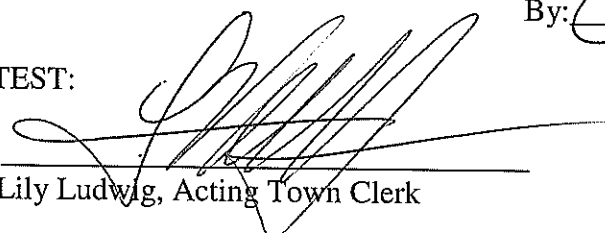
Approved and Resolved this 12 day of January 2021 at a regular meeting of the Town Council of the Town of Gypsum, Colorado by a vote of 7 in favor and 0 against.

TOWN OF GYPSUM

By:   
Stephen Carver, Mayor

ATTEST:

By:

  
Lily Ludwig, Acting Town Clerk

**EXHIBIT A**

**Second Amendment to Raw Water Service Agreement with  
Global Asset Recovery, LLC**

**SECOND AMENDMENT TO RAW WATER SERVICE AGREEMENT DATED  
MARCH 13, 2018 BETWEEN THE TOWN OF GYPSUM AND GLOBAL ASSET  
RECOVERY, LLC**

THIS SECOND AMENDMENT (“Amendment”) is made to the Raw Water Service Agreement dated March 13, 2018 by and between the Town of Gypsum, Colorado, a home rule municipal corporation, (“Town”), whose address is PO Box 130, 50 Lundgren Blvd., Gypsum, CO 81637 and Global Asset Recovery, LLC (“River Dance”), whose address is 6530 Constitution Drive, Fort Wayne, IN 46804.

**RECITALS**

WHEREAS, the Town and River Dance entered into the Raw Water Service Agreement dated March 13, 2018, as amended on October 11, 2019 (“Agreement”); and

WHEREAS, the Town filed Case No. 17CW3248, Water Division 5 and within which River Dance entered opposition. The water court entered a stipulated decree in Case No. 17CW3248 on June 14, 2020; and

WHEREAS, River Dance has requested to extend the deadline for completion of the WWTP and Pump Back System.

**AGREEMENT**

1. The Parties amend and restate Paragraph 1.b. of the Agreement as follows:

Demands Anticipated for Domestic/Commercial Uses. River Dance anticipates that it will need up to 2.46 acre-feet (48.88 acre-feet of diversions x 0.05 depletion rate) of consumable consumptive use credits or replacement water, not to exceed 0.25 cfs to replace out of priority depletions for all commercial and domestic in-house or potable water uses of the Project (“Future Domestic Demand”). See **Tables 1 and 2.**

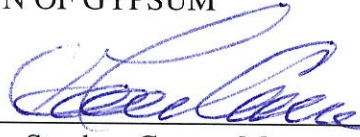
The Future Domestic Demand assumes that return flows from River Dance’s domestic and commercial indoor uses will be returned to the Eagle River by discharge and will be pumped back (“Pump Back System”) by River Dance from the to be constructed onsite wastewater treatment facility (“WWTP”) and released to the Eagle River at a location at or above the point of diversion, or in the case of the well field at or above the point of impact to the Eagle River during times when the Colorado Water Conservation Board’s instream flow water right decreed in Case No. 80CW124 is not being fully satisfied. River Dance will be solely responsible for all design, construction, permitting, operation, maintenance, and repair of the WWTP and Pump Back System.


River Dance agrees to have WWTP with the Pump Back System installed and operating by December 31, 2021. This requirement is within the approvals for the development issued by the Town. Until the WWTP and Pump Back System are installed, wastewater from the indoor uses will be disposed of by an onsite septic system with an assumed depletion rate of ten percent (10%). This onsite septic system has been approved for the development which currently exists. The ten percent depletion rate for the septic system will also be included into the augmentation plan decree for interim accounting purposes. *See Tables 1-A and 2-A* which are attached to the decree. River Dance is required to get CDPHE approval before it can begin construction of the WWTP. Site approval for the WWTP was obtained in 2019 and design approval was obtained on September 14, 2020. The Town will augment River Dance's indoor depletions up to the Total Consumptive Use Demand described in Paragraph 1.d. below, with an assumed ten percent depletion rate to accommodate River Dance's construction of these facilities during the pendency of the design approval permit process as long as River Dance is using its best efforts to diligently construct the WWTP and Pump Back System. Thereafter, the Town will augment and account for River Dance's indoor depletions up to the Total Consumptive Use Demand described in Paragraph 1.d. below, with an assumed depletion rate of five percent. In the event that circumstances beyond the control of River Dance prevent River Dance from finalizing government approvals in sufficient time to build and operate the WWTP by December 31, 2021, then the parties will in good faith re-negotiate the time frame in this paragraph and amend the Raw Water Agreement at that time. If for reasons outside of River Dance's control, River Dance encounters delays in bringing the WWTP online by December 31, 2021, the Town will continue to adhere to its contract requirements and operate the augmentation plan consistent with the terms and conditions of the stipulated decree in Case No. 17CW3248 and the Total Consumptive Use Demand limits described in Paragraph 1.d. below.

2. Except as expressly modified herein, this Amendment does not otherwise amend the Agreement.
3. The Parties may sign this Amendment in counterparts.

Approved and Resolved this 12 day of January 2021 at a regular meeting of the Town Council of the Town of Gypsum, Colorado by a vote of 7 in favor and 0 against.

TOWN OF GYPSUM

By:   
Stephen Carver, Mayor

ATTEST:   
By: \_\_\_\_\_  
Lily Ludewig, Acting Town Clerk

GLOBAL ASSET RECOVERY, LLC  
A Indiana limited liability company

By Robert A. Baker  
Robert A. Baker, Manager

STATE OF INDIANA        )  
  ) SS.  
COUNTY OF Allen        )

The foregoing instrument was acknowledged before me this 30 day of November, 2020, by Robert A. Baker, as manager of Global Asset Recovery, LLC, a Indiana limited liability company.

Witness my hand and official seal.

My commission expires: 11/18/2021

N.P. 0649143

Michael S Hollis  
Notary Public

