



COLORADO

Colorado Water Conservation Board

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203
303-866-3441

October 20, 2021

Lower Poudre Augmentation Company
PO Box 104
Lucerne, CO 80646

Subject: Loan Contract No. CT2016-2005
Loan Compliance Confirmation

Attached for your records are the original documents relative to the agreement between the Lower Poudre Augmentation Company, and the Colorado Water Conservation Board (CWCB), Loan Contract No. CT2016-2005. The documents have been stamped "PAID IN FULL" denoting that the Company has satisfied the terms of the agreement in full.

Should you have any questions, please contact me at Telephone No. (303) 866-3441, ext 3205 or email at lauren.miremont@state.co.us. If we can be of any further assistance to you in the near future, please let us know.

Sincerely,

Lauren Miremont

Lauren Miremont, Finance Manager
Finance Section

Attachments

cc: CWCB Files



Incorporated Under the Laws of the State of Colorado

Nº

390

-2-

The Box Elder Ditch Company

CAPITAL STOCK, \$6,400.

SHARES, \$100 EACH.

This is to Certify, That COLORADO WATER CONSERVATION BOARD, lienholder; and THE LOWER
POUDRE AUGMENTATION COMPANY, equity owner

is the owner of two Shares in the Capital Stock of
The Box Elder Ditch Company, transferable only on the books of said Company, in person or by attorney,
on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, The said Company has caused this Certificate to be signed by its President and Secretary, and the
Corporate seal to be affixed, at Fort Collins, Colorado, this 5th day of January, 2016

Rosanna Harris

SECRETARY

Edwin C. McQueen, Jr.

Vice-President

For Value Received _____ *herby sell, assign and transfer*
unto _____

Shares of the Capital Stock represented by the within
Certificate, and do herby irrevocably constitute and appoint

to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.

Dated _____ *19* _____

In presence of _____

Stock Assignment

For value received, Lower Poudre Augmentation Company hereby sells, assigns and transfers to the Colorado Water Conservation Board, as lender, shares of stock represented by **Certificate No. 390** for **two (2) shares** in **Box Elder Ditch**. Lower Poudre Augmentation Company standing in the name of the undersigned on the books and records of the company do hereby appoint their attorney to irrevocably transfer the said stock on the books of the company with full power of substitution in the premises. This Stock Assignment shall be effective solely in the event of an issuance by a Colorado District Court of an order authorizing a foreclosure sale of said shares of stock pursuant to Rule 120 of the Colorado Rules of Civil Procedure.

(SEAL)

Lower Poudre Augmentation Company a
Colorado nonprofit corporation

By

Signature

Name

MICHAEL HUNGENBURG

Title

PRESIDENT

Date

12.10.2015

Attest

By

Signature

Name

KENTON H. BRUNNER

Title

SECRETARY

Date

12.10.2015

112

Deed of Trust

DATE: December 10, 2015
GRANTOR: LOWER POUDRE AUGMENTATION COMPANY
BENEFICIARY: COLORADO WATER CONSERVATION BOARD
COUNTY: LARIMER
PRINCIPAL LOAN AMOUNT: \$454,500.00
CONTRACT NUMBER: CT2016-2005
TERMS OF REPAYMENT: 1.85% per annum for 30 years
COLLATERAL: An undivided one-hundred percent (100%) interest in the water rights, purchased with the loan proceeds, consisting of 2.0 shares of Box Elder Ditch, Stock Certificate No. 390 and according to the Loan Contract Resolutions (APPENDICES 4a and 4b) dated December 10, 2015.

This indenture is between the Grantor, and the Public Trustee of the above referenced COUNTY, State of Colorado ("PUBLIC TRUSTEE"),

FACTUAL RECITALS

1. The GRANTOR has executed a PROMISSORY NOTE of even date and amount, set forth in the LOAN CONTRACT, for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY, with TERMS OF REPAYMENT and in accordance with the PROMISSORY NOTE or until loan is paid in full.
2. The GRANTOR is desirous of securing payment of the PRINCIPAL LOAN AMOUNT and interest of said PROMISSORY NOTE to the BENEFICIARY.

The GRANTOR, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said PUBLIC TRUSTEE in trust forever, the above described COLLATERAL.

To have and to hold the same, together with all appurtenances, in trust nevertheless, that in case of default in the payment of said PROMISSORY NOTE, or any part thereof, or the interest thereon, or in the performance of any covenants hereinafter set forth or in said PROMISSORY NOTE or LOAN CONTRACT, then upon the BENEFICIARY filing notice of election and demand for sale, said PUBLIC TRUSTEE, after advertising notice of said sale weekly for not less than four weeks in some newspaper of general circulation in said COUNTY, shall sell said COLLATERAL in the manner provided by law in effect at the time of filing said notice and demand, at public auction for cash, at any proper place designated in the notice of sale. Out of the proceeds of said sale, the PUBLIC TRUSTEE shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior encumbrance, with interest thereon and pay the principal and interest due on said PROMISSORY NOTE, rendering the overplus, if any, unto the GRANTOR; and after the expiration of the time of redemption, the PUBLIC TRUSTEE shall execute and deliver to the purchaser a deed to the COLLATERAL sold. The BENEFICIARY may purchase said COLLATERAL or any part thereof at such sale.

The GRANTOR covenants that at the time of the delivery of these presents, it is well seized of the COLLATERAL in fee simple, and has full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid. The GRANTOR fully

Appendix 6

Page 1 of 3

RECEPTION#: 20160005875, 02/01/2016 at
08:59:00 AM, 1 OF 3, R \$21.00 TD Pgs: 0
Angela Myers, Clerk & Recorder, Larimer
County, CO

waives and releases all rights and claims it may have in or to said COLLATERAL as a Homestead Exemption or other exemption, now or hereafter provided by law. The GRANTOR further covenants that the collateral is free and clear of all liens and encumbrances whatever and that the GRANTOR shall warrant and forever defend the COLLATERAL in the quiet and peaceable

possession of the PUBLIC TRUSTEE, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

Until payment in full of the indebtedness, the GRANTOR shall timely pay all taxes and assessments levied on the COLLATERAL; any and all amounts due on account of the principal and interest or other sums on any senior encumbrances, if any; and will keep the COLLATERAL insured in accordance with the requirements of the LOAN CONTRACT. In the event of the sale or transfer of the COLLATERAL, the BENEFICIARY, at its option, may declare the entire balance of the note immediately due and payable.

In case of default in any of said payments of the principal or interest, according to the terms of said PROMISSORY NOTE or LOAN CONTRACT, by the GRANTOR, its successors or assigns, then said principal sum hereby secured, and interest thereon, may at once, at the option of the BENEFICIARY, become due and payable, and the said COLLATERAL be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the PUBLIC TRUSTEE, an attorney's fee in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the PUBLIC TRUSTEE as a part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

It is further understood and agreed, that if a release or a partial release of this DEED OF TRUST is required, the GRANTOR, its successors or assigns will pay the expense thereof; that all the covenants and agreements contained herein and in the PROMISSORY NOTE and LOAN CONTRACT shall extend to and be binding upon the successors or assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Executed the day and date first written above.

Lower Poudre Augmentation Company,
a Colorado nonprofit corporation

By *Myly Hunsby*

NOTARY REQUIRED

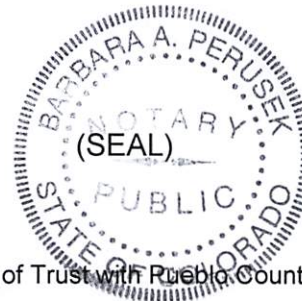
County of WELD)
) ss
State of Colorado)

The foregoing instrument was acknowledged before me this 10th day of DECEMBER 2015, by
MICHAEL KENTON
HUNGENBURG (Name) and BRUNNER (Name), as PRESIDENT (Title) and SECRETARY (Title),
respectively, of the Lower Poudre Augmentation Company.

Witness my hand and official seal.

Barbara A. Perusek Notary Public

My commission expires 03.13.2017



(Colorado Water Conservation Board will record Amendment to the Deed of Trust with Pueblo County.)

PROMISSORY NOTE

Date: December 10, 2015
Borrower: Lower Poudre Augmentation Company
Principal Amount: \$454,500.00
Interest Rate: 1.85% per annum
Term of Repayment: 30 years
Contract Number: CT2016-2005
Loan Payment: \$19,877.23
Payment Initiation Date*: March 1, 2016
Maturity Date*: March 1, 2046

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE.
2. Principal and interest shall be payable in annual equal payments as set forth in "Loan Payment" above, with the first payment due and payable one year from the Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT, DEED OF TRUST, AND STOCK ASSIGNMENT ("SECURITY INSTRUMENTS") of even date and amount herewith and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and SECURITY

PAID IN FULL

INSTRUMENTS grant additional rights to the CWCB, including the right to accelerate the maturity of this PROMISSORY NOTE in certain events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the SECURITY INSTRUMENTS securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this PROMISSORY NOTE.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Lower Poudre Augmentation
Company, a Colorado nonprofit corporation

(S E A L)

By 
Signature

Attest:

NAME: MICHAEL HUNGENBURG

TITLE: PRESIDENT

DATE: 12.10.2015

By 
Signature

NAME: KENTON H. BRUNNER

TITLE: SECRETARY

DATE: 12.10.2015

PAID IN FULL

RESOLUTIONS OF THE SHAREHOLDERS OF LOWER POUDRE AUGMENTATION COMPANY

The Shareholders of Lower Poudre Augmentation Company (Company), at a Shareholders' meeting held December 10, 2015, at Lucerne, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of Box Elder Water Rights Purchase Project in the amount of \$454,500.00 or such actual amount, more or less, as may be needed by the Company and available from the CWCB including the CWCB loan origination fee of 1% of the loan amount.

At said meeting, the Shareholders charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the Board of Directors and officers, RESOLVED as follows:

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$454,500.00, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Company's well augmentation fee assessment revenues backed by an assessment covenant and an undivided one hundred percent (100%) interest in the water shares purchased with the loan proceeds as COLLATERAL for the loan and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and DEED OF TRUST, necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

THE UNDERSIGNED, RESPECTIVELY, THE PRESIDENT AND SECRETARY OF THE COMPANY, HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE COMPANY'S SHAREHOLDERS DULY CALLED AND HELD AS ABOVE RECITED, PURSUANT TO THE COMPANY'S BYLAWS, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 10 DAY OF December 2015

(S E A L)

ATTEST:

By

Signature of Corporate Secretary

DATE: 12.10.2015

By

Signature

NAME: MICHAEL HUNGENBERG

TITLE: PRESIDENT

DATE: 12.10.2015

RESOLUTIONS OF THE BOARD OF DIRECTORS OF LOWER POUDDRE AUGMENTATION COMPANY

The Board of Directors of Lower Poudre Augmentation Company (Company), at a meeting held December 10, 2015, at Lucerne, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of construction of Box Elder Water Rights Purchase Project in the amount of \$454,500.00 or such actual amount, more or less, as may be needed by the Company and available from the CWCB including the CWCB loan origination fee of 1% of the loan amount.

At said meeting, the Board charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the President and Corporate Secretary, RESOLVED as follows.

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$454,500.00, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Company's well augmentation fee assessment revenues backed by an assessment covenant and an undivided one hundred percent (100%) interest in the water shares purchased with the loan proceeds as COLLATERAL for the loan and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and DEED OF TRUST, necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

THE UNDERSIGNED, THE PRESIDENT AND THE CORPORATE SECRETARY HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE COMPANY'S BOARD OF DIRECTORS DULY CALLED AND HELD AS ABOVE RECITED, PURSUANT TO THE COMPANY'S BYLAWS, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 10th DAY OF DECEMBER 2015.

(S E A L)

ATTEST:

By [Signature]
Signature of Corporate Secretary

By [Signature]
Signature

NAME: MICHAEL HUNGENBERG

TITLE: PRESIDENT

DATE: 12.10.2015

DATE: 12.10.2015

SECURITY AGREEMENT

DATE: DECEMBER 10, 2015

DEBTOR: LOWER POWDRE AUGMENTATION COMPANY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

PROMISSORY NOTE: \$454,500.00

TERMS OF REPAYMENT: 1.85% PER ANNUM FOR 30 YEARS

CONTRACT NUMBER: CT2016-2005

PLEDGED REVENUES: All revenues derived from well augmentation fee assessment revenues and all of DEBTOR's right to receive said assessment revenues to repay the loan as described in PLEDGED REVENUES provisions of the LOAN CONTRACT and DEBTOR's Resolutions adopted December 10, 2015.

To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the TERMS OF REPAYMENT, or until all principal, interest, and late charges, if any, are paid in full, the DEBTOR grants to SECURED PARTY a security interest in the above described Pledged Revenues.

DEBTOR EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Section 5 of the LOAN CONTRACT PROJECT SUMMARY, DEBTOR is the owner of the PLEDGED REVENUES free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the PLEDGED REVENUES against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by DEBTOR will not violate any law or agreement governing DEBTOR or to which DEBTOR is a party.
3. To not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the PLEDGED REVENUES and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the CONTRACT and by its representations herein, DEBTOR shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the PLEDGED REVENUES pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature that may be levied or assessed against the PLEDGED REVENUES.
6. That the DEBTOR's articles of incorporation and by-laws do not prohibit any term or condition of this agreement.

UNTIL DEFAULT DEBTOR may have possession of the PLEDGED REVENUES, provided that DEBTOR keeps the PLEDGED REVENUES in an account separate from other revenues of DEBTOR and does not use the PLEDGED REVENUES for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the PLEDGED REVENUES.

DEBTOR SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:

- a. default in the payment or performance of any obligation contained herein or in the PROMISSORY NOTE or LOAN CONTRACT;
- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against DEBTOR; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of DEBTOR which proves to have been false in any material respect when made or furnished.

Upon such default and at any time thereafter, SECURED PARTY shall have the remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code. SECURED PARTY may require DEBTOR to deliver or make the PLEDGED REVENUES available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY'S reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the DEBTOR written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the DEBTOR shall be considered in default for purposes of this SECURITY AGREEMENT. No default shall be waived by SECURED PARTY except in writing, and no waiver by SECURED PARTY of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this SECURITY AGREEMENT shall not waive or impair any other security SECURED PARTY may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this SECURITY AGREEMENT; but SECURED PARTY shall retain its rights of set-off against DEBTOR. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and DEBTOR consents to venue and personal jurisdiction in said Court.

All rights of SECURED PARTY hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of DEBTOR shall bind its successors or assigns.

DEBTOR: Lower Poudre Augmentation Company,
a Colorado nonprofit corporation

(S E A L)


By 
Signature

Attest:

NAME: MICHAEL HUNGENBURG

TITLE: PRESIDENT

DATE: 12.10.2015
PAID IN FULL

By 
Signature

NAME: KENTON H. BRUNNER

TITLE: SECRETARY

DATE: 12.10.2015

FISCHER, BROWN, BARTLETT & GUNN, PC



ATTORNEYS AT LAW

1319 East Prospect Road
Fort Collins, CO 80525

WILLIAM R. FISCHER
MARGARET A. (Meg) BROWN
DANIEL K. BROWN
BRENT A. BARTLETT
LISA A. LARSEN
SARA J.L. IRBY
DONALD E. FRICK

WARD H. FISCHER (1929-1996)
WILLIAM H. BROWN (Of Counsel)
WILLIAM C. GUNN (Of Counsel)

Phone: 970.407.9000
Fax: 970.407.1055
E-mail: fbg@fbgpc.com
Website: www.fbbglaw.com

December 16, 2015

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Authority of the Lower Poudre Augmentation Company to enter into Loan Contract (CMS: 83649/CORE:CT2016-2005) with the Colorado Water Conservation Board

To Whom It May Concern:

This opinion is being delivered to you pursuant to Paragraph 7 of the Loan Contract (CMS: 83649/CORE:CT2016-2005) between the Lower Poudre Augmentation Company ("Borrower") and the Colorado Water Conservation Board ("CWCB"). I have reviewed Borrower's articles of incorporation and bylaws, the minutes of the board meeting at which this Loan Contract was considered and approved, and the contract itself. Based upon the representations of the Borrower and the documents provided as described above, I am of the opinion that:

1. The contract has been duly executed by officers of the Borrower who are duly elected or appointed and are authorized to execute the contract and to bind the Borrower;
2. The minutes of the Borrower authorizing the execution and delivery of the contract show that the board duly authorized the execution and delivery of the Loan Contract by the Borrower;
3. It is my opinion that there are no provisions in the Borrower's articles of incorporation or bylaws or any state or local law that prevent this contract from binding the Borrower and that the contract will be valid and binding against the Borrower if entered into by the CWCB.

Accordingly, it is my opinion that Borrower has adequate authority to enter into the contract through resolution adopted by the Borrower evidenced by Borrower's minutes.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DKB', is written over a circular blue ink stamp.

Daniel K. Brown, Esq.

BORROWER: LOWER POUDBRE
AUGMENTATION COMPANY
REQUESTED LOAN AMOUNT: \$450,000
LOAN ORIGATION FEE: \$4,500
TOTAL LOAN AMOUNT: \$454,500

AGENCY NAME: COLORADO WATER
CONSERVATION BOARD
CONTRACT TYPE: LOAN/PRIVATE
CWCB CMS:83649/CORE:CT2016-
2005

LOAN CONTRACT

(STANDARD CONTRACT – WAIVER #160 – APPROVED NOVEMBER 10, 2003)

This contract ("CONTRACT" or "LOAN CONTRACT")) is made between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCB" or "State"), and Lower Poudre Augmentation Company, 33040 Railroad Ave., Lucerne, Colorado 80646 ("BORROWER"), a Colorado nonprofit corporation.

FACTUAL RECITALS

1. CWCB authority exists in the law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this CONTRACT; and
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies; and
3. On September 17, 2015 the CWCB approved a loan request from the BORROWER for the Box Elder Ditch Water Rights Purchase ("PROJECT") to purchase water rights for use in the Company's augmentation plan. The total estimated project cost is \$500,000. The total loan amount of \$454,500 which includes a one percent (1%) loan origination fee of \$4,500 is payable over 30 years at an interest rate of 1.85%; and
4. The **PROJECT SUMMARY**, attached as **APPENDIX 1** and incorporated herein, contains BORROWER Information (Section 1), the PROJECT Description (Section 2), CWCB's authority for making this loan (Section 3), and CWCB Approval or Legislative Authorization (Section 4), identifying the amount of the loan and the terms of repayment. The PROJECT SUMMARY also contains sections on BORROWER'S debt, collateral, procedures and eligible expenses.
5. The CWCB now desires, by this CONTRACT, to loan money to the BORROWER for this PROJECT upon mutually agreeable terms and conditions.

THEREFORE, in consideration of the mutual and dependent covenants contained herein, the parties agree as follows:

A. LOAN PROVISIONS

1. **Loan Origination Fee.** The amount of the loan (LOAN AMOUNT) shall include (1) the amount of the funds loaned by the CWCB to the BORROWER for the PROJECT and (2) a loan origination fee of one percent (1%) of the PROJECT amount. In the event that the BORROWER does not use the full LOAN AMOUNT authorized, the parties shall

amend this CONTRACT or exercise an **OPTION LETTER** (as outlined in section A.3b. and attached as **APPENDIX 2**) to revise the LOAN AMOUNT including adjustment of the loan origination fee to reflect 1% of the actual LOAN AMOUNT disbursed to the BORROWER.

2. **Contract Amendment Service Fees.** Under certain circumstances, the BORROWER shall be assessed a service fee for amending the CONTRACT.

- a. A service fee shall be imposed on the BORROWER for amendments processed for the benefit of the BORROWER and necessary for the BORROWER'S course of business but not necessary for the CWCB, including, but not limited to, a change in BORROWER name, assignment of contract, substitution of collateral, loan payment deferments in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including but not limited to, loan payment deferments (up to 3 per loan) and changes in terms of loan repayment will be processed at no additional charge to the BORROWER.
- b. The amount charged shall be in accordance with the service fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current service fee for an amendment is \$1,000.
- c. The BORROWER shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded.

3. **Promissory Note Provisions.**

- a. The PROMISSORY NOTE shall identify the LOAN AMOUNT. The CWCB agrees to loan to the BORROWER an amount not to exceed the LOAN AMOUNT and the BORROWER agrees to repay the loan in accordance with the terms as set forth in the **PROMISSORY NOTE**, attached hereto as **APPENDIX 3** and incorporated herein.
- b. If the amount of loan funds disbursed by the CWCB, to the Borrower, differs from the LOAN AMOUNT, the parties shall amend this CONTRACT or exercise an **OPTION LETTER**.
- c. An amendment to this CONTRACT shall be executed for the following changes including, *but not limited to*, an increase in LOAN AMOUNT, change in collateral, and decrease in LOAN AMOUNT with re-amortization of the Loan.
- d. Upon substantial completion of the PROJECT with a resulting decrease in the total LOAN AMOUNT and the Borrower requests a re-amortization of the Loan, the PARTIES agree to amend this contract.
- e. Upon substantial completion of the PROJECT with a resulting decrease in the total LOAN AMOUNT, but not a change in the annual payment, the STATE may exercise an option and shall provide written notice to the BORROWER in form substantially equivalent to APPENDIX 2. If exercised, the provisions of the **OPTION LETTER** and supporting documentation shall become part of

and be incorporated into this CONTRACT for the total duration of this CONTRACT.

4. **Interest Prior to PROJECT Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue, on the disbursed funds, at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to PROJECT'S substantial completion (as determined by the CWCB) and notify BORROWER of such amount. The BORROWER shall repay that amount to the CWCB either within ten (10) days from the date of notification from the CWCB, or, at the CWCB's discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the BORROWER.
5. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of this CONTRACT shall be remitted to the CWCB within 30 calendar days from notification from the CWCB of either (1) completion of the PROJECT or (2) determination by the CWCB that the PROJECT will not be completed. Any such loan funds so remitted to CWCB shall be applied to the principal payment of amounts due on the Loan.
6. **BORROWER's Authority to Contract.** The BORROWER warrants that it has full power and authority to enter into this CONTRACT. The execution and delivery of this CONTRACT and the performance and observation of its terms, conditions and obligations have been duly authorized by all necessary actions of the BORROWER. The **BORROWER'S AUTHORIZING RESOLUTION(s)** are attached as **APPENDIX 4a**, Resolutions of the Shareholders and **Appendix 4b**, Resolutions of the Board of Directors and incorporated herein.
7. **Attorney's Opinion Letter.** Prior to the execution of this CONTRACT by the CWCB, the BORROWER shall submit to the CWCB a letter from its attorney stating that it is the attorney's opinion that:
 - a. the CONTRACT has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the CONTRACT and to bind the BORROWER; and
 - b. the resolutions of the BORROWER authorizing the execution and delivery of the CONTRACT were duly adopted by the BORROWER's board of directors and/or shareholders; and
 - c. there are no provisions in the BORROWER's articles of incorporation or bylaws or any state or local law that prevent this CONTRACT from binding the BORROWER; and
 - d. the CONTRACT will be valid and binding against the BORROWER if entered into by the CWCB.
8. **Pledge of Revenues.** The BORROWER irrevocably pledges to the CWCB for purposes of repayment of this loan: (1) revenues from assessments levied for that purpose as authorized by the BORROWER's resolution(s) and (2) all of the BORROWER's rights to receive said assessment revenues, hereinafter collectively referred to as the "PLEGGED REVENUES".

PAID IN FULL

- a. **Segregation of Pledged Revenues.** The BORROWER shall set aside and keep the pledged assessment revenues in an account separate from other BORROWER revenues and warrants that these revenues will not be used for any other purpose.
- b. **Establish Security Interest.** THE BORROWER has duly executed a **SECURITY AGREEMENT**, attached hereto as **APPENDIX 5** and incorporated herein, to provide a security interest to the CWCB in the PLEDGED REVENUES. The CWCB shall have priority over all other competing claims for said PLEDGED REVENUES, except for the liens of the BORROWER'S existing loans as listed in Section 5 (Schedule of Existing Debt) of the PROJECT SUMMARY, which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s).
- c. **Revenue Assessments.** Pursuant to its statutory authority, articles of incorporation and bylaws, the BORROWER shall take all necessary actions consistent therewith during the term of this CONTRACT to levy assessments sufficient to pay this loan as required by the terms of this CONTRACT and the PROMISSORY NOTE, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves. In the event the assessments levied by the BORROWER become insufficient to assure such repayment to the CWCB, the BORROWER shall immediately take all necessary action consistent with its statutory authority, its articles of incorporation and bylaws including, but not limited to, levying additional assessments to raise sufficient revenue to assure repayment of this loan.
- d. **Assessment Covenant.** Pursuant to its statutory authority and as permitted by law, the BORROWER shall take all necessary actions consistent therewith during the term of this CONTRACT to establish, levy and collect rates, charges and fees as described in APPENDIX 3, in amounts sufficient to pay this loan as required by the terms of this CONTRACT and the PROMISSORY NOTE, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves, including obtaining voter approval, if necessary, of increases in the BORROWER'S rate schedule or taxes, if applicable.
- e. **Debt Service Reserve Account or Fund.** To establish and maintain the debt service reserve account, the BORROWER shall deposit an amount equal to one-tenth of an annual payment into its debt service reserve fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan. In the event that the BORROWER applies funds from this account to repayment of the loan, the BORROWER shall replenish the account within ninety (90) days of withdrawal of the funds. The debt service reserve account or fund requirement will remain in effect until the loan is paid in full.
9. **Collateral** The BORROWER irrevocably pledges to the CWCB, for purposes of repayment of this loan, the real property ("COLLATERAL") as further described in Section 6 (COLLATERAL) of the PROJECT SUMMARY, authorized by the BORROWER'S AUTHORIZING RESOLUTIONS and secured by the **DEED OF TRUST (APPENDIX 6)** AND **STOCK ASSIGNMENT (APPENDIX 7)**.

10. **Collateral during Loan Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the COLLATERAL so long as any of the principal, accrued interest, and late charges, if any, on this loan remain unpaid, without the prior written concurrence of the CWCB. In the event of any such sale, transfer or encumbrance without the CWCB's written concurrence, the CWCB may at any time thereafter declare all outstanding principal, interest, and late charges, if any, on this loan immediately due and payable.

11. **Release After Loan Is Repaid.** Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the PROMISSORY NOTE, the CWCB agrees to release and terminate any and all of the CWCB's right, title, and interest in and to the Collateral and the Pledged Revenues.

12. **Warranties.**

- a. The BORROWER warrants that, by acceptance of the loan under this CONTRACT and by its representations herein, the BORROWER shall be estopped from asserting for any reason that it is not authorized or obligated to repay the loan to the CWCB as required by this CONTRACT.
- b. The BORROWER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the BORROWER, to solicit or secure this CONTRACT and has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this CONTRACT.
- c. The BORROWER warrants that the Pledged Revenues and Collateral for this loan are not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner, except for any existing lien(s) identified in Section 5 (Schedule of Existing Debt) of the PROJECT SUMMARY, which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s). Documentation establishing the relative priorities of said liens, if necessary, is attached to the PROJECT SUMMARY and incorporated herein.

13. **Change of Ownership of Water Shares during Term of Contract.** If the interest rate for this loan is based on the CWCB's agricultural or blended agricultural and municipal and/or commercial and/or industrial rates, the BORROWER agrees to notify the CWCB of any change of the ownership of the water rights represented by its shares from irrigation to municipal or commercial or industrial use. The interest rate shall be revised when said change in ownership would increase the original interest rate by 0.5% or more. The parties shall amend this CONTRACT including a revised PROMISSORY NOTE, to effect said change in interest rate.

14. **Remedies for Default.** Upon default in the payments to be made by the BORROWER under this CONTRACT, or default in the performance of any covenant or agreement contained herein, the CWCB, at its option, may:

- a. suspend this CONTRACT and withhold further loan disbursements pending

corrective action by the BORROWER, and if the BORROWER does not cure the default as provided for below, permanently cease loan disbursements and deem the PROJECT substantially complete;

- b. declare the entire principal amount, accrued interest, and late charges, if any, then outstanding immediately due and payable;
- c. exercise its rights under any appendices to this CONTRACT, including, but not limited to, the PROMISSORY NOTE, SECURITY AGREEMENT, and/or any instrument securing collateral; and
- d. take any other appropriate action.

The CWCB shall provide written notice to the BORROWER of any such default and shall give the BORROWER an opportunity to cure within thirty (30) days of receipt of such notice. All remedies described herein may be simultaneously or selectively and successively enforced. The CWCB may enforce the provisions of this CONTRACT at its option without regard to prior waivers of previous defaults by the BORROWER, through judicial proceedings to require specific performance of this CONTRACT, or by such other proceedings in law or equity as may be deemed necessary by the CWCB to ensure compliance with provisions of this CONTRACT and the laws and regulations under which this CONTRACT is executed. The CWCB's exercise of any or all of the remedies described herein shall not relieve the BORROWER of any of its duties and obligations under this CONTRACT.

15. **Operation of PROJECT.** The BORROWER shall, without expense or legal liability to the CWCB, manage, operate, and maintain the PROJECT continuously in an efficient and economical manner.

16. **BORROWER's Liability Insurance.**

- a. Upon execution of this CONTRACT and continuing until complete repayment of the loan is made to the CWCB, the BORROWER shall maintain commercial general liability insurance, with a company that is satisfactory to the CWCB, with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate, including products/completed operations and personal injury.
- b. Prior to the disbursement of any loan funds, the BORROWER shall provide the CWCB with an Acor Form 25 evidencing said insurance and shall provide the CWCB with documentation of renewals of said insurance.

17. **Additional Contract Requirements.** Any additional contract requirements are set forth in Additional Conditions & Contract Requirements (Section 7) of the PROJECT SUMMARY.

B. PROJECT PROVISIONS

- 1. **Construction Fund Program Procedures.** During the completion of the PROJECT, the BORROWER shall adhere to the CWCB "Construction Fund Program" Procedures (Section 8), of the PROJECT SUMMARY.

2. **Eligible Expenses.** The PROJECT expenses for which the BORROWER is eligible for loan disbursements are listed in Eligible Expenses (Section 9) of the PROJECT SUMMARY.
3. **Loan Disbursements.** The CWCB shall disburse loan funds in accordance with the Disbursement Schedule (Section 10) of the PROJECT SUMMARY.
4. **Time for Performance.** The BORROWER recognizes that time is of the essence in the performance of all of its obligations under this CONTRACT. Therefore, the BORROWER shall complete the PROJECT within the time specified in Time for Performance (Section 11) of the PROJECT SUMMARY.

C. GENERAL PROVISIONS

1. **Periodic Inspections.** Throughout the term of this CONTRACT, the BORROWER shall permit a designated representative of the CWCB to make periodic inspections of the PROJECT. Such inspections shall cover the condition of the PROJECT, operating records, maintenance records, and financial records. These inspections are solely for the purpose of verifying compliance with the terms and conditions of this CONTRACT and shall not be construed or interpreted as an approval of the actual design, construction or operation of any element of the PROJECT facilities.
2. **Applicable Laws.** The BORROWER shall strictly adhere to all applicable federal, state, and local laws and regulations that are in effect or may hereafter be established throughout the term of this CONTRACT.
3. **Designated Agent Of The CWCB.** The CWCB's employees are designated as the agents of the CWCB for the purpose of this CONTRACT.
4. **Assignment.** BORROWER'S rights and obligations, under this CONTRACT, are personal and may not be transferred, assigned without the prior, written consent of the State. Any attempt at assignment without such consent shall be void. All assignments approved by BORROWER or the State are subject to all of the provisions hereof.
5. **Contract Relationship.** The parties to this CONTRACT intend that the relationship between them under this CONTRACT is that of lender-borrower, not employer-employee. No agent, employee, or servant of the BORROWER shall be, or shall be deemed to be, an employee, agent, or servant of the CWCB. The BORROWER shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, construction firms, and subcontractors during the term of this CONTRACT.
6. **Integration of Terms.** This CONTRACT is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to State fiscal rules, unless expressly provided for herein.

7. **Order of Precedence.** The provisions of this CONTRACT shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this CONTRACT and its exhibits and attachments, including, but not limited to, those provided by Contractor, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:
- i. Colorado Special Provisions (provided that the parties hereby agree that, for the purposes of such Special Provisions "CONTRACTOR" shall mean "BORROWER")
 - ii. The provisions of the main body of this CONTRACT
 - iii. Appendices
8. **Controlling Terms.** In the event of conflicts or inconsistencies between the terms of this CONTRACT and conditions as set forth in any of the appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: (1) Colorado Special Provisions, provided that the parties hereby agree that, for the purposes of such Special Provisions, (a) "Contractor" shall mean BORROWER (2) the remainder of this CONTRACT, and (3) the Appendices.
9. **Casualty and Eminent Domain.** If, at any time during the term of this CONTRACT, (a) the BORROWER'S PROJECT facilities, including buildings or any portion thereof, are damaged or destroyed, in whole or in part, by fire or other casualty, or (b) title to or use of the PROJECT facilities or any part thereof shall be taken under the exercise of the power of eminent domain, the BORROWER shall cause the net proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of the PROJECT facilities or any portion thereof, or to repayment of this loan. Any net proceeds remaining after such work has been completed or this loan has been repaid, shall be retained by the BORROWER. If the net insurance proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the BORROWER shall complete the work and pay any cost in excess of the net proceeds. In the event BORROWER chooses to apply the net proceeds of an insurance claim or a condemnation award to repayment of the loan, BORROWER shall repay the full loan amount outstanding regardless of the amount of such insurance proceeds or condemnation award.
10. **Captions.** The captions and headings in this CONTRACT are for convenience of reference only, and shall not be construed so as to define, or limit its provisions.
11. **CWCB's Approval.** This CONTRACT requires review and approval of plans, specifications, and various other technical and legal documents. The CWCB's review of these documents is only for the purpose of verifying BORROWER'S compliance with this CONTRACT and shall not be construed or interpreted as a technical review or approval of the actual design or construction of the PROJECT. Notwithstanding any consents or approvals given to the BORROWER by the CWCB on any such documents, BORROWER and any of its consultants, by preparing any such documents, shall be solely responsible for the accuracy and completeness of any of said documents.
12. **Waiver.** Waiver of any breach under a term, provision, or requirement of this CONTRACT, or any right or remedy hereunder, whether explicitly or by lack of

enforcement, shall not be construed as or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

13. **CORA Disclosure.** To the extent not prohibited by federal law, this CONTRACT and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.
14. **Binding Effect.** All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.
15. **Entire Understanding.** This CONTRACT represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.
16. **Severability.** Provided this CONTRACT can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this CONTRACT in accordance with its intent.
17. **Third Party Beneficiaries.** Enforcement of this CONTRACT and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this CONTRACT are incidental to the CONTRACT, and do not create any rights for such third parties.
18. **Counterparts.** This CONTRACT may be executed in multiple identical original counterparts, all of which shall constitute one agreement.
19. **Indemnification.** Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.
20. **Addresses for mailing.** All notices, correspondence, or other documents required by this CONTRACT shall be delivered or mailed to the addresses shown in the Section 1 (BORROWER Information) of the **Project Summary**, for the BORROWER and to the address below for the CWCB:

Colorado Water Conservation Board
Attn: Finance Section
1313 Sherman Street, Room 718
Denver, CO 80203

Special Provisions

The Special Provisions apply to all contracts except where noted in *italics*.

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. **VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements]** Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
11. **PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]** Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.
12. **PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

SPs Effective
1/1/09

[END OF SPECIAL PROVISIONS]

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT

* Persons signing for BORROWER hereby swear and affirm that they are authorized to act on BORROWER's behalf and acknowledge that the State is relying on their representations to that effect.

BORROWER:
Lower Poudre Augmentation Company,
a Colorado nonprofit corporation

BY: [Signature]
Signature

NAME: MICHAEL HUNGENBURG

TITLE: PRESIDENT

DATE: 12.10.2015

STATE OF COLORADO
John W. Hickenlooper, Governor
Department of Natural Resources
Mike King, Executive Director

BY: [Signature]

Name: Kirk Russell, P.E., Section Chief
Finance Section
Colorado Water Conservation Board

DATE: 1/5/16

Pre-Approved Form Contract Reviewer

Attest

BY: [Signature]
Signature

NAME: KENTON BRUNNER

TITLE: SECRETARY

DATE: 12.10.2015

BY: [Signature]
Peg Mason, CWCB Contracts Manager

DATE: 1/4/16

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all State contracts. This CONTRACT is not valid and the loan funds under this CONTRACT are not available until the State Controller, or such assistant as he may delegate, has signed it.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By [Signature]
Name and Title: Maggie VanCleaf
Purchasing Director
Effective Date 1/19/2016

PAID IN FULL

Project Summary

Lower Poudre Augmentation Company

SECTION 1 –BORROWER INFORMATION

Name: Lower Poudre Augmentation Company
Type of Entity: Colorado nonprofit corporation
Address: 33040 Railroad Ave., Lucerne, CO 80646
Contact: Dale Trowbridge, General Manager
Phone Number: 970-352-0222
E-mail address: dale@newcache.com

SECTION 2 – PROJECT DESCRIPTION

- A. Description of PROJECT: The BORROWER applied, to the CWCB, for a loan to be used for the BOX ELDER DITCH WATER RIGHTS PURCHASE, hereinafter referred to as the PROJECT, at a total estimated project cost of \$500,000. The PROJECT is located in Larimer County.
- B. Description of Feasibility Study: The CWCB has reviewed a feasibility study report dated August 2015 on the PROJECT, titled "*Feasibility of the Lower Poudre Augmentation Company Water Rights Purchase*," which was prepared by Jared Dains, P.E., of the Applegate Group. Additionally, the Company provided a water rights appraisal prepared by A. Bruce Johnson & Associates which is incorporated herein by this reference. Based upon the feasibility report, the CWCB determined the PROJECT to be technically and financially feasible.

SECTION 3 – CWCB'S AUTHORITY

Severance Tax Perpetual Base Fund: This loan is made pursuant to the provisions of §§ 39-29-109(1)(a)(I), 37-60-119 and 37-60-120, C.R.S., which authorizes the CWCB to loan money for water projects from the CWCB Severance Tax Perpetual Base Fund for the benefit of the people of the state, provided that the BORROWER assures repayment of that money.

Section 37-60-122(1)(b) C.R.S., authorizes the CWCB to make loans of up to \$10,000,000 from the CWCB's the Severance Tax Perpetual Base Fund without prior approval from the General Assembly.

SECTION 4 - BOARD APPROVAL at its September 17, 2015 meeting, the CWCB approved a Small Project Loan, from the Severance Tax Perpetual Base Fund to the BORROWER, in an amount up to \$450,000 for PROJECT costs. CWCB's loan origination fee of 1%, in accordance with CWCB Policy No. 16, of \$4,500 and added to the LOAN CONTRACT, results in a total loan amount of **\$454,500**, at an interest rate of 1.85% per annum for a repayment term of 30 years.

SECTION 5 – SCHEDULE OF EXISTING DEBT

As of the date of the CWCB loan approval, the BORROWER has two existing loans with the Colorado Water Conservation Board, Contract #C150245, in the original amount of \$3,560,333 with annual payments of \$170,104, with an estimated

maturity date of 2041 and Contract #CT2015-171, in the original amount of \$1,163,015 with annual payments of \$55,177, with an estimated maturity date of 2045. Both loans are in good standing.

SECTION 6 – COLLATERAL

The SECURITY provided for this loan, as evidenced by the executed SECURITY AGREEMENT (APPENDIX 5), DEED OF TRUST (APPENDIX 6) and STOCK ASSIGNMENT (APPENDIX 7) and incorporated herein, shall be a pledge of well augmentation fee assessment revenues backed by an assessment covenant and an undivided one hundred percent (100%) interest in the water shares purchased with the loan proceeds as more particularly described in the attached DEED OF TRUST (APPENDIX 6).

SECTION 7 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS

No Construction. CWCB and BORROWER hereby acknowledge and agree that the PROJECT does not include a construction component and that the distribution of loan proceeds will incur at a closing for the purchase of the WATER RIGHTS.

SECTION 8 – “CONSTRUCTION FUND PROGRAM” PROCEDURES FOR WATER PURCHASE PROJECTS

- A. The BORROWER shall submit, in writing, copies of the sales agreement and the appraisal for the WATER RIGHTS or opinion of value from a qualified water rights appraiser supporting the purchase price prior to disbursement of loan funds including, but not limited to, the name of the seller, cost, closing date, appraisal value and support documentation prior to disbursement of loan funds.
- B. The BORROWER shall pay all of the expenses related to the PROJECT when such bills are due.

SECTION 9 – ELIGIBLE EXPENSES FOR WATER PURCHASE PROJECTS.

- A. Engineering associated with the feasibility report prepared as a requirement for this loan and associated with evaluating the suitability of the water rights for purchase by the BORROWER.
- B. Interest during completion of the PROJECT pursuant to Paragraph A.4 herein.
- C. Legal services for reviewing engineering services contracts and this CONTRACT.
- D. Purchase of the water rights.

SECTION 10 – DISBURSEMENT SCHEDULE

For a water rights purchase: the BORROWER shall prepare a written request for funds that shall describe the upcoming closing on water rights purchase including, but not limited to, the name of the seller, cost, closing date, and appraisal value and support documentation in the form of copies of the sales agreement and the appraisal pursuant to Section 8A above. After receipt of the written request from the BORROWER, and review and acceptance of the items therein as eligible expenses as described above, the CWCB will pay to the BORROWER the amount set forth in the request or such portion that has been approved by the CWCB. Such payment shall

be made within thirty (30) days from the CWCB's approval of each request.

SECTION 11 – TIME FOR PERFORMANCE

PROJECT BEGINS: Upon Effective Date of this CONTRACT (the date this CONTRACT is signed by the State Controller or his designee).

PROJECT END DATE: Three (3) years from the Effective Date of this CONTRACT

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PAID IN FULL

SAMPLE OPTION LETTER

Date:	Original Contract #: CT	Option Letter #	CMS Routing #
-------	-------------------------	-----------------	---------------

1) OPTIONS:

a. Decrease contract value (herein referred to as "Loan Contract Amount").

2) REQUIRED PROVISION. All Option Letters shall contain the appropriate provisions set forth below:

For use with all Options 1a:

1. The amount of the current Loan Contract Amount is decreased by \$ amount of change to a new Loan Contract Amount of Insert New \$ Amt in consideration of Substantial Completion of the Project. The Loan Contract Amount is hereby modified accordingly. The revised total Loan Contract Amount including all previous amendments, option letters, etc. is Insert New \$ Amt.
 2. This change does not include a change to the annual payment.
 3. This Option Letter and supporting documentation shall become part of and be incorporated into this Contract for the total duration of this Contract.
 4. This Option Letter shall include the written Notice of Project Substantial Completion.
- 3) Effective Date.** The effective date of this Option Letter is upon approval of the State Controller or Delegate.

<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, Governor Department of Natural Resources Colorado Water Conservation Board</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>

PAID IN FULL

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State contracts. This Option Letter is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

Date: _____

Appendix 2

COPY

PROMISSORY NOTE

Date: December 10, 2015
Borrower: Lower Poudre Augmentation Company
Principal Amount: \$454,500.00
Interest Rate: 1.85% per annum
Term of Repayment: 30 years
Contract Number: CT2016-2005
Loan Payment: \$19,877.23
Payment Initiation Date*: _____
Maturity Date*: _____

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE.
2. Principal and interest shall be payable in annual equal payments as set forth in "Loan Payment" above, with the first payment due and payable one year from the Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT, DEED OF TRUST, AND STOCK ASSIGNMENT ("SECURITY INSTRUMENTS") of even date and amount herewith and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and SECURITY

COPY

INSTRUMENTS grant additional rights to the CWCB, including the right to accelerate the maturity of this PROMISSORY NOTE in certain events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the SECURITY INSTRUMENTS securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this PROMISSORY NOTE.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Lower Poudre Augmentation
Company, a Colorado nonprofit corporation

(S E A L)

By 
Signature

Attest:

NAME: MICHAEL HUNGENBURG

TITLE: PRESIDENT

DATE: 12.10.2015

By 
Signature

NAME: KENTON H. BRUNNER

TITLE: SECRETARY

DATE: 12.10.2015

PAID IN FULL

COPY

RESOLUTIONS OF THE SHAREHOLDERS OF LOWER POUDRE AUGMENTATION COMPANY

The Shareholders of Lower Poudre Augmentation Company (Company), at a Shareholders' meeting held December 10, 2015, at Lucerne, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of Box Elder Water Rights Purchase Project in the amount of \$454,500.00 or such actual amount, more or less, as may be needed by the Company and available from the CWCB including the CWCB loan origination fee of 1% of the loan amount.

At said meeting, the Shareholders charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the Board of Directors and officers, RESOLVED as follows:

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$454,500.00, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Company's well augmentation fee assessment revenues backed by an assessment covenant and an undivided one hundred percent (100%) interest in the water shares purchased with the loan proceeds as COLLATERAL for the loan and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and DEED OF TRUST, necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

THE UNDERSIGNED, RESPECTIVELY, THE PRESIDENT AND SECRETARY OF THE COMPANY, HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE COMPANY'S SHAREHOLDERS DULY CALLED AND HELD AS ABOVE RECITED, PURSUANT TO THE COMPANY'S BYLAWS, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 10 DAY OF December 2015

(S E A L)

ATTEST:

By [Signature]
Signature of Corporate Secretary

By [Signature]
Signature

NAME: MICHAEL HUNGENBERG

TITLE: PRESIDENT

DATE: 12.10.2015

DATE: 12.10.2015

COPY

RESOLUTIONS OF THE BOARD OF DIRECTORS OF LOWER POUDRE AUGMENTATION COMPANY

The Board of Directors of Lower Poudre Augmentation Company (Company), at a meeting held December 10, 2015, at Lucerne, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of construction of Box Elder Water Rights Purchase Project in the amount of \$454,500.00 or such actual amount, more or less, as may be needed by the Company and available from the CWCB including the CWCB loan origination fee of 1% of the loan amount.

At said meeting, the Board charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the President and Corporate Secretary, RESOLVED as follows.

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$454,500.00, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Company's well augmentation fee assessment revenues backed by an assessment covenant and an undivided one hundred percent (100%) interest in the water shares purchased with the loan proceeds as COLLATERAL for the loan and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and DEED OF TRUST, necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

THE UNDERSIGNED, THE PRESIDENT AND THE CORPORATE SECRETARY HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE COMPANY'S BOARD OF DIRECTORS DULY CALLED AND HELD AS ABOVE RECITED, PURSUANT TO THE COMPANY'S BYLAWS, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 10th DAY OF DECEMBER 2015.

(SEAL)

ATTEST:

By [Signature]
Signature of Corporate Secretary

By [Signature]
Signature

NAME: MICHAEL HUNGENBERG

TITLE: PRESIDENT

DATE: 12.10.2015

DATE: 12.10.2015

SECURITY AGREEMENT

COPY

DATE: DECEMBER 10, 2015

DEBTOR: LOWER POWDRE AUGMENTATION COMPANY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

PROMISSORY NOTE: \$454,500.00

TERMS OF REPAYMENT: 1.85% PER ANNUM FOR 30 YEARS

CONTRACT NUMBER: CT2016-2005

PLEDGED REVENUES: All revenues derived from well augmentation fee assessment revenues and all of DEBTOR'S right to receive said assessment revenues to repay the loan as described in PLEDGED REVENUES provisions of the LOAN CONTRACT and DEBTOR'S Resolutions adopted December 10, 2015.

To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the TERMS OF REPAYMENT, or until all principal, interest, and late charges, if any, are paid in full, the DEBTOR grants to SECURED PARTY a security interest in the above described Pledged Revenues.

DEBTOR EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Section 5 of the LOAN CONTRACT PROJECT SUMMARY, DEBTOR is the owner of the PLEDGED REVENUES free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the PLEDGED REVENUES against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by DEBTOR will not violate any law or agreement governing DEBTOR or to which DEBTOR is a party.
3. To not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the PLEDGED REVENUES and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the CONTRACT and by its representations herein, DEBTOR shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the PLEDGED REVENUES pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature that may be levied or assessed against the PLEDGED REVENUES.
6. That the DEBTOR'S articles of incorporation and by-laws do not prohibit any term or condition of this agreement.

UNTIL DEFAULT DEBTOR may have possession of the PLEDGED REVENUES, provided that DEBTOR keeps the PLEDGED REVENUES in an account separate from other revenues of DEBTOR and does not use the PLEDGED REVENUES for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the PLEDGED REVENUES.

DEBTOR SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:

- a. default in the payment or performance of any obligation contained herein or in the PROMISSORY NOTE or LOAN CONTRACT;
- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against DEBTOR; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of DEBTOR which proves to have been false in any material respect when made or furnished.

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Upon such default and at any time thereafter, SECURED PARTY shall have the remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code. SECURED PARTY may require DEBTOR to deliver or make the PLEDGED REVENUES available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY'S reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the DEBTOR written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the DEBTOR shall be considered in default for purposes of this SECURITY AGREEMENT. No default shall be waived by SECURED PARTY except in writing, and no waiver by SECURED PARTY of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this SECURITY AGREEMENT shall not waive or impair any other security SECURED PARTY may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this SECURITY AGREEMENT; but SECURED PARTY shall retain its rights of set-off against DEBTOR. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and DEBTOR consents to venue and personal jurisdiction in said Court.

All rights of SECURED PARTY hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of DEBTOR shall bind its successors or assigns.

DEBTOR: Lower Poudre Augmentation Company,
a Colorado nonprofit corporation

(SEAL)


By 
Signature

Attest:

NAME: MICHAEL HUNGENBURG

TITLE: PRESIDENT

DATE: 12.10.2015

By 
Signature

NAME: KENTON H. BRUNNER

TITLE: SECRETARY

DATE: 12.10.2015

PAID IN FULL

Deed of Trust

COPY

DATE: December 10, 2015
GRANTOR: LOWER POUDRE AUGMENTATION COMPANY
BENEFICIARY: COLORADO WATER CONSERVATION BOARD
COUNTY: LARIMER
PRINCIPAL LOAN AMOUNT: \$454,500.00
CONTRACT NUMBER: CT2016-2005
TERMS OF REPAYMENT: 1.85% per annum for 30 years
COLLATERAL: An undivided one-hundred percent (100%) interest in the water rights, purchased with the loan proceeds, consisting of 2.0 shares of Box Elder Ditch, Stock Certificate No. 390 and according to the Loan Contract Resolutions (APPENDICES 4a and 4b) dated December 10, 2015.

This indenture is between the Grantor, and the Public Trustee of the above referenced COUNTY, State of Colorado ("PUBLIC TRUSTEE"),

FACTUAL RECITALS

1. The GRANTOR has executed a PROMISSORY NOTE of even date and amount, set forth in the LOAN CONTRACT, for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY, with TERMS OF REPAYMENT and in accordance with the PROMISSORY NOTE or until loan is paid in full.
2. The GRANTOR is desirous of securing payment of the PRINCIPAL LOAN AMOUNT and interest of said PROMISSORY NOTE to the BENEFICIARY.

The GRANTOR, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said PUBLIC TRUSTEE in trust forever, the above described COLLATERAL.

To have and to hold the same, together with all appurtenances, in trust nevertheless, that in case of default in the payment of said PROMISSORY NOTE, or any part thereof, or the interest thereon, or in the performance of any covenants hereinafter set forth or in said PROMISSORY NOTE or LOAN CONTRACT, then upon the BENEFICIARY filing notice of election and demand for sale, said PUBLIC TRUSTEE, after advertising notice of said sale weekly for not less than four weeks in some newspaper of general circulation in said COUNTY, shall sell said COLLATERAL in the manner provided by law in effect at the time of filing said notice and demand, at public auction for cash, at any proper place designated in the notice of sale. Out of the proceeds of said sale, the PUBLIC TRUSTEE shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior encumbrance, with interest thereon and pay the principal and interest due on said PROMISSORY NOTE, rendering the overplus, if any, unto the GRANTOR; and after the expiration of the time of redemption, the PUBLIC TRUSTEE shall execute and deliver to the purchaser a deed to the COLLATERAL sold. The BENEFICIARY may purchase said COLLATERAL or any part thereof at such sale.

The GRANTOR covenants that at the time of the delivery of these presents, it is well seized of the COLLATERAL in fee simple, and has full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid. The GRANTOR fully

COPY

waives and releases all rights and claims it may have in or to said COLLATERAL as a Homestead Exemption or other exemption, now or hereafter provided by law. The GRANTOR further covenants that the collateral is free and clear of all liens and encumbrances whatever and that the GRANTOR shall warrant and forever defend the COLLATERAL in the quiet and peaceable

possession of the PUBLIC TRUSTEE, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

Until payment in full of the indebtedness, the GRANTOR shall timely pay all taxes and assessments levied on the COLLATERAL; any and all amounts due on account of the principal and interest or other sums on any senior encumbrances, if any; and will keep the COLLATERAL insured in accordance with the requirements of the LOAN CONTRACT. In the event of the sale or transfer of the COLLATERAL, the BENEFICIARY, at its option, may declare the entire balance of the note immediately due and payable.

In case of default in any of said payments of the principal or interest, according to the terms of said PROMISSORY NOTE or LOAN CONTRACT, by the GRANTOR, its successors or assigns, then said principal sum hereby secured, and interest thereon, may at once, at the option of the BENEFICIARY, become due and payable, and the said COLLATERAL be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the PUBLIC TRUSTEE, an attorney's fee in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the PUBLIC TRUSTEE as a part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

It is further understood and agreed, that if a release or a partial release of this DEED OF TRUST is required, the GRANTOR, its successors or assigns will pay the expense thereof; that all the covenants and agreements contained herein and in the PROMISSORY NOTE and LOAN CONTRACT shall extend to and be binding upon the successors or assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

PAID IN FULL

Executed the day and date first written above.

COPY

Lower Poudre Augmentation Company,
a Colorado nonprofit corporation

By *myly Hunsby*

NOTARY REQUIRED

County of WELD

)

) ss

State of Colorado

)

The foregoing instrument was acknowledged before me this 10th day of DECEMBER 2015, by
MICHAEL KENTON
HUNGENBURG (Name) and BRUNNER (Name), as PRESIDENT (Title) and SECRETARY (Title),
respectively, of the Lower Poudre Augmentation Company.

Witness my hand and official seal.

Barbara A. Perusek Notary Public

My commission expires 03.13.2017



(Colorado Water Conservation Board will record Amendment to the Deed of Trust with Pueblo County.)

PAID IN FULL

COPY

Stock Assignment

For value received, Lower Poudre Augmentation Company hereby sells, assigns and transfers to the Colorado Water Conservation Board, as lender, shares of stock represented by **Certificate No. 390** for **two (2) shares** in **Box Elder Ditch**. Lower Poudre Augmentation Company standing in the name of the undersigned on the books and records of the company do hereby appoint their attorney to irrevocably transfer the said stock on the books of the company with full power of substitution in the premises. This Stock Assignment shall be effective solely in the event of an issuance by a Colorado District Court of an order authorizing a foreclosure sale of said shares of stock pursuant to Rule 120 of the Colorado Rules of Civil Procedure.

(SEAL)

Lower Poudre Augmentation Company a
Colorado nonprofit corporation

By 
Signature

Name MICHAEL HUNGENBURG

Title PRESIDENT

Date 12.10.2015

PAID IN FULL

Attest

By 
Signature

Name KENTON H. BRUNNER

Title SECRETARY

Date 12.10.2015

UCC Financing Statement Amendment

Colorado Secretary of State

Date and Time: 08/31/2021 12:32:40 PM

Master ID: 20212014035

Validation Number: 20212084912

Amount: \$8.00

Lower Poudre

Initial Financing Statement

File #: 20212014035

File Date: 02/12/2021 04:13:59 PM

Filing office: Secretary of State

This amendment is a termination.

Authorizing Party (Secured Party): (Organization)

Name: STATE OF COLORADO WATER CONSERVATION BOARD

Address1: 1313 SHERMAN ST RM718

Address2:

City: DENVER

State: CO

ZIP/Postal Code: 80203

Province:

Country: United States

UCC Financing Statement

Colorado Secretary of State

Date and Time: 02/12/2021 04:13:59 PM

Master ID: 20212014035

Validation Number: 20212014035

Amount: \$8.00

Debtor: (Organization)

Name: LOWER POUDRE AUGMENTATION COMPANY

Address1: P O Box 104

Address2:

City: Lucerne

State: CO

ZIP/Postal Code: 80646

Province:

Country: United States

Secured Party: (Organization)

Name: STATE OF COLORADO WATER CONSERVATION BOARD

Address1: 1313 SHERMAN ST RM718

Address2:

City: DENVER

State: CO

ZIP/Postal Code: 80203

Province:

Country: United States

Collateral

Description:

SECURED PARTY'S REVENUES PLEDGED TO REPAY LOAN OF \$454,500.00 IN ACCORDANCE WITH LOAN CONTRACT NO. CT2016-2005 AND PROMISSORY NOTE, DATED DECEMBER 10, 2015. This is a continuation of lapsed filing 20162006571.

UCC Financing Statement

Colorado Secretary of State

Date and Time: 01/22/2016 10:40:40 AM

Master ID: 20162006571

Validation Number: 20162006571

Amount: \$8.00

Debtor: (Organization)

Name: LOWER POUDRE AUGMENTATION COMPANY

Address1: 33040 RAILROAD AVE.

Address2:

City: LUCERNE

State: CO

ZIP/Postal Code: 80646

Province:

Country: United States

Secured Party: (Organization)

Name: STATE OF COLORADO - COLORADO WATER CONSERVATION BOARD

Address1: 1313 Sherman Street Room 718

Address2:

City: Denver

State: CO

ZIP/Postal Code: 80203

Province:

Country: United States

Collateral**Description:**

SECURED PARTY'S REVENUES PLEDGED TO REPAY LOAN OF \$454,500.00 IN ACCORDANCE WITH LOAN CONTRACT NO. CT2016-2005 AND PROMISSORY NOTE, DATED DECEMBER 10, 2015.