

**FIRST AMENDMENT TO PAYMENT, PROPERTY EXCHANGE AND  
SETTLEMENT AGREEMENT**

**(Public Service Company of Colorado – Zuni Power Plant)**

**THIS FIRST AMENDMENT TO PAYMENT, PROPERTY EXCHANGE AND SETTLEMENT AGREEMENT** ("Amendment") is made as of the Effective Date (defined below), by and between **PUBLIC SERVICE COMPANY OF COLORADO**, a corporation duly organized and existing under the laws of the State of Colorado ("Company"), whose address is 1800 Larimer Street, Suite 1100, Denver, Colorado, 80202-5533, and the **CITY AND COUNTY OF DENVER**, a municipal corporation existing under Article XX of the Constitution of the State of Colorado and the Home Rule Charter of the City and County of Denver ("City"), whose address is 1437 Bannock Street, Denver, Colorado, 80202.

**WHEREAS**, the City and Company entered into that certain Payment, Property Exchange and Settlement Agreement (Public Service Company of Colorado – Zuni Power Plant), dated November 3, 2009, City Clerk File No. 09-1026 ("Agreement"); and

**WHEREAS**, the City and Company desire to amend the Agreement as more particularly set forth in this Amendment.

**NOW, THEREFORE**, in consideration of the promises and of the mutual agreements set forth herein, the benefits of which will inure to each party and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. All initially capitalized terms not otherwise defined in this Amendment shall have the meanings ascribed to them in the Agreement.

2. Section 1.7 of the Agreement is deleted in its entirety and replaced with the following:

1.7 Project Coordination. The Company and the City shall work together to produce a schedule for completing the South Platte Restoration Work - Zuni Reach and Other Removal and Alteration Work that is efficient and effective for both Parties, but in all events the South Platte Restoration Work - Zuni Reach shall be completed on or before January, 1, 2012.

3. Section 3.3(b) of the Agreement is hereby amended to add the following sentence at the conclusion of the Section: "The Company and City may amend or extend the term of TCE East with respect to parcel LD08-3 (as shown on Exhibit E) pursuant to the terms of a separate letter executed by the Manager of Public Works and an authorized representative of the Company."

4. The Parties represent that the persons who have affixed their signatures hereto have all necessary and sufficient authority to bind the respective Parties.

5. Company consents to the use of electronic signatures by the City. The Amendment, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Amendment solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Amendment in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

6. The Effective Date of this Amendment shall be June 15, 2011.

7. All other terms and provisions of the Agreement remain in full force and effect and any use of the term "Agreement" shall be deemed to include this Amendment.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.**

IN WITNESS WHEREOF, the parties hereto have here unto set their hand and affix their seals as of the day first above written.

**ATTEST:**

**CITY AND COUNTY OF DENVER:  
a Colorado Municipal Corporation**

\_\_\_\_\_  
Clerk and Recorder, *Ex-Officio Clerk* of the  
City and County of Denver

\_\_\_\_\_  
Mayor

**RECOMMENDED AND APPROVED:**

\_\_\_\_\_  
Manager of Public Works

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

City Attorney for the City and County of Denver

By: \_\_\_\_\_  
Manager of Finance

By: \_\_\_\_\_  
Assistant City Attorney

Contract Control No. \_\_\_\_\_

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

**"CITY"**

