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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re:

Chapter 11 Proceedings

FARWEST PUMP COMPANY, an
Arizona corporation

Case No. 4:17-bk-11112-BMW

Debtor.

**SECOND AMENDED PLAN OF
REORGANIZATION DATED
JUNE 12, 2018**

Article I. SUMMARY OF PLAN

This Plan of Reorganization (the “**Plan**”) under Chapter 11 of the Bankruptcy Code (the “**Code**”) proposes to pay creditors of FARWEST PUMP COMPANY, the debtor and debtor in possession (“**Debtor**”) from an infusion of capital, cash flow from operations, sale of assets, litigation proceeds, or other sources of future income.

This Plan provides for 4 classes of secured claims, and 3 classes of unsecured claims. Unsecured creditors holding allowed claims will receive distributions, which the proponent of this Plan has valued at, at least 30 cents on the dollar. This Plan also provides for the payment of administrative and priority claims in full in accordance with the Bankruptcy Code.

All creditors and equity security holders should refer to Articles III through VI of this Plan for information regarding the precise treatment of their claim. A disclosure statement that provides more detailed information regarding this Plan and the rights of creditors and equity security holders has been circulated with this Plan. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)**

Article II. CLASSIFICATION OF CLAIMS AND INTERESTS

Class	Description of Class	Impaired (Y/N)	Entitled to Vote (Y/N)
1	All allowed claims entitled to priority under § 507 of the Code (except administrative expense claims under § 507(a)(2), and priority tax claims under § 507(a)(8)).	Y	Y
2	Secured claims held or serviced by UMB Bank NA, to the extent allowed as a secured claim under § 506 of the Code.	Y	Y
3	Secured claims held or serviced by Bank of the West, to the extent allowed as a secured claim under § 506 of the Code.	Y	Y
4	Secured claims of Flaska JCB to the extent allowed as a secured claim under § 506 of the Code.	Y	Y
5	Secured claims held or serviced by Ford Motor Credit, to the extent allowed as a secured claim under § 506 of the Code.	Y	Y
6	Secured claims held or serviced by David Leonard to the extent allowed as a secured claim under § 506 of the Code.	Y	Y
7	All unsecured claims that are allowed in an amount less than \$3,000 or such greater amount the Court determines is reasonable for administrative convenience under Code § 1122(b), and any unsecured claims held by Unsecured Creditor that elects to reduce its claim to \$3,000 and accept Class 6 treatment in full satisfaction of its Claim in lieu of treatment in Classes 7.	Y	Y
8	All unsecured claims allowed under § 502 of the Code.	Y	Y
9	All allowed equity interests in the Debtor.	Y	N

1 **Article III. TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS, U.S.**
2 **TRUSTEE’S FEES, AND PRIORITY TAX CLAIMS**

3 Section 3.01 Unclassified Claims. Under section §1123(a)(1), administrative expense
4 claims, and priority tax claims are not in classes.

5 Section 3.02 Administrative Expense Claims. Each holder of an administrative expense
6 claim allowed under § 503 of the Code will be paid in full on the effective
7 date of this Plan (as defined in Article VII), in cash, or upon such other
8 terms as may be agreed upon by the holder of the claim and the Debtor.

9 Section 3.03 Priority Tax Claims. Each holder of a priority tax claim will be paid in equal
10 monthly installments so that they are paid in full within plus statutory
11 interest within 60 months of the Petition Date.

12 Section 3.04 United States Trustee Fees. All fees required to be paid by 28 U.S.C.
13 §1930(a)(6) (“**U.S. Trustee Fees**”) will accrue and be timely paid until the
14 case is closed, dismissed, or converted to another chapter of the Code. Any
15 U.S. Trustee Fees owed on or before the effective date of this Plan will be
16 paid on the effective date.

17 **Article IV. TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN**

18 Section 4.01 Class 1- Priority Claims.

19 (a) Description. Class 1 consists of All allowed claims entitled to priority under § 507
20 of the Code (except administrative expense claims under § 507(a)(2), and priority
21 tax claims under § 507(a)(8)).

22 (b) Treatment. Class 1 is unimpaired by this Plan, and each holder of a Class 1 Priority
23 Claim will be paid in full, in cash, upon the later of the effective date of this Plan,
24 or the date on which such claim is allowed by a final non-appealable order.

25 Section 4.02 Class 2- Secured Claims of UMB.

26 (a) Description. Class 2 consists of the claims of UMB to the extent allowed under
Code § 506 arising from that certain loan dated January 6, 2015 and secured by the
following Collateral: 2015 Kenworth Chassis VIN #1 NKDX4TX8FR975278 with
FOREMOST Model DR12/26P-80/24H-900 DUAL ROTARY DRILL Serial
#142711 and also including all the following, whether now owned or hereafter
acquired whether now existing or hereafter arising, and wherever located: (A) All
accessions, attachments, accessories , replacements of and additions to any of the
collateral described herein, whether added now or later. (B) All products and
produce of any of the property described in this Collateral section. (C) All
accounts, general intangibles, instruments, rents, monies, payments, and all other
rights, arising out of a sale, lease, consignment or other disposition of any of the
property described in this Collateral section. (D) All proceeds (including insurance

1 proceeds) from the sale, destruction, loss, or other disposition of any of the
2 property described in this Collateral section, and sums due from a third party who
3 has damaged or destroyed the Collateral or from that party's insurer, whether due to
4 judgment, settlement or other process. (E) All records and data relating to any of
5 the property described in this Collateral section, whether in the form of a writing,
6 photograph, microfilm, microfiche, or electronic media, together with all of
7 Grantor's right, title, and interest in and to all computer software required to utilize,
8 create, maintain, and process any such records or data on electronic media.

- 9 (b) Treatment. Class 2 is impaired by this Plan. The Debtor or Reorganized Debtor
10 will to make full payments to UMB every month beginning in June 2018.
11 Beginning in June 2018, the Debtor will pay UMB's secured claim in full in 32
12 equal monthly payments of principal and interest calculated at 5% per annum based
13 on a 360-day year. The Debtor's monthly payments will be approximately
14 \$19,765.75. Furthermore, on the Effective Date of any Chapter 11 plan proposed
15 by the Debtor, the Debtor agrees to pay UMB cash equal to 1% of the Effective
16 Date Balance as a restructuring fee. The holder of the allowed Class 2 Claim will
17 retain its lien pursuant to the terms of its pre-bankruptcy security agreement, except
18 that the terms of such security agreement, and all pre-bankruptcy loan documents
19 will be deemed modified to incorporate the new maturity date and modified
20 repayment terms, and any and all defaults arising prior to the Effective Date will be
21 deemed cured.

22 Section 4.03 Class 3 Secured Claims of Bank of the West.

- 23 (a) Description. Class 3 consists of the allowed claims of Bank of the West to the
24 extent allowed under Code § 506 secured by two 2015 JCB 3CX-14 Backhoe
25 Loaders.
26 (b) Treatment. Class 3 is impaired by this Plan. Prior to the Confirmation Hearing, the
Debtor will sell the JCB Backhoe that is currently in the possession of Flaska JCB,
Inc. under a garageman's lien pursuant to a motion brought under Code § 363(f),
with liens attaching to the proceeds in order of priority. Holder of the Class 3 claim
will release its lien on the proceeds in exchange for proceeds equal to half of its
claim. On the Effective Date (or the date on which such claim is allowed by a final
non-appealable order) the holder of the allowed Class 3 Claim will credit the
Debtor any adequate protection payments made by the Debtor pursuant to the
amortization schedules under the original loan documents, and any sale proceeds to
arrive at an Effective Date Balance owed. On the Effective Date the Debtor will
pay the holder of the Class 3 Claim cash equal to 1 % of the Effective Date
Balance. Beginning the first business day of the first month commencing more
than 30 days after the Effective Date, the allowed Class 3 Claim will be paid in
cash in full through equal monthly payments of principal so that the claim is paid

1 in full no later than September 1, 2020. The holder of the allowed Class 3 Claim
2 will retain its lien pursuant to the terms of its pre-bankruptcy security agreement,
3 except that the terms of such security agreement, and all pre-bankruptcy loan
4 documents will be deemed modified to incorporate the new maturity date and
modified repayment terms, and any and all defaults arising prior to the Effective
Date will be deemed cured.

5 Section 4.04 Class 4- Secured Claim of Flaska JCB

- 6 (a) Description. Class 4 consists of the secured claim of Flaska JCB to the extent
7 allowed under Code § 506 arising from its claims against the Debtor to the secured
8 by a garageman's lien against that certain JCB Backhoe in its possession for
repairs. Flaska JCB's lien is junior in priority to the lien of Bank of the West in
Class 3.
- 9 (b) Treatment. Class 4 is impaired under the Plan. Prior to the Confirmation Hearing,
10 the Debtor will sell the JCB Backhoe pursuant to a motion brought under Code §
11 363(f), with liens attaching to the proceeds in order of priority subject to the release
price provisions contained in Section 4.03 above.

12 Section 4.05 Class 5- Secured of Ford Motor Credit.

- 13 (a) Description. Class 5 consists of the allowed claims of Ford Motor Credit secured
14 by the following vehicles:

<u>Collateral</u>	<u>Value</u>	<u>Loan Balance</u> ¹
1) 2015 Ford F250, VIN: 1FT7X2BT8FEC36260	\$15,158.13	\$14,954.88
16 2) 2015 Ford F350, VIN: 1FT8W3BT4FEA34299	\$23,877.88	\$24,685.00
17 3) 2014 Ford F150, VIN: 1FTVW1EF7EKG09881	\$13,260.69	\$12,795.99
18 4) 2014 Ford F250, VIN: 1FT7X2BT2EEB25864	\$15,616.81	\$14,954.72
19 5) 2015 Ford F350, VIN: 1FT8W3BT1FEC54192	\$24,568.48	\$24,265.90
20 6) 2015 Ford F350, VIN: 1FT8W3BT0FEC97907	\$32,856.70	\$32,489.66

- 21 (b) Treatment. Class 5 is impaired by this Plan. On the Effective Date (or the date on
22 which such claim is allowed by a final non-appealable order) the holder of the
allowed Class 5 Claim will credit the Debtor the adequate protection payments
23 made by the Debtor pursuant to the amortization schedules provided for under each
of the original six loans to arrive at the Effective Date balance owed. On the
24 Effective Date the Debtor will pay the holder of the Class5 Claim cash equal to 1
% of the Effective Date Balance. The maturity date of each of the six loans will be
25 extended by 6 months and the monthly payments will be adjusted so that the

26 ¹ As of the petition date.

1 Effective Date Balance of loan Class 5 claim is paid in full in equal installments of
2 principal and interest by the new maturity date. The holder of the allowed Class 5
3 Claim will retain its lien pursuant to the terms of its pre-bankruptcy security
4 agreement, except that the terms of such security agreement, and all pre-
5 bankruptcy loan documents will be deemed modified to incorporate the new
6 maturity date and modified repayment terms, and all defaults arising prior to the
7 Effective Date will be deemed cured.

8 Section 4.06 Class 6- Secured Claims of David Leonard.

9 (a) Description. Class 6 consists of the allowed claims of attorney David Leonard that
10 are secured by an assignment of up to \$400,000 proceeds from the Debtor's Claims
11 against Secura Insurance Company under crime insurance policies issued to the
12 Debtor.

13 (b) Treatment. Class 6 is impaired by this Plan. The Debtor will seek to avoid David
14 Leonard's security interest in the insurance proceeds under 11 U.S.C. § 544. If
15 successfully avoided, the holder to the allowed Class 6 claim will be treated as a
16 general unsecured creditor. If not avoided, then holder of the allowed Class 6
17 Claim will be paid solely from its collateral without any recourse against the
18 Debtor or Reorganized Debtor.

19 Section 4.07 Class 7- Administrative Convenience Unsecured Claims.

20 (a) Description. Class 7 consists of all unsecured claims that are allowed in an amount
21 less than \$3,000 or such greater amount the Court determines is reasonable for
22 administrative convenience under Code § 1122(b), and any unsecured claims held
23 by an Unsecured Creditor that elects to reduce its claim to \$3,000 and accept Class
24 7 treatment in full satisfaction of its Claim in lieu of treatment in Classes 8.

25 (b) Treatment. Class 7 is impaired by this Plan. Holders of allowed Class 7 claims will
26 be paid the lesser of its allowed claim or \$3,000 on the Effective Date.

Section 4.08 Class 8-General Unsecured Claims.

(a) Description. Class 8 consists of all unsecured claims allowed under § 502 of the
Code that are not otherwise classified under this Plan.

(b) Treatment. Class 8 is impaired by this Plan. Holders of allowed Class 8 claims will
be paid a pro rata share of the annual distributions from the Unsecured Claim Fund
each April 15th until the earlier of (1) the date all unsecured creditors are paid in
full, or (2) April 15, 2023.

Section 4.09 Class 9- Equity Interests.

(a) Description. Class 9 consists of the equity interests of Clark and Channa Vaught in
the Debtor.

1 (b) Treatment. Class 9 is impaired by this Plan. Holders of allowed Class 9 Interests
2 will receive nothing on account of those interests unless such holder of a Class 10
3 Interest contributes cash, or the equivalent of cash, on the Effective Date with a
4 value at least equal to 10% of the value of the Debtor's assets excluding Cash. The
5 Effective Date equity contribution must also be greater than 10% of the amount of the
6 allowed unsecured claims. Each holder of an allowed Class 9 Interest that contributes
7 cash to the Plan will receive a proportionate share of the membership interests in
8 the Reorganized Debtor.

6 **Article V. ALLOWANCE AND DISALLOWANCE OF CLAIMS**

7 Section 5.01 Disputed claim. A disputed claim is a claim that has not been allowed or
8 disallowed by a final nonappealable order, and as to which either:

- 9 (a) a proof of claim has been filed or deemed filed, and the Debtor or another party in
10 interest has filed an objection; or
11 (b) no proof of claim has been filed, and the Debtor has scheduled such claim as
12 disputed, contingent, or unliquidated.

12 Section 5.02 Delay of distribution on a disputed claim. No distribution will be made on
13 account of a disputed claim unless such claim is allowed by a final non-appealable order.

13 Section 5.03 Settlement of disputed claims. The Debtor will have the power and
14 authority to settle and compromise a disputed claim with court approval and compliance
15 with Rule 9019 of the Federal Rules of Bankruptcy Procedure.

15 **Article VI. PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED 16 LEASES**

17 Section 6.01 Assumed executory contracts and unexpired leases.

- 18 (a) The Debtor assumes, and if applicable assigns, the following executory contracts
19 and unexpired leases as of the effective date as described on Schedule 1 attached
20 hereto.
21 (b) Except for executory contracts and unexpired leases that have been assumed, and if
22 applicable assigned, before the effective date or under section 6.01(a) of this Plan,
23 or that are the subject of a pending motion to assume, and if applicable assign, the
24 Debtor will be conclusively deemed to have rejected all executory contracts and
25 unexpired leases as of the effective date. A proof of a claim arising from the
26 rejection of an executory contract or unexpired lease under this section must be
filed no later than 45 days after the date of the order confirming this Plan.

24 **Article VII. MEANS FOR IMPLEMENTATION OF THE PLAN**

25 Section 7.01 Conditions Precedent to Effective Date. No less than one business day prior
26 to the Effective Date the following transactions must have occurred:

1 (a) Establish Unsecured Claim Fund Account. The Debtors will establish a segregated
2 Unsecured Claim Fund Account. The Unsecured Claim Fund will be the sole
3 source of payment to Holders of Class 7 Claims.

4 (b) Funding of Equity Contribution by Class 8 Interest Holders. Channa and Clark
5 Vaught must have funded their equity contribution of at least \$140,000 to the
6 Debtor's DIP Operating Account.

7 Section 7.02 Operation and funding of Unsecured Claim Fund.

8 (a) Disbursements. The Debtor will disburse 100% of the funds on hand in the
9 Unsecured Claim's Fund Account on a pro-rata basis to the holders of allowed
10 Class 7 claims on the dates specified Section 4.07.

11 (b) Funding. The Debtor must make the following contributions to the Unsecured
12 Claims Fund:

13 1) Not later than the last business day of March 2019, the Reorganized Debtor must
14 deposit the greater of \$100,000 or Net Distributable Profits in Calendar Year
15 2018.

16 2) Not later than the last business day of March 2020, the Reorganized Debtor must
17 deposit the greater of \$75,000 or Net Distributable Profits in Calendar Year
18 2019.

19 3) Not later than the last business day of March 2021, the Reorganized Debtor must
20 deposit the greater of \$75,000 or Net Distributable Profits in Calendar Year
21 2020.

22 4) Not later than the last business day of March 2022, the Reorganized Debtor must
23 deposit the greater of \$75,000 or Net Distributable Profits in Calendar Year
24 2021.

25 5) Not later than the last business day of March 2023, the Reorganized Debtor must
26 deposit the greater of \$75,000 or Net Distributable Profits in Calendar Year
2022.

Section 7.03 Continued Existence and Vesting of Assets in Reorganized Debtor. The
Debtor will continue in existence after the Effective Date as a corporation,
with all the powers available to such entities under applicable law and
pursuant to their organizational documents in effect prior to the Effective
Date as such may be amended by the Plan, without prejudice to any right to
terminate such existence (whether by merger or otherwise) under applicable
law after the Effective Date. Except as otherwise provided in the Plan, on
and after the Effective Date, all property of the Debtor's Estates and any

1 property acquired by the Debtor or the Reorganized Debtor under the Plan
2 will vest in the Reorganized Debtor. On and after the Effective Date, the
3 Reorganized Debtors may operate their businesses and may use, acquire or
4 dispose of property, and compromise or settle any Claims or Membership
5 Interests, without supervision or approval of the Bankruptcy Court and free
6 of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than
7 those restrictions expressly imposed by the Plan or the Confirmation Order.

8 Section 7.04 Management of the Reorganized Debtor. Continued full time management
9 of the Debtor by Clark and Channa Crews-Vaught is essential to the
10 successful performance of the Plan. So, from and after the Effective Date,
11 the Reorganized Debtors will continue to be managed Clark and Channa
12 Crews-Vaught. Channa Crews-Vaught and Clark Vaught will be paid
13 compensation for professional services rendered (such as design or
14 engineering) equal to 35% of the fee paid by customers of the Debtor for
15 such services. For example, if a customer paid the Debtor \$100 for design
16 services rendered by Clark Vaught, Clark Vaught would be paid \$35 as
17 compensation for his services.

13 **Article VIII. GENERAL PROVISIONS.**

14 Section 8.01 Definitions. The definitions and rules of construction set forth in §§ 101
15 and 102 of the Code shall apply when terms defined or construed in the
16 Code are used in this Plan, and they are supplemented by the following
17 definitions:

- 18 (a) Net Distributable Profits means net profit after tax plus net proceeds from the sale
19 of any assets, plus net proceeds from any litigation, plus net proceeds from any
20 insurance claims, less funds reserved for taxes and working capital sufficient to pay
21 6 months operating expenses.

22 Section 8.02 Effective Date. The effective date of this Plan is the first business day
23 following the date that is 14 days after the entry of the confirmation order
24 that the conditions precedent to the Effective Date have occurred or have
25 been waived unless stayed by Court order. If, however, a stay of the
26 confirmation order is in effect on that date, the Effective Date will be the
first business day after the date on which the stay expires or is otherwise
terminated.

24 Section 8.03 Retention of Jurisdiction. Notwithstanding confirmation or the Effective
25 Date having occurred, the Court will retain and have full jurisdiction as is
26 allowed under Title 28 of the United States Code, the Bankruptcy Code, or
other applicable law to enforce the provisions, purposes, and intent of the

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Plan, including, without limitation, any proceedings which relate to:

- (a) Determination of the allowance, classification, or priority of claims, liens and interests;
- (b) Construing, implementing, enforcing, executing, or consummating the Plan, the Confirmation Order, any other order of the Court, any document attached as an exhibit to the Plan or contemplated by the Plan, or any other matter referred to in the Plan;
- (c) Determination of all matters that are pending before the Court in the Chapter 11 Case prior to the Effective Date or that may arise after the Effective Date;
- (d) Determination of any and all applications for allowance or requests for payment of administrative claims, including, without limitation, requests for allowance and payment of compensation and expense reimbursement of professional persons asserting administrative claims;
- (e) Determination of motions for the rejection, assumption, or assignment of executory contracts or unexpired leases, and determination of the allowance of any claims resulting from the rejection of executory contracts and unexpired leases;
- (f) Determination of all applications, motions, adversary proceedings, contested matters, and any other litigated matters instituted prior to the closing of the Chapter 11 Case;
- (g) Modification of the Plan pursuant to §1127 of the Bankruptcy Code and before substantial consummation thereof on the Effective Date, remedy of any defect or omission in the Plan or Confirmation Order, reconciliation of any inconsistency within the Plan so as to carry out its intent and purpose, and reconciliation of any inconsistency between the Plan and any loan documents, so as to carry out the intent and purpose of the loan documents;
- (h) Issuance of injunctions or taking such other actions or making such other orders as may be necessary or appropriate to restrain interference with the Debtor by any party with the Plan or its execution or implementation by any person
- (i) Issuance of such orders in aid of consummation of the Plan and the Confirmation Order, notwithstanding any otherwise applicable non-bankruptcy law, with respect to any person, to the full extent authorized by the Bankruptcy Code;
- (j) Ordering the assumption or rejection of executory contracts or leases to which the Debtor is a party, which have not previously been resolved.
- (k) Any determination necessary or appropriate under §505 of the Bankruptcy Code, or any other determination relating to priority tax claims, taxes, tax refunds, tax attributes, and tax benefits affecting the Debtor, its estate, or the Property through the end of the fiscal year in which the Effective Date occurs;
- (l) Entry of a final decree closing the Chapter 11 Case; and
- (m) Determination of such other matters, and for such other purposes, as may be provided in the Confirmation Order.

1 Section 8.04 Retention of Claims and Causes of Action. The Debtor will retain the right
2 to pursue any and all claims or causes of action identified as assets of his
estate on Schedule A/B, or arising under the Bankruptcy Code.

3 Section 8.05 Severability. If any provision in this Plan is determined to be
4 unenforceable, the determination will in no way limit or affect the
enforceability and operative effect of any other provision of this Plan.

5 Section 8.06 Binding effect. The rights and obligations of any entity named or referred to
6 in this Plan will be binding upon, and will inure to the benefit of the
successors or assigns of such entity.

7 Section 8.07 Captions. The headings contained in this Plan are for convenience of
8 reference only and do not affect the meaning or interpretation of this Plan.

9 Dated: June 15, 2018

10 PROPONENT:

11 FARWEST PUMP COMPANY

12
13 By _____
14 Channa Crews-Vaught
Its President

15
16 KASEY C. NYE, LAWYER PLLC

17
18 By /s/Kasey C. Nye, #20610
19 Kasey C. Nye
20 *Attorneys for Debtor*