



## COLORADO

### Colorado Water Conservation Board

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

November 9, 2021

Grand River Ditch Company  
3290 County Road 210  
Rifle, CO 81650

Subject: Loan Contract No. C150311  
Loan Compliance Confirmation

Attached for your records are the original documents relative to the agreement between the Grand River Ditch Company, and the Colorado Water Conservation Board (CWCB), Loan Contract No. C150311. 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](mailto: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



# Deed of Trust

DATE: September 17, 2010  
GRANTOR: GRAND RIVER DITCH COMPANY  
BENEFICIARY: COLORADO WATER CONSERVATION BOARD  
COUNTY: GARFIELD  
PRINCIPAL LOAN AMOUNT: \$518,130  
LOAN CONTRACT: Loan Contract No. C150311, dated September 17, 2010  
TERMS OF REPAYMENT: 4.2% per annum for 30 years  
COLLATERAL: All of Grantor's interest in and to that certain pipeline commencing at the head gate of the Lower Cactus Valley Ditch located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 5, Township 6 South, Range 91 West of the 6<sup>th</sup> P.M. and extending approximately 1,320 feet, together with any easements and rights-of-way held and used in connection with the access and operation of said pipeline.

**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 for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY.
2. The GRANTOR is desirous of securing payment 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 waives and releases all rights and claims it may have in or to said COLLATERAL as a

## Appendix 5 to Loan Contract C150311



My commission expires

12/4/13

Cathy Urban

Notary Public



Return recorded deed of trust to: CWCB Finance Section, Attn: Contract Manager, 1580  
Logan Street, Suite 600, Denver CO 80203 (Phone Number 303-866-3441)



# PROMISSORY NOTE

Date: September 17, 2010  
Borrower: Grand River Ditch Company  
Principal Amount: \$518,130  
Interest Rate: 4.2% per annum  
Term of Repayment: 30 years  
Loan Contract No.: C150311, dated September 17, 2010  
Loan Payment: \$30,695.36  
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 equal Loan Payments, with the first payment due and payable one year from 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 721, 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 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 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 and Deed of Trust ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this 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

**Appendix 2 to Loan Contract C150311**

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: Grand River Ditch Company

(SEAL)

By Alvin Hansen  
Alvin Hansen, President

Attest:

By Nella Barker  
Nella Barker, Secretary-Treasurer

**PAID IN FULL**

Original Note and Deed of Trust Returned to:

WHEN RECORDED RETURN TO:

CWCB

1313 Sherman Street, Room 718

Denver, CO 80203

Prepared/Received by: Jessica Halvorsen

REQUEST FOR FULL ☒ / PARTIAL ☐

RELEASE OF DEED OF TRUST AND RELEASE BY OWNER OF INDEBTEDNESS WITH PRODUCTION OF EVIDENCE  
OF DEBT PURSUANT TO § 38-39-102 (1) (a), COLORADO REVISED STATUTES

September 21, 2021

Grand River Ditch Company

3290 County Road 210

Rifle, CO 81650

☐ Check here if current address is unknown

Colorado Water Conservation Board

September 17, 2010

November 15, 2010

794398

County Rept. No. and/or Film No. and/or Book/Page No. and/or Torrens Reg. No.

Date

Original Grantor (Borrower)

Current Address of Original Grantor,  
Assuming Party, or Current Owner

Original Beneficiary (Lender)

Date of Deed of Trust

Date of Recording and/or Re-Recording of Deed  
of Trust

Recording Information

TO THE PUBLIC TRUSTEE OF

Garfield

COUNTY (The County of the Public Trustee who is the appropriate grantee to whom the above Deed of Trust should  
grant an interest in the property described in the Deed of Trust.)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. The indebtedness secured  
by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied in  
regard to the property encumbered by the Deed of Trust as described therein as to a full release or, in the event of a partial release, only  
that portion of the real property described as: **(IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A  
FULL RELEASE)**

Full Release

State of Colorado, Colorado Water Conservation Board, 1313 Sherman Street, Ste. 718 Denver, CO 80203

Name and Address of Current Owner, Holder of the Indebtedness and Successor in Interest from the Department of Natural Resources, Secured by Deed of Trust

Kirk Russell, Finance Section Chief, CWCB, 1313 Sherman Street, Ste. 718 Denver, CO 80203

Name, Title and Address of Officer, Agent, or Attorney of Current Owner and Holder

 9/24/21  
Signature/Date

State of Colorado, County of Denver

The foregoing Request for Release was acknowledged before  
me on September 24, 2021 (date) by\*

Kirk Russell

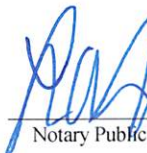
Finance Section Chief

May 18, 2024

Date Commission Expires

\*If applicable, insert title of officer and name of current owner and holder



  
Notary Public

Witness my hand and official seal

### RELEASE OF DEED OF TRUST

WHEREAS, the Grantor(s) named above, by Deed of Trust, granted certain real property described in the Deed of Trust to the  
Public Trustee of the County referenced above, in the State of Colorado, to be held in trust to secure the payment of the indebtedness  
referred to therein; and

WHEREAS, the indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust  
has been fully or partially satisfied according to the written request of the current owner and holder of the indebtedness;

NOW THEREFORE, in consideration of the premises and the payment of the statutory sum, receipt of which is hereby  
acknowledged, I, as the Public Trustee in the County named above, do hereby fully and absolutely release, cancel and forever discharge  
the Deed of Trust or that portion of the real property described above in the Deed of Trust, together with all privileges and  
appurtenances thereto belonging.

(Public Trustee use only; use appropriate label)



Public Trustee

  
Deputy Public Trustee

(If applicable; Notary Seal)

(If applicable, Name and Address of Person Creating New Legal Description as Required by § 38-35-106.5, Colorado Revised Statutes.)

## AMENDMENT NO. 1 TO DEED OF TRUST

Date: July 23, 2012  
Grantor (Borrower): Grand River Ditch Company  
Beneficiary (Lender): Colorado Water Conservation Board ("CWCB")  
Date of Deed of Trust: September 17, 2010  
Recording Date of Deed of Trust: November 15, 2010  
County of Recording ("County"): Garfield County  
Deed of Trust Recording Information: Reception # 794398  
Loan Contract: C150311, dated September 17, 2010 and amended July 23, 2012  
Promissory Note: \$91,973.23, 4.20%, 30 Years, dated July 23, 2012

This Amendment to the Deed of Trust is between the Grantor and the Public Trustee of the County, State of Colorado.

The Original Deed of Trust was recorded to secure repayment of the indebtedness evidenced by Loan Contract C150311 and the Promissory Note attached thereto as Appendix 2.

CWCB disbursed \$360,301.23 of the \$518,130 available to the Grantor pursuant to loan contract C150311. Grantor has made payments of \$25,000.00 and \$243,328.00 to CWCB to reduce the principal amount owed to CWCB pursuant to loan contract C150311 to \$91,973.23, as evidenced by Amendment No.1 to said loan.

Accordingly, Grantor and Beneficiary have agreed to amend the Original Deed of Trust to reflect the revised loan amount and annual loan payment.

NOW THEREFORE, the CWCB and Grantor agree that:

1. The second full paragraph of the Original Deed of Trust is hereby amended to read as follows:

The Grantor has executed a Promissory Note dated July 23, 2012, to secure the repayment of the indebtedness evidenced by Contract No. C150311, dated September 17, 2010, and amended July 23, 2012, for the total principal sum of \$91,973.23, to be repaid to the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB") the beneficiary herein, whose address is 1313 Sherman Street, Room 721, Denver, CO 80203, payable in 30 annual installments, in accordance with said Promissory Note, or until the loan is paid in full.

2. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original deed of trust, the provisions of this amendment shall in all respects supersede, govern, and control.
3. Any provisions of the original deed of trust not expressly modified herein remain in full force and effect.

Executed on the date first written above.



GRANTOR: Grand River Ditch Company

By Alvin Hansen  
Alvin Hansen, President

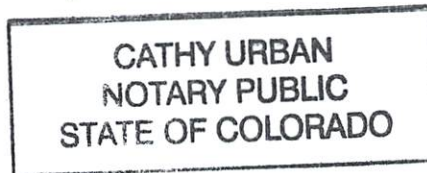
By Scott Fields  
Scott Fields, Secretary

State of Colorado )  
County of Garfield ) ss.

The foregoing instrument was acknowledged before me on August 2, 2012, by Alvin Hansen as President and Scott Fields as Secretary of the Grand River Ditch Company. Witness my hand and official seal.

Cathy Urban  
Notary Public

My commission expires 12/4/13



Return recorded document to: CWCB Finance Section, Attn: Contract Manager, 1580 Logan Street, Suite 600, Denver CO 80203 (Phone Number 303-866-3441)

**Appendix C to Loan Contract C150311 Amendment No. 1**

## PROMISSORY NOTE

Date: July 23, 2012  
Borrower: Grand River Ditch Company  
Principal Amount: \$91,973.23  
Interest Rate: 4.20% per annum  
Term of Repayment: 30 years  
Loan Contract No.: C150311, dated September 17, 2010  
Loan Payment: \$5,448.73  
Payment Initiation Date\*: July 1, 2011  
Maturity Date\*: July 1, 2041

\* 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. This Promissory Note replaces and supersedes the Promissory Note dated September 17, 2010, in the principal amount of \$518,130.
3. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date, 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.
4. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
5. 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.
6. This 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.
7. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
8. This 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 and Deed of Trust of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.

9. 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.
10. 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.

11. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Grand River Ditch Company

By Alvin Hansen  
Alvin Hansen, President

(SEAL)

Attest:

By Scott Fields  
Scott Fields, Secretary

Original Note and Deed of Trust Returned to:

WHEN RECORDED RETURN TO:

CWCB

1313 Sherman Street, Room 718

Denver, CO 80203

Prepared/Received by: Jessica Halvorsen

REQUEST FOR FULL ☒ / PARTIAL ☐

RELEASE OF DEED OF TRUST AND RELEASE BY OWNER OF INDEBTEDNESS WITH PRODUCTION OF EVIDENCE  
OF DEBT PURSUANT TO § 38-39-102 (1) (a), COLORADO REVISED STATUTES

September 21, 2021

Grand River Ditch Company

3290 County Road 210

Rifle, CO 81650

☐ Check here if current address is unknown

Colorado Water Conservation Board

July 23, 2012

October 9, 2012

825363

County Rept. No. and/or Film No. and/or Book/Page No. and/or Torrens Reg. No.

Date

Original Grantor (Borrower)

Current Address of Original Grantor,  
Assuming Party, or Current Owner

Original Beneficiary (Lender)

Date of Deed of Trust

Date of Recording and/or Re-Recording of Deed  
of Trust

Recording Information

TO THE PUBLIC TRUSTEE OF

Garfield

COUNTY (The County of the Public Trustee who is the appropriate grantee to whom the above Deed of Trust should  
grant an interest in the property described in the Deed of Trust.)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. The indebtedness secured  
by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied in  
regard to the property encumbered by the Deed of Trust as described therein as to a full release or, in the event of a partial release, only  
that portion of the real property described as: **(IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A  
FULL RELEASE)**

Full Release

State of Colorado, Colorado Water Conservation Board, 1313 Sherman Street, Ste. 718 Denver, CO 80203

Name and Address of Current Owner, Holder of the Indebtedness and Successor in Interest from the Department of Natural Resources, Secured by Deed of Trust

Kirk Russell, Finance Section Chief, CWCB, 1313 Sherman Street, Ste. 718 Denver, CO 80203

Name, Title and Address of Officer, Agent, or Attorney of Current Owner and Holder

Signature/Date

State of Colorado, County of Denver

The foregoing Request for Release was acknowledged before  
me on September 24, 2021 (date) by\*

Kirk Russell

Finance Section Chief

May 18, 2024

Date Commission Expires

\*If applicable, insert title of officer and name of current owner and holder

LAUREN CASS MIREMONT  
Notary Public  
State of Colorado  
Notary ID # 20104038240  
My Commission Expires 05-18-2024

Notary Public

Witness my hand and official seal

RELEASE OF DEED OF TRUST

WHEREAS, the Grantor(s) named above, by Deed of Trust, granted certain real property described in the Deed of Trust to the  
Public Trustee of the County referenced above, in the State of Colorado, to be held in trust to secure the payment of the indebtedness  
referred to therein; and

WHEREAS, the indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust  
has been fully or partially satisfied according to the written request of the current owner and holder of the indebtedness;

NOW THEREFORE, in consideration of the premises and the payment of the statutory sum, receipt of which is hereby  
acknowledged, I, as the Public Trustee in the County named above, do hereby fully and absolutely release, cancel and forever discharge  
the Deed of Trust or that portion of the real property described above in the Deed of Trust, together with all privileges and  
appurtenances thereto belonging.

(Public Trustee use only; use appropriate label)



Public Trustee

Deputy Public Trustee

(If applicable; Notary Seal)

(If applicable, Name and Address of Person Creating New Legal Description as Required by § 38-35-106.5, Colorado Revised Statutes.)

## AMENDMENT NO. 1 TO SECURITY AGREEMENT

DEBTOR: GRAND RIVER DITCH COMPANY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

DATE OF ORIGINAL SECURITY AGREEMENT: September 17, 2010

Original Promissory Note: \$518,130, dated September 17, 2010, Interest at the rate of 4.20% per annum with annual payment for a period of 30 years or until paid in full.

ORIGINAL LOAN CONTRACT: C150311, DATED September 17, 2010

1. The Parties have amended the ORIGINAL LOAN CONTRACT and Promissory Note to decrease the loan amount from \$518,130 to \$91,973.23 and hereby amend the original Security Agreement to document the change of the loan amount to \$91,973.23.
2. The Parties expressly agree that this Amendment is supplemental to the Original Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

Amended Loan Contract: C150311, dated July 23, 2012

Replacement Promissory Note: \$91,973.23, dated July 23, 2012, interest at the rate of 4.20% per annum with annual payments for a period of 30 years or until paid in full

Date of Amended Security Agreement: July 23, 2012

DEBTOR: GRAND RIVER DITCH COMPANY

By Alvin Hansen  
Alvin Hansen, President

ATTEST:

By Scott Fields  
Scott Fields, Secretary

**Appendix A to Loan Contract C150311 Amendment No. 1**

# **SECURITY AGREEMENT**

(PLEDGE OF REVENUES)

DATE: September 17, 2010

DEBTOR: GRAND RIVER DITCH COMPANY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

PROMISSORY NOTE: \$518,130, DATED September 17, 2010

TERMS OF REPAYMENT: 4.2% PER ANNUM FOR 30 YEARS

LOAN CONTRACT: C150311, DATED September 17, 2010

COLLATERAL: All revenues derived from assessments levied on Debtor's stock to repay the loan as described in Pledge of Property provisions of the LOAN CONTRACT and Debtor's Resolutions adopted September 10, 2010, together with all of Debtor's right to receive said assessment revenues.

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 COLLATERAL.

## **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 COLLATERAL free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the COLLATERAL 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 COLLATERAL 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 COLLATERAL pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature which may be levied or assessed against the COLLATERAL.
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 COLLATERAL, provided that DEBTOR keeps the COLLATERAL in an account separate from other revenues of DEBTOR and does not use the COLLATERAL for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the COLLATERAL.

**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 COLLATERAL 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: Grand River Ditch  
Company, a Colorado nonprofit  
corporation

By Alvin Hansen  
Alvin Hansen, President

ATTEST: Nella Barker  
By Nella Barker  
Nella Barker, Secretary-Treasurer

## RESOLUTIONS OF THE SHAREHOLDERS OF THE GRAND RIVER DITCH COMPANY

The Shareholders of the Grand River Ditch Company (Company), at a Shareholders' meeting held 9/10, 2010, at Kife, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of constructing the Grand River Ditch Pipeline Project in the amount of \$518,130 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.

NOW, THEREFORE, BE IT RESOLVED that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, the Board of Directors and Officers are authorized to:

1. enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$518,130, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. 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. place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund, and
5. execute all documents as required by the loan contract, including, but not limited to, a Security Agreement and a Promissory Note, and
6. pledge the Grand River Ditch Pipeline Project, including approximately 1,320 feet of pipeline and associated access easements, as collateral for the loan and execute all documents, including a security agreement and deed of trust, necessary to convey a security interest in said property to the CWCB, and
7. 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 September 2010.

(SEAL)

By Alvin Hansen  
Alvin Hansen, President

ATTEST:

By Nella Barker  
Nella Barker, Secretary-Treasurer

## RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE GRAND RIVER DITCH COMPANY

The Board of Directors of the Grand River Ditch Company (Company), at a meeting held Sept. 10, 2010, at Little, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of constructing the Grand River Ditch Pipeline Project in the amount of \$518,130 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.

NOW, THEREFORE, BE IT RESOLVED that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, the Officers of the Company are authorized to:

1. enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$518,130, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. 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. place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund, and
5. execute all documents as required by the loan contract, including, but not limited to, a Security Agreement and a Promissory Note, and
6. pledge the Grand River Ditch Pipeline Project, including approximately 1,320 feet of pipeline and associated access easements, as collateral for the loan and execute all documents, including a security agreement and deed of trust, necessary to convey a security interest in said property to the CWCB, and
7. 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 10 DAY OF September 2010.

(SEAL)

By Alvin Hansen  
Alvin Hansen, President

ATTEST:

By Nella Barker  
Nella Barker, Secretary-Treasurer

**GOLUBA & GOLUBA P.C.**  
ATTORNEYS AT LAW  
823 COOPER AVENUE  
P.O. BOX 931  
GLENWOOD SPRINGS, CO 81602

(970) 945-9141  
(970) 945-9143 (Fax)

NICHOLAS W. GOLUBA

NEIL W. GOLUBA

August 7, 2012

Colorado Water Conservation Board  
1580 Logan Street, Suite 600  
Denver, CO 80203

Re: Grand River Ditch Company  
Contract No. C150311

Colorado Water Conservation Board:

This firm represents the Grand River Ditch Company (the "Ditch Company") which owns and operates the Lower Cactus Valley Ditch. This Attorney's Opinion Letter is being submitted in connection with the enclosed Loan Contract Amendment No. 1 to Loan Contract C150311 (the "Amendment").

As attorney for the Ditch Company, I hereby represent that to the best of my knowledge, information and belief:

1. The Amendment has been executed by duly elected or appointed officers of the Ditch Company who are authorized to execute said Amendment and to bind the Ditch Company; and
2. There are no provisions in the Ditch Company's Articles of Incorporation or Bylaws or any state or local law that prevent the Amendment from binding the Ditch Company; and
3. The Amendment shall be valid and binding against the Ditch Company if entered into by the Colorado Water Conservation Board.

Very truly yours,

NEIL W. GOLUBA



NWG/srb  
Enc.

## **CONDITIONAL ASSIGNMENT**

In consideration of and as security for reimbursement for monies owing under a loan from the Colorado Water Conservation Board ("Assignee") in the amount of \$518,130 ("Loan") pursuant to Contract Encumbrance Number C150311, ("Loan Contract"), the Grand River Ditch Company("Assignor") hereby conditionally assigns and transfers to the Assignee, for its use and benefit, all of the Assignor's right to enforce the Assignor's Articles of Incorporation and By-Laws, which are attached hereto and incorporated herein, including the right to sell a delinquent shareholder's stock and collect any and all monies derived from such a sale. This Assignment shall take effect only if and when the Assignor is considered in default under the Loan Contract as provided below. This Assignment is made solely to secure payment of the Loan and is made subject to the following terms, covenants and conditions:

1. This Assignment shall take effect only if and when the Assignor is considered in default under the Loan Contract, and in that event the Assignment will remain in full force and effect until the Assignee releases it in writing. In the event the Assignment becomes effective, the Assignee shall release this Assignment when the Loan is paid in full.
2. The Assignor shall be considered in default under the Loan Contract for purposes of this Assignment upon the occurrence of any of the following events or conditions: (a) failure or omission to make any payment under the Loan Contract when due; (b) default in the payment or performance of any obligation, covenant, or agreement contained in the Loan Contract; (c) the Assignor becoming insolvent or unable to pay debts as they mature. The Assignee shall give the Assignor written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before Assignor shall be considered in default for purposes of this Assignment.
3. So long as there shall exist no default by the Assignor in the payment of the principal sum and interest secured hereby, or in the performance of any obligation, covenant or agreement contained in the Loan Contract, this Assignment shall not take effect and the Assignor shall retain the sole right to collect all monies derived from the sale of shareholder's stock.
4. Upon or at any time after default in the payment of the principal sum and interest secured hereby, or in the performance of any obligation, covenant or agreement contained in the Loan Contract, the Assignee, without in any way waiving such default, may, upon notice in writing to the Assignor, demand, foreclose upon, collect and receive all monies from delinquent shareholders' stock to the extent required to satisfy the Assignor's obligations under the loan contract. Upon receipt of such notice, the Assignor shall notify delinquent shareholders of the Assignee's exercise of this right. The Assignee shall apply such monies first to costs associated with collection, including reasonable attorney's fees, next to outstanding interest, and then to the principal sum of the Loan.
5. The rights and remedies of the Assignee stated in this Assignment are in addition to any other rights the Assignee may have under the Loan Contract or any law.

6. This Assignment shall be construed in accordance with the laws of the State of Colorado.

Executed this 20 day of September, 2010.

Grand River Ditch Company

By Alvin Hansen  
Alvin Hansen, President

ATTEST:

By Nella Barker  
Nella Barker, Secretary

B Y - L A W S

Art. 1. The officers of the Company shall consist of a President, Vice President, Secretary and Treasurer. The last two officers named may be united in a single person. They shall be elected by the Board of Directors for the period of one year and until their successors are elected and qualified. They shall serve without pay unless ordered otherwise by the Board of Directors. A general manager or Superintendent shall be selected by the Board to serve during its pleasure and he shall receive such compensation as may, from time to time, be ordered by the Board and until such compensation shall be specified, he shall serve without pay.

Art. 2. The duty of the President shall be to preside at all meetings of the Board, sign all stock certificates and other legal papers, have the general supervision of the affairs of the company and perform such other duties as may pertain to his office. The Vice President to act in all matters during the absence of the President. The Secretary of the Company shall have charge of the corporate seal of the company, countersign and seal all stock certificates, keep a record of all proceedings of the Board and have the custody of all the papers and documents pertaining to the affairs of the company and generally to perform such duties as belong to his office. The Treasurer of the company shall have charge of the corporate funds of the company and receive and disburse all its moneys by check and he shall give a \$2000 Surety Co. bond conditioned for the faithful performance of the duties of his office, to be paid for by the company, and he shall keep a true and accurate account of all the money transactions or labor

performed for the company and credit therefor given in lieu of money. He shall also collect all assessments, notify stockholders of their delinquency and send notices to stockholders of all assessments made and perform such other duties as pertain to his office.

Art. 3. A General Manager or Superintendent shall be selected for the Company to serve during the pleasure of the Board without compensation, unless otherwise ordered by the Board, whose duty it shall be to have the immediate charge and supervision of the ditch, right of way, flumes, headgates and appurtenances of the company but not the lateral ditches used for the distribution of water therefrom, all subject to the direction of the President, and he shall perform such other duties as may be enjoined upon him by the Board and the President.

Art. 4. The corporate seal of the Company shall be circular in form and bear the legend "The Grand River Ditch Company", and in the center the word "SEAL", an impression of the same being hereon made.

Art. 5. No dividends shall at any time be declared or paid on the capital stock of the Company, but all stock shall call for use of water from the Company Ditch in lieu of dividends. All stock shall be subject to an annual assessment each year for the repair, betterment, improvement, operation and maintenance of the company's ditch, to be levied by the Board of Directors and paid in labor or money, at such time, manner and place as the Board may decide, and special assessments may be made at any time by the Board when necessity requires due to unforeseen circumstance or casualty. All stock of the company shall read on its face as follows, and be subject to the terms, conditions and provisions

therein and thereupon appearing, viz.:

"Incorporated under the laws of the State of Colorado.

"No. \_\_\_\_\_ Shares

"The Grand River Ditch Company

"Capital Stock \$2,700.

"Shares \$10. each.

"This is to certify that \_\_\_\_\_ is the owner of \_\_\_\_\_ shares of the capital stock of The Grand River Ditch Company, full paid, but subject to the by-laws of the company and subject to an annual assessment for repairs, betterments, improvements, operation, enlargement and extension of the company's ditch and also to special assessments at any time when required because of unforeseen circumstance or casualty to the ditch or its appurtenances, all such assessments to be levied and paid pro rata on each share of stock independent of the point or points where water by virtue hereof is diverted from the company's ditch, such that each share may bear the same burden for the purposes aforesaid throughout said entire ditch. The owner of this certificate is entitled to 1/270 portion for each share of stock embraced in this certificate, of the water carrying capacity of the company's ditch, having its headgate on the northerly side of the Grand River, in Lot 8, Sec. 5, Twp. 6 S., R. 91 W., to be used for irrigation and domestic purposes only upon the land of the owner of said stock, to be delivered on the line of said ditch at the point or points designated by the Board of Directors of the company. This stock is subject to an annual and special assessment for the purposes aforesaid, to be levied and made by said Board and to be paid at such time, place and manner as it may decide. No water shall be furnished by virtue of this certificate so long as the owner thereof shall remain

delinquent in the payment of any assessment for the purposes aforesaid and the use of the water called for by this certificate by any other stockholder than the owner during such delinquency shall not give the owner of this stock a right of action against such user or the company. All assessments shall become due in 30 days after levied and made by the Board and if not paid within 60 days after due the delinquent stock may be advertised for sale at public auction for 30 days and sold accordingly to make the amount of such delinquency and if no bids be made therefor, such delinquent stock shall revert to the company. This stock is not entitled to be voted cumulative for any purpose and is transferrable only on the books of the company in person or by attorney on surrender of this certificate.

"In witness whereof the President and Secretary have hereunto subscribed their names and caused the corporate seal of the company to be hereto affixed at Antlers, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_.

" \_\_\_\_\_  
"President

" \_\_\_\_\_  
"Secretary"

Art. 6. In accordance with the recitals to appear on the face of said stock as above shown, the same are hereby adopted as conditions under which the capital stock of the company shall issue.

Art. 7. The ditch herein referred to is the ditch of The Cactus Valley Ditch Company for the purchase of which this company is now negotiating and expects to purchase. All water is to be delivered at said ditch and not from any lateral, all laterals are to be built and kept up by the users of water.

Art. 8. In the purchase of said ditch it is understood that this company will take over the debts of The Cactus Valley Ditch

Company and succeed to all its demands against the stockholders of that company.

Art. 9. The Board of Directors shall be elected annually at the regular meeting of the stockholders as hereinafter provided, and they shall hold office until their successors are elected and qualified. All directors shall be stockholders in the company and any vacancy occurring in the Board shall be filled by the remaining members. The Board shall at its first regular meeting elect officers as herein provided. The regular meetings of the Board shall occur on the first Monday in each month and special meetings may be called by the President at any time. A majority of the members of the Board shall constitute a quorum. The Board shall have power to call special meetings of the stockholders whenever they deem it necessary, by publishing a notice of such meeting once a week for two successive weeks next preceding such meeting, by two insertions in some newspaper at that time published in Garfield County, Colorado. The Board shall audit and adjust all bills and claims against the company subject to the final action of an auditing committee of three to be elected at the regular annual meeting of the stockholders in the same manner as the directors are elected, whose duty it shall be to audit the books of the Secretary and Treasurer two weeks preceding such annual meeting and report their findings at such meeting.

Art. 10. The Board shall levy and make and cause to be collected an annual assessment each year for the operation, maintenance, repair, enlargement, betterment and extension, of the company's ditch and likewise special assessment at any time when required because of unforeseen circumstance or casualty, all at such time, place and manner as the Board may decide, payable in money or work as the Board may direct.

Art. 11. The Board shall have power to advertise and cause to be sold at public auction all stock remaining delinquent for the period of 60 days, in the payment of any assessment after it becomes due and in case there be no bids for such stock, the same may be forfeited to the company, but such stock need not be sold or forfeited and in lieu thereof an action maintained against the owner for the amount of such delinquency.

Art. 12. Water shall not be furnished to any stockholder so long as he remains delinquent in the payment of any assessment on his stock and so long as such delinquency may continue, the Board may authorize the use of the water called for by said stock, by other stockholders of the company, without giving such owner a right of action against such user or the company.

Art. 13. None of the stock of the company shall be entitled to be voted cumulative in any manner or upon any question.

Art. 14. The annual meeting of the stockholders for the election of directors shall be held on the second Saturday in January of each year, but if for any reason such meeting be not held on that day, it may be held on any subsequent day. The Board of Directors shall be elected by the stockholders at their regular annual meeting and notice of such meeting shall be given by publication for at least 10 days previous to such meeting, of the time and place thereof, and said election shall be made by such of the stockholders as shall attend for that purpose either in person or by proxy, provided the majority of the stock then issued and outstanding, is represented. If a majority of the stock be not represented at such meeting, the stockholders present may adjourn such meeting for a period of not exceeding 60 days. Each stockholder shall be entitled to as many votes as he owns shares of stock and

represented either in person or by proxy and the persons receiving the largest number of votes without cumulative voting, for directors shall be the directors of the company for one year following and until their successors are elected and have qualified.

Art. 15. These by-laws may be amended, changed or added to, by an affirmative vote of a majority of the stock represented in person or by proxy at any regular meeting or at any special meeting called for that purpose.

PAID IN FULL

AMENDMENT  
TO THE BYLAWS OF THE  
GRAND RIVER DITCH COMPANY

ARTICLE 14:

WHEREAS, the annual meeting of the stockholders for the election of directors has heretofore been held on the second Saturday in January of each year; and

WHEREAS, such date has been found unsatisfactory and inconvenient for the stockholders;

THEREFORE, motion was made by Hayden E. Jones and seconded by Alfred George that the time for holding said annual stockholders meeting be changed to the second Friday in January of each year, same to be held at 8:00 p.m. at the school house in Antlers, and called for a vote on same, ayes to be for such change and nays to be against; the entire 121 votes present being for,

IT IS THEREFORE RESOLVED:

That the annual meeting of the stockholders for the election of directors shall be held on the second Friday of January of each year, at 8:00 p.m. at Antlers School, and that the former Article No. 14 in the By-laws shall become null and void and of no further effect. But if for any reason said meeting be not held upon that day it may be held on any subsequent day. The Board of Directors shall be elected by the stockholders at their regular annual meeting and notice of such meeting shall be given by publication for at least 10 days previous to such meeting, of the time and place thereof, and said election shall be made by such of the stockholders as shall attend for that purpose either in person or by proxy, provided that majority of the stock then issued and outstanding is represented. If a majority of the stock be not represented at such meeting, the stockholders present may adjourn such meeting for a period of not exceeding 60 days. Each stockholder shall be entitled to as many votes as he owns shares of stock and represented either in person or by proxy and the persons receiving the largest number of votes without cumulative voting, for directors shall be the directors of the company for one year following and until their successors are elected and have qualified.

AMENDMENT  
TO THE BYLAWS OF THE  
GRAND RIVER DITCH COMPANY

ARTICLE 14:

WHEREAS, at the annual meeting on January 12, 1968, of the stockholders, a motion was made by John H. Conto and seconded by John Everett to amend the By-laws as follows:

That 100.0 shares of stock either present or by proxy at any called or special meeting shall constitute a quorum, there being 156.68 shares present this passed unanimous.

PAID IN FULL

AMENDMENT  
TO THE BYLAWS OF THE  
GRAND RIVER DITCH COMPANY

ARTICLE 14:

WHEREAS, at the annual shareholders meeting on January 14, 1994, Article 14 was amended to read as follows:

In the event that a quorum is not present at the annual shareholders meeting, the present Board of Directors will be retained for the year.

PAID IN FULL

AMENDMENT  
to the BY-LAWS of the  
GRAND RIVER DITCH COMPANY

ARTICLE 16

Any shareholder of this Company who desires to change (a) the type of use and/or (b) the point of diversion of the water represented by said shareholder's ownership of a proportionate interest in the outstanding stock of this Company, may undertake to make such change or changes and the same will be recognized by this Company only upon the occurrence or performance of and subject to the following conditions:

1. Said shareholders shall implement such change or changes only subsequent to a final decree providing therefor of the Water Court for Division No. 5 or its lawful successor Court.

2. Any application for a decree for such change or changes shall be pursued by the shareholder at his own instance and in his own name and nothing herein shall prevent the Company or any shareholder from entering said litigation as a party in interest for any reason whether or not adverse to said shareholder-applicant.

3. Immediately upon filing such application, shareholder must give to the Company actual written notice of the filing, a copy of said application and the engineering report, if any, which supports said application.

4. Pursuant to and subject to such decree and/or change of water rights application, the shareholder may include said water in an augmentation plan that may provide for the diversion of certain of said water into the Company's main headgate and to be returned immediately to the Colorado River. In the event shareholder uses certain water accordingly, then shareholder shall during such diversions cease to use an amount of water available under shares of this Company owned by shareholder (other than the shares representing the water to be so diverted) in an amount equal to the actual historic transportation losses in the ditch associated with said water which amount shall in no event be less than 10% of the water so diverted which water shall as a result of such cessation be left in the ditch of the Company and not diverted anywhere by shareholder to compensate said ditch for historic ditch transportation losses associated with such diverted water. Shareholder shall provide the Company at his expense an engineer's estimate of said actual loss.

At the Company's option, it may require that the shares representing the actual historic transportation loss and the water

PAID IN FULL

diverted back into the River be returned to the Company which will retain said shares as treasury shares; provided however that the shareholder shall continue to pay assessments on, but not vote, said treasury shares.

5. Subsequent to the obtaining of such decree, should the State Engineer require any headgate or measuring devices which add to or modify any of the Company's then existing headgates or measuring devices on the Lower Cactus Ditch or elsewhere, then said shareholder shall pay when incurred the entire cost related thereto including cost of design, purchase and installation and maintenance. The Company shall have sole authority and control over installation of said devices and/or structures.

6. Shareholder's operation pursuant to such decree shall at all times be subject to all provisions of the Articles of Incorporation and By-laws of the Company as they then exist or may thereafter be amended according to law and the terms thereof.

7. Notwithstanding the use of said water in a decreed plan of augmentation and/or change of water rights application, shareholder shall continue to pay when due all ditch assessments charged pursuant to these by-laws relating to the stock representing said water. Said stock shall be subject to a restriction which shall be printed on said certificate that states that said stock is subject to the terms and conditions of said decree.

8. Shareholder shall reimburse Company when billed for all costs and reasonable attorneys fees incurred by the Company in negotiation or litigation with respect to said application, augmentation plan or decree.

9. At such time as said decree is entered, shareholder shall make, execute, and record a restrictive covenant running with the land benefitting from said augmentation plan or application granting to Company the power to levy and collect all ditch assessments relating to the stock representing the water being the subject of said plan or application, including stock relating to water undiverted to replace or account for historic transportation losses, together with all costs and reasonable attorneys fees relating to the collection of such assessments or the Company's participation in negotiation or litigation with respect to said decree and augmentation plan. Said covenant shall further grant to the Company a right to file a lien upon such property or on such other land as may be mutually agreeable to the Company and the shareholder and to foreclose the same to collect such sums in the event of a non-payment thereof after reasonable notice and presentment of payment.

PAID IN FULL

10. The Company will not recognize as valid hereunder any such decree or augmentation plan that impairs or invalidates in any way the decreed water rights of the Lower Cactus Valley Ditch or the Grand River Ditch Company.

11. The terms and conditions of this Article 16 must be included in the terms and conditions of said decree to cause same to be binding upon the Company.

12. Neither the Company's acquiescence in said decree or plan or application nor shareholder's compliance with the provisions of this Article 16 shall give shareholder any proprietary interest in the water or water rights of the Company beyond that which shareholder may have otherwise had under law prior to obtaining such decree.

13. Failure of the shareholder to comply with the terms and conditions of this Article 16 in any attempt to change the use or the point of diversion as contemplated herein may cause the Company in its sole discretion to refuse to divert for shareholder or his successors any water represented by shares owned by shareholder and included in any augmentation plan or Court decree.

Approved by a vote of 136.03 shares for and 2 shares against at the regular annual shareholders meeting held on January 14, 1983.

PAID IN FULL

AMENDMENTS TO THE BYLAWS  
OF THE GRAND RIVER DITCH COMPANY

ARTICLE 17

1. No Person shall divert water from the company's ditch by pump, pipe, hose, syphon, or other similar (non-headgate) device except upon or after compliance with the requirements of this Article.

2. On or before April 1 of each year, any shareholder intending to divert any portion of the water represented by his shares in this company using a pump, pipe, hose, syphon or other similar (non-headgate) device shall provide to the secretary of the company a signed certificate providing the following information:

- a. For pumps:
  - 1. type of pump;
  - 2. horsepower;
  - 3. voltage;
  - 4. size of intake;
  - 5. size of discharge;
- b. For non-pumps:
  - 1. description of device;
  - 2. size of intake;
  - 3. size of discharge if different than intake;
  - 4. type of energy used in diverting water (e.g. gravity flow, hydraulic, mechanical, etc.;
- c. For all diversions, pump, and non-pump (e.g. pipe, hoses, syphons, etc):
  - 1. amount of water that can and will be diverted in gallons per minute or cfs;
  - 2. location of point of diversion;
  - 3. amount of shares and number of certificate stock;
  - 4. name of owner of shares;
  - 5. name and address of all users of water;
  - 6. copy of agreement whereby non-owner has the right to use the water;

PAID IN FULL

3. No diversion by pump, pipe, hose, syphon or similar device out of the company's ditch shall be permitted to any person without full compliance with this Article by April 1 of each year.

4. The Board of Directors shall undertake all necessary steps to prevent diversion of water from the company's ditch by anyone who has not complied with the Article whether or not said person owns stock in this company.

(Approved by majority vote of shareholders on January 1, 1990).

AMENDMENT  
TO THE BYLAWS OF THE  
GRAND RIVER DITCH COMPANY

ARTICLE 18:

There will be no less than 0.25 (twenty-five one hundredths) shares of water transferred or retained by any shareholder.

Approved by a majority vote of the shareholders on January 14, 1994.

**PAID IN FULL**

AMENDMENT  
TO THE BY-LAWS OF THE  
GRAND RIVER DITCH COMPANY

ARTICLE 19

It has been the historical practice of the operation of the Lower Cactus Valley Ditch that all shareholders share water loss for any reason equally. The formula that has always been used to incorporate this principal is that it takes seven shares of stock to represent one cubic foot of water per second of time. This results in a formula loss for evaporation, seepage and other purposes of 22% to be applied equally to all shareholders at all locations on the ditch. This rule is now written into these by-laws as being consistent with past practice as follows:

1. For all purposes of determining the amount of water available to be diverted at the headgates of all shareholders when the entire water right owned by the ditch company is being diverted and used, the formula to be used is seven shares of stock represents one cubic foot of water per second of time.

2. Any shareholder of the company who desires to change (a) the type of use and/or (b) the point of diversion of a proportionate interest in the outstanding stock of this company may undertake to do so only upon complying with the articles of incorporation as amended, the by-laws as amended, all rules of management and operation whether oral or written and upon applying a loss rate of 22% on any water represented by said shareholder's stock being the subject of such change.

Approved by a vote of 124.13 shares for and 0 shares against at the regular annual shareholder meeting held on January 8, 1999.

PAID IN FULL

**AMENDMENT TO THE BYLAWS  
OF THE GRAND RIVER DITCH COMPANY**

(Adopted: January 14, 2000 Annual Meeting)

PURSUANT TO the Bylaws of the Company, the Annual Meeting of the Shareholders of the Company for calendar year 2000 was held on Friday, January 14, 2000, a quorum being present,

WHEREAS, it is in the interests in the Company and to the benefit of all the Shareholders to promote consistency and provide clarity with respect to various administrative, procedural and operational functions of the Company; and

WHEREAS, in order to effectuate those ends and to consolidate, revise and update certain previous amendments made to the Bylaws, a draft of proposed provisions to supplement and amend the Bylaws of the Company was presented to the meeting.

**Action Taken**

After discussion and upon motion duly made by Brent Peterson, seconded by Kenneth Chambers and carried by a vote of the Shareholders, IT WAS RESOLVED THAT the Bylaws of the Company be, and they hereby are, supplemented and amended by the following provisions which shall supersede, control and take precedence over any inconsistent provisions thereof:

**Section 1. Transfer of Shares.** Upon surrender to the Company of a certificate of stock duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, payment of such transfer charges as may be fixed by the Board of Directors from time to time and such fees, taxes or other transfer charges as may be imposed by law, it shall be the duty of the Company to issue a new certificate to the person entitled thereto, and cancel the old certificate. Every such transfer of stock shall be entered on the stock book of the Company which shall be kept by the Company's Secretary. For each certificate of stock transferred on the books of the Company, a transfer charge payable to the Company, in advance, in the amount of not less than Seventy-Five Dollars (\$75.00) shall be assessed by action of the Board of Directors. When the new certificate is to be delivered by mail, the costs of mailing, certified mail, shall also be assessed and collected, in advance. Transfer charges may be adjusted from time to time by action taken by the Board of Directors.

**Section 2. Maximum Removal and Transportation Loss.** One (1) share of stock in the Company entitles the Shareholder to 1/270th of the Company's 50 cubic feet per second water capacity, less transportation losses. Therefore, each share of stock entitles the Shareholder to remove no more than .185 cubic feet of water per second, less transportation losses, throughout

**PAID IN FULL**

the irrigation season. At any given time, no Shareholder may remove a greater quantity of water per second of time than that which his respective share(s), less transportation losses, entitle him. Shareholders of the Company shall share pro-rata in any and all water loss resulting from transportation of the water in the Ditch. Based on historic data, the transportation loss factor is currently fixed at twenty-two percent (22%). Thus, by way of example, after reduction for transportation losses, one (1) full share entitles the Shareholder to 64 gallons per minute, or stated otherwise, the removal of one (1) c.f.s. requires seven (7) shares in the Ditch. The transportation loss may be revised from time to time based on updated information and technical data concerning evaporation, seepage and other losses; provided however, that no change in the transportation loss factor shall be recognized or binding until and unless first approved by a vote of the Shareholders. The transportation loss shall be applied pro-rata to all shares of stock in the Company notwithstanding the delivery point of such water or whether the delivery point be on the Ditch or at such other location as may be approved by the Company and the Water Court in connection with any augmentation plan or change in the point of diversion.

**Section 3. Non-Headgate Removal.** All water taken from the Ditch shall be removed only by means and methods affording constant, instantaneous measurement of the amount being taken, such as by headgate and weir. No person shall remove water from the Ditch by pump, pipe, hose, syphon or other non-headgate device, except upon approval by the Board of Directors. Such approval shall be given only upon a determination that the device allows for proper measurement of the water removed and that the device does not permit the removal of more water from the Ditch than that to which the Shareholder is entitled. Any and all expenses incurred by the Company in the inspection and approval of a non-headgate device, including all engineering fees, attorney fees and the like shall be the responsibility of the Shareholder wishing to use such device.

The Board of Directors shall permit no Shareholder to remove water from the Ditch by pump, pipe, hose, syphon or other similar (non-headgate) device except upon or after compliance with the following requirements:

1. On or before April 1st of each year, any Shareholder intending to divert any portion of the water represented by his shares in the Company using a pump, pipe, hose, syphon or other similar (non-headgate) device shall provide to the Secretary of the Company a signed certificate providing the following information:

- a. **For pumps:**
  - 1. type of pump;
  - 2. horsepower;
  - 3. voltage;
  - 4. size of intake;
  - 5. size of discharge.

**PAID IN FULL**

b. **For non-pumps:**

1. description of device;
2. size of intake;
3. size of discharge if different than intake;
4. type of energy used in diverting water  
(e.g. gravity flow, hydraulic, mechanical, etc.)

c. **For the removal of water by any method other than headgate and weir (including all pumps, non-pumps, pipe, hoses, syphons, etc.):**

1. amount of water that can and will be removed in gallons per minute or c.f.s.;
2. location of point at which the water is taken;
3. amount of shares and number of the stock certificate(s) owned;
4. name of owner of shares;
5. name and address of all users of the water; water removed by other than the owner of the shares (e.g., tenants, lessees and others using the owner's water);
6. copy of any agreement whereby non-owner has the right to use the water (e.g. lease, rental agreement, etc.).

2. No diversion by pump, pipe, hose, syphon or similar device out of the Ditch shall be permitted without full compliance with the foregoing provisions of this Section by April 1st of the year during which removal by such device is proposed.

3. The Board of Directors shall undertake all necessary steps to prevent the removal of water from the Ditch by any Shareholder who has not complied with subsections (1) and (2) of this Section.

The Board of Directors, in its discretion, may fine a Shareholder up to one hundred dollars (\$100) per day for the removal of water from the Ditch with an unapproved device, and shall assess and require the Shareholder to pay any expenses, including attorney fees, engineering fees and other professional or expert fees incurred by the Company as a result of the unauthorized form of removal of water from the Ditch, and/or incurred to collect such fines or prevent the use of such device.

**Section 4. Laterals.** Any and all laterals carrying water from the Ditch shall be built and kept up by the users of the water carried by such laterals. The Company and its employees shall bear no responsibility in the maintenance or upkeep of any such laterals.

**Section 5. Changes in Use.** Any Shareholder desiring to change the type of use, point of diversion or the place at which such Shareholder's water shall be delivered, or desiring to include his water in an augmentation plan shall first make written application to the Board of

Directors, which application shall include a thorough and complete explanation of the change desired, together with such justification as the Shareholder deems advisable. Such Shareholder may undertake any such change only upon applying the transportation loss at the rate then in effect (currently 22%) for the water right subject to such change. If, in the opinion of the Board of Directors, upon consultation with such engineers, attorneys and other professionals deemed appropriate, such change may be made without injury to the Ditch, the Company or other Shareholders, such request shall be approved. Any change approved by the Company shall require a Final Decree of the Water Court for Division No. 5 providing for such change. Such Decree shall be pursued by the Shareholder at his own cost and in his own name, but only after first securing the written approval of the Board of Directors for the specific change requested. The Company shall be served with a copy of any Application filed with the Water Court and shall receive notice of all proceedings in respect thereto.

Any Decree concerning water represented by shares in the Ditch Company shall at all times be subject to the provisions of the Articles of Incorporation and Bylaws of the Company, as existing at the time such Application be made. Notwithstanding the use of said water in a decreed plan of augmentation and/or change of water rights, the Shareholder shall continue to pay, when due, all Ditch assessments charged pursuant to these Bylaws. Neither the Company's acquiescence in said Decree, plan or application nor the Shareholder's compliance with the provisions herein shall give the Shareholder an interest in any water or water rights of the Company or of any other Shareholder, beyond that which the Shareholder may have otherwise had under law prior to obtaining such Decree. The Company will not recognize as valid any plan or application which impairs or invalidates, in any way, the water rights decreed to The Lower Cactus Valley Ditch, the carriage rights of the Company or any other Shareholder or the maintenance or operation of the Ditch.

The Shareholder seeking a change of use, change in place of delivery or approval of an augmentation plan shall be responsible for any and all costs, including all engineering fees, attorneys' fees and other professional fees incurred by the Company to review such application or otherwise as a result of such application. The Board of Directors may require prepayment or partial prepayment of the anticipated costs of reviewing any such change application at the time the application is submitted for the Company's approval. The applicant shall be responsible for any costs and charges incurred by the Company in excess of any prepayment or partial prepayment required. Failure to pay any costs incurred by the Company in connection with any such application shall subject the shares owned by the applicant to a special assessment, which shall be payable and subject to collection in accordance with the provisions of Sections 10, 11 and 12 below.

**Section 6. Other Changes.** Any Shareholder desiring to alter, revise or change, in any way, the historic or deeded access rights or easements of the Company, or desiring to cross the Ditch with utilities, bridge the Ditch with a road or street, pipe any portion of the Ditch, relocate any portion of the Ditch or otherwise modify or change any deeded or historic right or entitlement of the Company with respect to the Ditch, shall first make written application to the

Board of Directors which shall include a thorough and complete explanation of the change, modification or other action desired, together with such justification as the Shareholder deems advisable. The applicant shall be responsible for any and all costs, including engineering fees, attorneys' fees and other professional fees incurred by the Company, to review such application or otherwise as a result of such application. The Board of Directors may require prepayment or partial prepayment of the anticipated costs of reviewing any such application at the time the application is submitted for the Company's approval. The applicant shall be responsible for any costs and charges incurred by the Company in excess of any prepayment or partial prepayment required. Failure to pay any such costs incurred by the Ditch Company in connection with any such application, shall subject the shares owned by the applicant to a special assessment, which shall be payable and subject to collection in accordance with the provisions of Sections 10, 11 and 12 below. The Company shall have no obligation to approve or grant any such change, modification or other request submitted by a Shareholder. The application for any such a change shall be submitted at the Shareholder's risk and with the understanding that approval shall be within the sole discretion of the Board of Directors. The Company will not recognize as valid any plan or application which impairs or invalidates, in any way, the water rights decreed to The Lower Cactus Valley Ditch, the carriage rights of the Company or any other Shareholder or the maintenance or operation of the Ditch.

**Section 7. Board's Decision.** In rendering a decision on any change application submitted pursuant to the provisions of Section 5 or Section 6 above, the Board of Directors may grant approval of the application, deny the application in whole or in part, or approve the application subject to modifications, conditions or limitations deemed proper or in the best interest of the Company and its other Shareholders.

**Section 8. Assessments.** All stock shall be subject to an annual assessment for the repair, betterment, improvement and operation and maintenance of the Ditch, payable in money, labor or both. Special assessments may be made at any time as necessity requires, due to unforeseen circumstances or casualty to the Ditch or its appurtenances. All such assessments shall be levied and paid pro rata on each share of stock, regardless of where the Shareholder takes water from the Ditch. No such assessment shall be made unless the question of making the assessment is first submitted to the Shareholders at an annual meeting or at a special meeting called for that purpose, where a quorum is present and the assessment is approved by a majority of the shares represented at such meeting, either in person or by proxy entitled to vote thereon; provided however that, if said Shareholders fail to hold any such meeting or fail to make or authorize any assessment within ninety (90) days after December 31st, the close of the Company's fiscal year, the Directors shall have the power to make any such assessment at any regular or special meeting called therefor for that year.

**Section 9. Administrative Charge.** In addition to the pro-rata assessments made to maintain and operate the Ditch, each Shareholder, regardless of the number of shares owned, shall pay an annual administrative charge. The amount of the annual administrative charge payable by each Shareholder is currently established at seventy-five dollars (\$75) per year, but may be

adjusted from time to time by resolution of the Board of Directors as deemed appropriate. Such administrative charge shall be assessed to each Shareholder, along with and in addition to the annual assessment levied to cover the costs of maintaining and operating the Ditch.

**Section 10. Notice of Assessments.** The Company shall endeavor to mail to each Shareholder on or before February 1st of each year, notice of the annual assessment and the annual administrative charge. The annual assessment and annual administrative charge shall be due and payable on March 1st or twenty (20) days after the notice is mailed, whichever is later. Any special assessment shall be due twenty (20) days after the date notice of the assessment is made. Failure to pay any assessment when due shall result in an automatic late charge in the amount of not less than fifty dollars (\$50). The amount of the late charge may be adjusted from time to time by resolution of the Board of Directors.

**Section 11. Delinquency.** In addition to the late charge, upon the failure to pay any annual or special assessment, any administrative charge, late fees or other proper charge when due, the delinquent Shareholder shall also become liable and be responsible for any and all expenses, including attorney fees, incurred by the Company as a result of such delinquency, which expenses shall be added to and deemed a part of the delinquent amount. Water shall not be furnished to any Shareholder so long as that Shareholder remains delinquent in the payment of any assessment, administrative charge, late fees or other proper charges. During such delinquency, the Shareholder shall have no right to take any water from the Ditch and the Board of Directors may authorize other Shareholders of the Company to use the water called for by the stock of the delinquent Shareholder and the delinquent owner of the shares shall have no right of action against such user or the Company.

If any assessment, administrative charge or late charge is not paid within sixty (60) days after it has become due, or June 1st, whichever is later, the Company may advertise the delinquent stock for sale at public auction, by publication made in the *Rifle Telegraph*, the *Glenwood Post* or other recognized legal newspaper published in Garfield County and upon three (3) publications of the Notice of Sale (one publication on the same day for three consecutive weeks), the Company may sell the shares at public auction. All sale costs incurred on behalf of the Company, including advertising and publication expenses, attorney fees or other costs, shall be borne by the delinquent Shareholder. The Company shall have the right to reject any and/or all bids. In the event there are no bids for such stock or the Company rejects all bids, the stock shall be deemed forfeited to the Company.

**Section 12. Collection.** In lieu of sale or forfeiture of the stock, the Company shall have the right to maintain an action against the owner for the amount of the delinquency, plus fines and costs, including attorney fees.

**Section 13. Promulgation of Rules and Regulations.** The Board of Directors shall have the power and authority to adopt, promulgate and amend rules and regulations as it may from time to time deem necessary or desirable to regulate the removal, measurement or use of the

BORROWER: GRAND RIVER DITCH  
COMPANY  
Contract No. C150311  
Original Loan Amount: \$518,130.00  
Adjustment (Decrease): \$426,156.77  
Adjusted Loan Amount: \$91,973.23

Agency Name: Water Conservation Board  
Agency Number PDA  
CMS Number: 48405

## **LOAN CONTRACT AMENDMENT No. 1**

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

**This Amendment**, made this July 23, 2012, by and between the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB"), and the Grand River Ditch Company, a Colorado nonprofit corporation ("BORROWER" or "CONTRACTOR").

### **FACTUAL RECITALS**

- A. Authority exists in the law, and funds have been budgeted, appropriated, and otherwise made available for payment in Contract Encumbrance Number C150311.
- B. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies.
- C. The CWCB and the BORROWER entered into Contract Encumbrance Number C150311, dated September 17, 2010, ("ORIGINAL CONTRACT"), incorporated herein by reference, wherein the CWCB agreed to loan money in the total amount up to \$518,130, and the BORROWER agreed to repay the loan in accordance with the terms of the ORIGINAL CONTRACT.
- D. The Project was substantially complete as of July 1, 2011.
- E. Of the \$518,130 loan amount available, only \$360,301.23 was disbursed to the BORROWER for the PROJECT.
- F. The CWCB received payments of \$25,000.00 and \$243,328.00 from the BORROWER on June 20, 2011 and September 14, 2011, respectively. Said payments were applied to principal reduction, leaving a final loan amount of \$91,973.23.
- G. The parties agree to amend the contract to reduce the final loan amount to \$91,973.23.

**NOW THEREFORE**, it is hereby agreed that

- 1. Consideration for this Amendment to the ORIGINAL CONTRACT consists of the payments that shall be made pursuant to this Amendment and the ORIGINAL CONTRACT and the promises and agreements herein set forth.
- 2. It is expressly agreed by the parties that this Amendment is supplemental to the

### **Loan Contract C150311 Amendment No. 1**

ORIGINAL CONTRACT, and all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

3. The BORROWER agrees that it shall execute the following documents, all of which shall set forth the revised loan amount of \$91,973.23:
  - a. Promissory Note, attached as Appendix A and incorporated herein, which shall replace and supersede the Promissory Note in the amount of \$518,130 dated September 17, 2010, attached to the ORIGINAL CONTRACT as Appendix 2.
  - b. Amended Security Agreement, attached hereto as Appendix B and incorporated herein, which shall supplement and operate in conjunction with the Security Agreement dated September 17, 2010, attached to the ORIGINAL CONTRACT as Appendix 4.
  - c. Amended Deed of Trust, attached hereto as Appendix C and incorporated herein, which shall supplement and operate in conjunction with the Deed of Trust dated September 17, 2010, attached to the ORIGINAL CONTRACT as Appendix 5.
4. The Contract is amended by the addition of the following:

**Contract Amendment Service Fees.** Under certain circumstances, the BORROWER shall be assessed a 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, including, but not limited to, a change in borrower name (novation), 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 the fee rate structure in accordance with the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current 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.
5. Except for the SPECIAL PROVISIONS, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the ORIGINAL CONTRACT, the provisions of this Amendment shall in all respects supersede, govern, and control. The SPECIAL PROVISIONS shall always be controlling over other provisions in the contract or amendments. The representations in the SPECIAL PROVISIONS concerning the absence of bribery or corrupt influences and

## **Loan Contract C150311 Amendment No. 1**

personal interest of STATE employees are presently reaffirmed.

6. 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.
7. This amendment shall not be deemed valid or effective until it shall have been approved by the controller of the State of Colorado or such assistant as he may designate.

[The rest of this page is intentionally left blank.]

**PAID IN FULL**

## SPECIAL PROVISIONS

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

1. **CONTROLLER'S APPROVAL.** 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

**Loan Contract C150311 Amendment No. 1**

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.

Revised 1-1-09

## Loan Contract C150311 Amendment No. 1

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment on the day first above written.


BORROWER: Grand River Ditch Company

By   
Alvin Hansen, President  
(SEAL)

Attest (Seal)

By   
Scott Fields, Secretary

State of Colorado  
John W. Hickenlooper, Governor

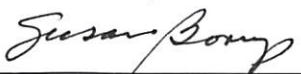
By   
For the Executive Director  
Department of Natural Resources  
Colorado Water Conservation Board  
Jennifer L. Gimbel, Director

Pre-Approved Form  
By   
CWCB Contract Manager

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 there are no loan funds available until the State Controller, or such assistant as he may delegate, has signed it

David J. McDermott, CPA, State Controller

By   
Susan Borup, DNR Controller

Effective Date 8/30/12

**PAID IN FULL**

# PROMISSORY NOTE

Date: July 23, 2012  
Borrower: Grand River Ditch Company  
Principal Amount: \$91,973.23  
Interest Rate: 4.20% per annum  
Term of Repayment: 30 years  
Loan Contract No.: C150311, dated September 17, 2010  
Loan Payment: \$5,448.73  
Payment Initiation Date\*: July 1, 2011  
Maturity Date\*: July 1, 2041

\* 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. This Promissory Note replaces and supersedes the Promissory Note dated September 17, 2010, in the principal amount of \$518,130.
3. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date, 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.
4. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
5. 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.
6. This 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.
7. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
8. This 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

## Appendix A to Loan Contract C150311 Amendment No. 1

security interests are evidenced by a Security Agreement and Deed of Trust of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.

9. 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.
10. 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.
11. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Grand River Ditch Company

( S E A L )

By Alvin Hansen  
Alvin Hansen, President

Attest:

By Scott Fields  
Scott Fields, Secretary

**PAID IN FULL**

## AMENDMENT NO. 1 TO DEED OF TRUST

Date: July 23, 2012  
Grantor (Borrower): Grand River Ditch Company  
Beneficiary (Lender): Colorado Water Conservation Board ("CWCB")  
Date of Deed of Trust: September 17, 2010  
Recording Date of Deed of Trust: November 15, 2010  
County of Recording ("County"): Garfield County  
Deed of Trust Recording Information: Reception # 794398  
Loan Contract: C150311, dated September 17, 2010 and amended July 23, 2012  
Promissory Note: \$91,973.23, 4.20%, 30 Years, dated July 23, 2012

This Amendment to the Deed of Trust is between the Grantor and the Public Trustee of the County, State of Colorado.

The Original Deed of Trust was recorded to secure repayment of the indebtedness evidenced by Loan Contract C150311 and the Promissory Note attached thereto as Appendix 2.

CWCB disbursed \$360,301.23 of the \$518,130 available to the Grantor pursuant to loan contract C150311. Grantor has made payments of \$25,000.00 and \$243,328.00 to CWCB to reduce the principal amount owed to CWCB pursuant to loan contract C150311 to \$91,973.23, as evidenced by Amendment No.1 to said loan.

Accordingly, Grantor and Beneficiary have agreed to amend the Original Deed of Trust to reflect the revised loan amount and annual loan payment.

NOW THEREFORE, the CWCB and Grantor agree that:

1. The second full paragraph of the Original Deed of Trust is hereby amended to read as follows:

The Grantor has executed a Promissory Note dated July 23, 2012, to secure the repayment of the indebtedness evidenced by Contract No. C150311, dated September 17, 2010, and amended July 23, 2012, for the total principal sum of \$91,973.23, to be repaid to the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB") the beneficiary herein, whose address is 1313 Sherman Street, Room 721, Denver, CO 80203, payable in 30 annual installments, in accordance with said Promissory Note, or until the loan is paid in full.

2. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original deed of trust, the provisions of this amendment shall in all respects supersede, govern, and control.
3. Any provisions of the original deed of trust not expressly modified herein remain in full force and effect.

Executed on the date first written above.

GRANTOR: Grand River Ditch Company

(SEAL)

By Alvin Hansen  
Alvin Hansen, President

ATTEST:

By Scott Fields  
Scott Fields, Secretary

State of Colorado

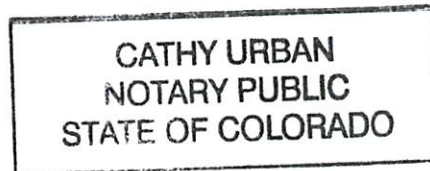
County of Garfield

)  
) ss.  
)

The foregoing instrument was acknowledged before me on August 2, 2012, by Alvin Hansen as President and Scott Fields as Secretary of the Grand River Ditch Company. Witness my hand and official seal.

Cathy Urban  
Notary Public

My commission expires 12/4/13



Return recorded document to: CWCB Finance Section, Attn: Contract Manager, 1580 Logan Street, Suite 600, Denver CO 80203 (Phone Number 303-866-3441)

**PAID IN FULL**

**Appendix C to Loan Contract C150311 Amendment No. 1**

## AMENDMENT NO. 1 TO SECURITY AGREEMENT

DEBTOR: GRAND RIVER DITCH COMPANY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

DATE OF ORIGINAL SECURITY AGREEMENT: September 17, 2010

Original Promissory Note: \$518,130, dated September 17, 2010, Interest at the rate of 4.20% per annum with annual payment for a period of 30 years or until paid in full.

ORIGINAL LOAN CONTRACT: C150311, DATED September 17, 2010

1. The Parties have amended the ORIGINAL LOAN CONTRACT and Promissory Note to decrease the loan amount from \$518,130 to \$91,973.23 and hereby amend the original Security Agreement to document the change of the loan amount to \$91,973.23.
2. The Parties expressly agree that this Amendment is supplemental to the Original Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

Amended Loan Contract: C150311, dated July 23, 2012

Replacement Promissory Note: \$91,973.23, dated July 23, 2012, interest at the rate of 4.20% per annum with annual payments for a period of 30 years or until paid in full

Date of Amended Security Agreement: July 23, 2012

DEBTOR: GRAND RIVER DITCH COMPANY

SEAL

ATTEST:

By

Scott Fields, Secretary

By



Alvin Hansen, President

**PAID IN FULL**

**Appendix A to Loan Contract C150311 Amendment No. 1**

BORROWER: GRAND RIVER DITCH COMPANY  
Contract No. C150311  
Project Amount \$513,000  
Loan Service Fee \$5,130  
Loan Amount \$518,130

Agency Name: Water Conservation Board  
Agency Number PDA

## LOAN CONTRACT

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

THIS CONTRACT, made this September 17, 2010, is by and between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCB" or "STATE"), and the Grand River Ditch Company, 1973 County Road 210, Rifle, CO 81650, a Colorado nonprofit corporation, ("BORROWER").

### FACTUAL RECITALS

1. 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 under: Contract Encumbrance No. C150311, Fund Number 424, Appropriation Code M11, Organization YYYY, GBL G311, Program WTRC, Object Code 5882, Reporting Category 0311.
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies.
3. 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 and Legislative Authorization which identifies the amount of the loan and the terms of repayment (Section 4).
4. 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 Service 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 service fee of one percent (1%) of the PROJECT amount. In the event that the BORROWER does not use the LOAN AMOUNT authorized, the parties shall amend this contract to revise the LOAN AMOUNT including adjustment of the service 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 fee for amending the contract.
  - a. A service fee shall be imposed on the BORROWER for amendments processed for

**Loan Contract C150311**

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 (novation), 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), changes in terms of loan repayment and amendments to adjust the interest rate pursuant to Paragraph A.13 herein, will be processed at no additional charge to the borrower.

- b. The amount charged shall be in accordance with the 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 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.** 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 2** and incorporated herein. The Promissory Note shall identify the LOAN AMOUNT. If the amount of loan funds disbursed by the CWCB to the BORROWER differs from the LOAN AMOUNT, the parties agree to amend this contract, including its appendices where necessary, to revise the LOAN AMOUNT.
4. **Interest Prior to PROJECT Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue 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.
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 3** 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;

- 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 stockholders
  - 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 Property.** 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 "Pledged Property."
- a. **Segregation of Pledged Revenues.** The BORROWER shall set aside and keep the pledged 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 4** and incorporated herein, to provide a security interest to the CWCB in the Pledged Property. The CWCB shall have priority over all other competing claims for said Pledged Property, 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. **Debt Service Reserve Account.** 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.

9. **Collateral.** The collateral for this loan is described in Section 6 (Collateral) of the **Project Summary**, and secured by the instrument(s) attached hereto as **Appendix 5** and incorporated herein.
10. **Collateral During Loan Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the Collateral or the Pledged Property 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 Property.
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 Property 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/or
- 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.**

**PAID IN FULL**

- 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 Acord 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 Contract Requirement (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**.
5. **Indemnification By The Construction Firm.** The BORROWER shall require all Construction Firms and their subcontractors to indemnify the STATE and the BORROWER against all liability and loss, and against all claims and actions based upon or arising out of damage or injury, including death, to persons or property, caused by any acts or omissions of those parties or sustained in connection with the performance of any contract related to the PROJECT or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation, and the defense of any such claims or actions.
6. **Liability Insurance During Construction.** During construction of the PROJECT, the BORROWER shall require the construction firm(s) and any subcontractors to maintain the following insurance coverage in the limits shown during the term of their contracts for the construction of the PROJECT. The BORROWER shall provide the CWCB with an Acord Form 27 evidencing said insurance prior to commencement of construction, maintained until construction is complete, and shall provide the CWCB with documentation of renewals of said insurance. No payments shall be made to the BORROWER unless all insurance certificates are current.
  - a. Builder's risk insurance for construction in progress for all perils of loss including fire, wind, hail, and vandalism in an amount equal to the completed value of the PROJECT.
  - b. Worker's compensation and employer's liability insurance in the required statutory amounts.
  - c. Automobile liability insurance that includes coverage for all owned, non-owned and hired vehicles with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage.
  - d. Commercial general liability insurance with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate. This insurance coverage shall include products/completed operations and bodily injury/property

**Loan Contract C150311**

damage.

### 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 nor 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.** The BORROWER may not assign this contract except with the prior written approval of the CWCB.
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 novation, 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. **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, (2) the remainder of this contract, and (3) the Appendices.
8. **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 repay the loan, BORROWER shall remain responsible for the full loan amount outstanding regardless of the amount of such insurance proceeds or condemnation award.

9. **Captions.** The captions and headings contained in this contract are for convenience and reference only and shall not be construed so as to define or limit the terms or provisions contracted herein.
10. **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.
11. **Waiver.** The waiver of any breach of a term of this contract shall not be construed as a waiver of any other term, or of any subsequent breach of the same term.
12. **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: Construction Fund Section  
1313 Sherman Street, Room 721  
Denver, CO 80203

**PAID IN FULL**

## SPECIAL PROVISIONS

These 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.

Revised 1-1-09

**PAID IN FULL**

**Loan Contract C150311**

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THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

BORROWER: Grand River Ditch  
Company, a Colorado nonprofit  
corporation

By Alvin Hansen  
Alvin Hansen, President

(SEAL)

State of Colorado  
Bill Ritter, Jr., Governor

By Jennifer L. Gimbel  
For the Executive Director  
Department of Natural Resources  
Colorado Water Conservation Board  
Jennifer L. Gimbel, Director

Attest

By Nella Barker  
Nella Barker, Secretary-Treasurer

Pre-Approved Form

By David Bass  
CWCB Contract Manager

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 until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

David J. McDermott, CPA, State Controller

By Diane C. Stump

Effective Date 9-23-10

**Loan Contract C150311**

# **Project Summary – Grand River Ditch Company – Contract No. C150311**

## **SECTION 1 –BORROWER INFORMATION**

Name: Grand River Ditch Company  
Address: 1973 County Road 210, Rifle, CO 81650  
Contact: Nella Barker, Secretary-Treasurer  
Phone Number: 970-379-2700  
E-mail address: nella@rof.net  
Type of Entity: a Colorado nonprofit corporation

## **Section 2 – Project Description**

- A. Description of PROJECT: The BORROWER applied to the CWCB for a loan to be used for the construction of the Grand River Ditch Pipeline Project, located in Garfield County, hereinafter referred to as the PROJECT, at an estimated total cost of \$513,000.
- B. Description of Feasibility Study: The CWCB has reviewed a feasibility study report on the PROJECT entitled "Feasibility of Piping a Section of the Grand River Ditch," dated May 2010, compiled by Dennis Davidson, Bookcliff Conservation District, with preliminary engineering design and construction cost estimates by Mike Kishimoto, which is incorporated herein by reference, and, based upon the feasibility report, the CWCB determined the PROJECT to be technically and financially feasible.

## **SECTION 3 – CWCB'S AUTHORITY**

**Construction Fund:** This loan is made pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S., which authorize the CWCB to loan money for water projects from the CWCB Construction 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 Construction Fund and the State Severance Tax Trust Fund Perpetual Base Account Fund without prior approval from the General Assembly.

## **SECTION 4 - BOARD APPROVAL**

At its July 2010 meeting, the CWCB approved a Small Project Loan from the Construction Fund to the BORROWER in an amount up to \$518,130 for PROJECT costs, not to exceed 100% of the cost of the PROJECT, with a loan origination fee of 1% in accordance with CWCB Policy No. 16, at an interest rate of 4.2% per annum for a repayment term of 30 years.

## **SECTION 5 – SCHEDULE OF EXISTING DEBT**

No existing debt.

## **SECTION 6 - COLLATERAL**

**PAID IN FULL**

## **Appendix 1 to Loan Contract C150311**

The collateral provided for this loan, as evidenced by the executed Deed of Trust, in the form attached as **Appendix 5** and incorporated herein, shall be a one hundred percent interest in any rights that the BORROWER holds in the PROJECT consisting of approximately 1,320 feet of pipeline and the associated access easement rights as more particularly described in the attached Deed of Trust ("Collateral").

#### **SECTION 7 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS**

- A. BORROWER agrees that any and all grant funds obtained for the purpose of this Project shall be applied to the balance of the final Project cost.
- B. BORROWER agrees that, in the event of default by the BORROWER under this Loan Contract, the CWCB has the right to deny delivery of water through the Project, in addition to any other rights legally available.
- C. Additionally, BORROWER has executed a Conditional Assignment, attached hereto as **Appendix 6** and incorporated herein, granting to the CWCB all of BORROWER's right to enforce its Articles of Incorporation and By-Laws in the event of default by the BORROWER under this Loan Contract.

#### **SECTION 8 – CONSTRUCTION FUND PROGRAM PROCEDURES**

- A. The BORROWER shall employ an engineer, registered in the state of Colorado to prepare plans and specifications for the PROJECT.
- B. The BORROWER'S and the Engineering Consultant's Agreements and the plans and specifications must be submitted to the CWCB staff for verification of compliance with the terms of this Contract when available prior to bidding. Any modifications to the plans and specifications must be approved in writing by the CWCB staff.
- C. For plans and specifications for all jurisdictional dams and reservoirs, as defined by § 37-87-105 C.R.S., the BORROWER shall provide a letter of approval from the State Engineer's Office prior to construction.
- D. CWCB staff must be present at bid opening and must approve the award of the construction contract.
- E. The BORROWER shall contract for the construction of the work with responsible and capable Construction Firms, which said Construction Firms shall be selected by the BORROWER and found acceptable by the CWCB staff.
- F. The BORROWER must provide a copy of the executed construction contract documents consisting of the contractor's proposal, construction contract, performance bond, payment bond, notice of award, notice to proceed, sample change order, and sample field order, as well as the advertisement for bid and bid bond at bidding. After the CWCB staff verifies that these documents comply with the terms of this contract, the BORROWER may issue the notice to proceed to the Construction Firms.
- G. The BORROWER shall conduct a pre-construction conference at which time the CWCB staff shall have the opportunity to review and approve the construction

### **Appendix 1 to Loan Contract C150311**

schedule.

- H. If the CWCB staff determines that the PROJECT requires a resident inspector during construction, the BORROWER shall employ an inspector who has been approved by the CWCB staff.
- I. The BORROWER shall construct the PROJECT in accordance with the approved plans and specifications.
- J. Upon completion of the PROJECT construction, the BORROWER shall provide as-built drawings of the PROJECT to the CWCB staff, or, if required by § 37-87-105, C.R.S., the BORROWER shall provide the as-built drawings to the State Engineer's Office for approval and filing.
- K. Upon completion of the PROJECT construction, the BORROWER shall arrange a final inspection for the CWCB staff.
- L. The BORROWER shall pay all of the expenses related to the PROJECT when such bills are due.

**SECTION 9 – ELIGIBLE EXPENSES.** The following items are eligible for loan disbursements.

- A. Preparing final designs and specifications for the PROJECT.
- B. Preparing bid and construction contract documents.
- C. Preparing environmental assessment or environmental impact statements, and otherwise complying with the Federal National Environmental Policy Act.
- D. Complying with all federal, state, and local regulatory requirements, including the obtaining of all required permits.
- E. Fish and wildlife mitigation measures required by federal, state, or local laws and regulations.
- F. Actual construction as called for in the design documents and in change orders approved by the CWCB and the BORROWER.
- G. Engineering services for construction management, including design and construction management for CWCB-approved change orders.
- H. Interest during completion of the PROJECT pursuant to Paragraph A.4 of the Contract.
- I. Legal services for reviewing engineering services contracts, reviewing this Contract, reviewing construction contract documents, and for complying with all federal, state, and local regulatory requirements.
- M. PROJECT-related expenses incurred prior to the Effective Date of this contract in accordance with the approval of this loan.

#### **10 – DISBURSEMENT SCHEDULE**

For Project costs: The BORROWER shall prepare a periodic progress report which contains a statement of the PROJECT costs expended for that period and shall forward said statement to the CWCB. After receipt of the periodic progress report from the BORROWER, and review and acceptance of the items therein as eligible

### **Appendix 1 to Loan Contract C150311**

from the BORROWER, and review and acceptance of the items therein as eligible expenses as described below, the CWCB will pay to the BORROWER the amount set forth in the report 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 progress report.

**SECTION 11 – TIME FOR PERFORMANCE**

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

PROJECT Finish: Four (4) years from the Effective Date of this Contract.

[The remainder of this page is intentionally left blank.]

**PAID IN FULL**

## RESOLUTIONS OF THE SHAREHOLDERS OF THE GRAND RIVER DITCH COMPANY

The Shareholders of the Grand River Ditch Company (Company), at a Shareholders' meeting held 9/10, 2010, at KiME, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of constructing the Grand River Ditch Pipeline Project in the amount of \$518,130 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.

NOW, THEREFORE, BE IT RESOLVED that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, the Board of Directors and Officers are authorized to:

1. enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$518,130, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. 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. place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund, and
5. execute all documents as required by the loan contract, including, but not limited to, a Security Agreement and a Promissory Note, and
6. pledge the Grand River Ditch Pipeline Project, including approximately 1,320 feet of pipeline and associated access easements, as collateral for the loan and execute all documents, including a security agreement and deed of trust, necessary to convey a security interest in said property to the CWCB, and
7. 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 September 2010.

(SEAL)

By Alvin Hansen  
Alvin Hansen, President

ATTEST:

By Nella Barker  
Nella Barker, Secretary-Treasurer

**PAID IN FULL**

## RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE GRAND RIVER DITCH COMPANY

The Board of Directors of the Grand River Ditch Company (Company), at a meeting held Sept. 10, 2010, at Little, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of constructing the Grand River Ditch Pipeline Project in the amount of \$518,130 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.

NOW, THEREFORE, BE IT RESOLVED that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, the Officers of the Company are authorized to:

1. enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$518,130, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. 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. place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund, and
5. execute all documents as required by the loan contract, including, but not limited to, a Security Agreement and a Promissory Note, and
6. pledge the Grand River Ditch Pipeline Project, including approximately 1,320 feet of pipeline and associated access easements, as collateral for the loan and execute all documents, including a security agreement and deed of trust, necessary to convey a security interest in said property to the CWCB, and
7. 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 10 DAY OF September 2010.

(SEAL)

By Alvin Hansen  
Alvin Hansen, President

ATTEST:

By Nella Barker  
Nella Barker, Secretary-Treasurer

**PAID IN FULL**

# SECURITY AGREEMENT

(PLEDGE OF REVENUES)

DATE: September 17, 2010

DEBTOR: GRAND RIVER DITCH COMPANY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

PROMISSORY NOTE: \$518,130, DATED September 17, 2010

TERMS OF REPAYMENT: 4.2% PER ANNUM FOR 30 YEARS

LOAN CONTRACT: C150311, DATED September 17, 2010

COLLATERAL: All revenues derived from assessments levied on Debtor's stock to repay the loan as described in Pledge of Property provisions of the LOAN CONTRACT and Debtor's Resolutions adopted September 10, 2010, together with all of Debtor's right to receive said assessment revenues.

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 COLLATERAL.

## 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 COLLATERAL free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the COLLATERAL 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 COLLATERAL 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 COLLATERAL pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature which may be levied or assessed against the COLLATERAL.
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 COLLATERAL, provided that DEBTOR keeps the COLLATERAL in an account separate from other revenues of DEBTOR and does not use the COLLATERAL for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the COLLATERAL.

## Appendix 4 to Loan Contract C150311

**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 COLLATERAL 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: Grand River Ditch  
Company, a Colorado nonprofit  
corporation

S E A L

By Alvin Hansen  
Alvin Hansen, President

ATTEST: Nella Barker  
By Nella Barker  
Nella Barker, Secretary-Treasurer

**PAID IN FULL**

water, to insure the maintenance and general upkeep of the Ditch, and for any other matter deemed appropriate for the administration, use and operation of the Ditch and water rights in a manner consistent with the purposes of the Company. Each Shareholder shall comply strictly with any and all rules and regulations promulgated by the Board of Directors. Each Shareholder shall always endeavor to observe and promote the cooperative purposes for which the Grand River Ditch Company was established.

**Section 14. No Obstruction of Easement.** No Shareholder shall use the lands contained within the Company's deeded or historic easement for the Ditch which tends to obstruct or interfere with the use of the Company's historic access to the Ditch or its maintenance and repair practices. No fences, gates, sheds or other improvements, and no trees, shrubs or landscaping, other than grass or lawn, shall be placed, maintained or permitted on the easement by any Shareholder. The Company shall have no obligation to restore or repair damage to any grass or lawn area or the improvements maintained by any Shareholder in violation of this Section.

**Section 15. Shareholders' Access to the Ditch.** Access to the Ditch by Shareholders for the use and exercise of the Shareholders' water rights shall be accomplished in a manner that involves no obstruction of the easement historically used to repair and maintain the Ditch. Access to the Ditch and the use of water from the Ditch by any Shareholder shall comply with the Bylaws and the rules and regulations of the Company.

**Section 16. No Drainage into Ditch.** No drainage or pumping of waters or runoff from the property of any Shareholder into the Ditch shall be permitted. Subdivision or development of lands belonging to any Shareholder which adjoins the Ditch shall utilize a drainage plan designed in a manner to prevent the discharge of runoff and the drainage of waters from the lands of the Shareholder into the Ditch.

The Bylaws provide that one hundred (100) shares of stock, present in person or by proxy, at any regular or special meeting of the Shareholders shall constitute a quorum. There being 130.73 shares present, the foregoing resolution to amend and supplement the Bylaws was passed by a vote of 130.73 shares in favor, to -0- shares opposed.

Dated this 14th day of January, 2000.

GRAND RIVER DITCH COMPANY

By: Nella D. Barker  
Secretary

Know all men by these presents, that we, W. H. Haley, J. R. Munro & Dan Thurston, residents of the State of Colorado, have associated ourselves together as a corporation under the name and style of The Grand River Ditch Company, for the purpose of becoming a body corporate and politic under and by virtue of the laws of the State of Colorado, and in accordance with the provisions of the laws of said State, we do hereby make, execute and acknowledge, in duplicate, this certificate in writing of our intention so to become a body corporate under and by virtue of said laws.

First: The corporate name and style of our said corporation shall be The Grand River Ditch Company.

Second: The objects for which our said corporation is formed and incorporated are for the purpose of acquiring, by purchase or otherwise, the Lower Cactus Valley Ditch, sometimes called The Lower Cactus Valley Ditch Company's Ditch, statement whereof was filed in the Office of the Clerk and Recorder of Garfield County, Colorado, on October 24th, 1888 and therein numbered 7783; the headgate of said ditch is on the northerly side of the Grand River from which it draws water for irrigation purposes, at a point in Lot 8 Section 5, Twp. 6 So., Rg. 91 W. and the same extends from thence in a general westerly direction on the northerly side of said River to a point in the North Half of the Southwest quarter of Section 1, Twp. 6 So., Rg. 93 W; and likewise to acquire all rights of way, headgates, weirs, flumes, appurtenances and especially all water rights decreed to said ditch which is numbered 82 A in the decrees of the District Court of said Garfield County for Water District No. 39, including Water Priority No. 142 B, calling for 50 cubic feet of water per second of time of and from said River for irrigation purposes, and being covered by decree entered in said Court on April 19th, 1897, such priority right relating back to September 24, 1888, and being amendatory of a former decree entered in said Court.

PAID IN FULL

covering on said ditch and water right, on May 11th, 1889; and likewise to acquire all outstanding capital stock of The Cactus Valley Ditch Company, a Colorado corporation, the charter rights of which has or is about to expire by limitation of time, and to issue in exchange therefor the capital stock of this Company, share for share, and the stock so acquired to be cancelled; to operate, maintain, repair, enlarge and extend said ditch and to acquire additional water rights therefor, when and as needed or required; to furnish and deliver water from said ditch along the line thereof, to the stockholders of the Company, for the irrigation of land owned by them respectively, and for domestic purposes thereon, and to assess and collect from the stockholders of the Company, an annual or periodical assessment for such operation, maintenance, repair, enlargement or extension, together with special assessments when made necessary from unforeseen casualties, and to enforce by way of forfeiture of such capital stock or otherwise, payment of all such assessments.

Third: The capital stock of our said corporation shall be Two Thousand Seven Hundred Dollars, divided into Two Hundred and Seventy shares of the par value of Ten Dollars each, such stock being assessable as above indicated and to be sold only to owners of land to be irrigated from said ditch and to those having an interest in such land, and such stock is only to be disposed of for the purpose of acquiring said ditch, water rights, property and capital stock of and in said expiring company or for cash to be used therefor.

Fourth: Each share of the stock of the Company shall show on its face that the owner thereof is entitled to 1/270 of the capacity of said ditch to carry water for the purposes aforesaid and that the same is subject to assessment as hereinabove indicated; it shall also specify on its face that no water shall be furnished by virtue thereof so long as the owner shall remain

PAID IN FULL

delinquent in the payment of any assessment for the purposes aforesaid; that all such assessments are and shall be levied and made equal on, for and upon each share of stock independent of the point where the water from said ditch is to be delivered to the owner of such stock, for the purposes aforesaid.

Fifth: No cumulative voting of the stock of the Company will be permitted and water for the purposes above specified, shall be furnished in the amount above indicated, to the owners of the stock of the company, in lieu of cash dividends and such stock shall be transferrable only on the books of the company upon surrender and cancellation of the old certificates.

Sixth: Our said corporation shall exist for the term of twenty years.

Seventh: The affairs and management of our said corporation are to be under the control of a Board of three directors or trustees. Dan Thurston, W. E. Tippet and R. P. Turpin are hereby selected to act as such Directors or Trustees and to manage the affairs and concerns of said corporation for and during the first year of its existence.

Eighth: The stockholders of the company shall have power to make such prudential by-laws as they may deem proper for the management of the affairs of the company not inconsistent with the laws of this State, for the purpose of carrying on all kinds of business within the objects and purpose of the company, and for this purpose a majority in amount of the outstanding stock of the company at any regular meeting called for the purpose, shall have power, by a majority vote of the stock so present, to adopt any and all such by-laws.

Ninth: The operations of our said corporation shall be carried on in the County of Garfield in the State of Colorado and the principal place and business office of said corporation shall be located at Antlers in said Garfield County.

PAID IN FULL

Tenth: The Board of Directors shall have power to borrow money for corporate purposes when necessary and issue the obligation of the Company in evidence of the indebtedness, but no mortgage of the Company's property or on the rights evidenced by outstanding stock, shall be given to secure such indebtedness without previous vote of a majority of the stock of the company then issued and outstanding in favor thereof.

In testimony whereof we have hereunto set our hands and seals on this 17th day of January A. D. 1917.

W. H. Haley (SEAL)

J. R. Munro (SEAL)

Dan Thurston (SEAL)

State of Colorado,      SS:  
County of Garfield.

I, Charles M. Fleming, a Notary Public within and for said County, in the State aforesaid, do hereby certify that W. H. Haley, J. R. Munro Dan Thurston, who are personally known to me to be the persons whose names are subscribed to the foregoing certificate of incorporation, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17th day of January 1917.



Commission expires on the Seventh day of May A.D. 1917 Charles M. Fleming  
Notary Public.

My Commission Expires May 7, 1917

PAID IN FULL

This document has been inspected  
and properly entered on the Re-  
cords of the Flat Tax Department

Date Mar 2 1917  
Thatcher Clerk

64301

Certificate of Incorporation

*The Grand River  
Litch Company*

DOMESTIC

STATE OF COLORADO  
COUNTY OF SAGUARO

12 23

*Wm. H. Darrow*  
Attorney at Law

C. W. DARROW

ATTORNEY AT LAW

ELLENWOOD SPRINGS, COLORADO

This document has been inspected  
and properly entered on the Re-  
cords of The Flat Tax Department

Date March 10 1917

Thatcher Clerk

*Thatcher*  
3/5/17  
*W. H. Darrow*

## Deed of Trust

DATE: September 17, 2010  
GRANTOR: GRAND RIVER DITCH COMPANY  
BENEFICIARY: COLORADO WATER CONSERVATION BOARD  
COUNTY: GARFIELD  
PRINCIPAL LOAN AMOUNT: \$518,130  
LOAN CONTRACT: Loan Contract No. C150311, dated September 17, 2010  
TERMS OF REPAYMENT: 4.2% per annum for 30 years  
COLLATERAL: All of Grantor's interest in and to that certain pipeline commencing at the head gate of the Lower Cactus Valley Ditch located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 5, Township 6 South, Range 91 West of the 6<sup>th</sup> P.M. and extending approximately 1,320 feet, together with any easements and rights-of-way held and used in connection with the access and operation of said pipeline.

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

### FACTUAL RECITALS

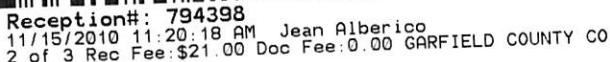
1. The GRANTOR has executed a Promissory Note of even date for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY.
2. The GRANTOR is desirous of securing payment of said Promissory Note to the BENEFICIARY.

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 waives and releases all rights and claims it may have in or to said COLLATERAL as a

### Appendix 5 to Loan Contract C150311



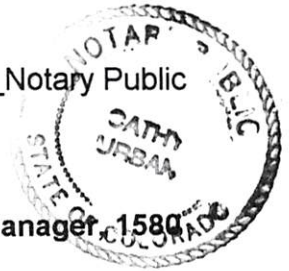
Page 2 of 3

My commission expires

12/4/13

Cathy Urban

Notary Public



Return recorded deed of trust to: CWCB Finance Section, Attn: Contract Manager, 1580 Logan Street, Suite 600, Denver CO 80203 (Phone Number 303-866-3441)



Reception#: 794398  
11/15/2010 11:20:18 AM Jean Alberico  
3 of 3 Rec Fee:\$21.00 Doc Fee:0.00 GARFIELD COUNTY CO

PAID IN FULL

## CONDITIONAL ASSIGNMENT

In consideration of and as security for reimbursement for monies owing under a loan from the Colorado Water Conservation Board ("Assignee") in the amount of \$518,130 ("Loan") pursuant to Contract Encumbrance Number C150311, ("Loan Contract"), the Grand River Ditch Company("Assignor") hereby conditionally assigns and transfers to the Assignee, for its use and benefit, all of the Assignor's right to enforce the Assignor's Articles of Incorporation and By-Laws, which are attached hereto and incorporated herein, including the right to sell a delinquent shareholder's stock and collect any and all monies derived from such a sale. This Assignment shall take effect only if and when the Assignor is considered in default under the Loan Contract as provided below. This Assignment is made solely to secure payment of the Loan and is made subject to the following terms, covenants and conditions:

1. This Assignment shall take effect only if and when the Assignor is considered in default under the Loan Contract, and in that event the Assignment will remain in full force and effect until the Assignee releases it in writing. In the event the Assignment becomes effective, the Assignee shall release this Assignment when the Loan is paid in full.
2. The Assignor shall be considered in default under the Loan Contract for purposes of this Assignment upon the occurrence of any of the following events or conditions: (a) failure or omission to make any payment under the Loan Contract when due; (b) default in the payment or performance of any obligation, covenant, or agreement contained in the Loan Contract; (c) the Assignor becoming insolvent or unable to pay debts as they mature. The Assignee shall give the Assignor written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before Assignor shall be considered in default for purposes of this Assignment.
3. So long as there shall exist no default by the Assignor in the payment of the principal sum and interest secured hereby, or in the performance of any obligation, covenant or agreement contained in the Loan Contract, this Assignment shall not take effect and the Assignor shall retain the sole right to collect all monies derived from the sale of shareholder's stock.
4. Upon or at any time after default in the payment of the principal sum and interest secured hereby, or in the performance of any obligation, covenant or agreement contained in the Loan Contract, the Assignee, without in any way waiving such default, may, upon notice in writing to the Assignor, demand, foreclose upon, collect and receive all monies from delinquent shareholders' stock to the extent required to satisfy the Assignor's obligations under the loan contract. Upon receipt of such notice, the Assignor shall notify delinquent shareholders of the Assignee's exercise of this right. The Assignee shall apply such monies first to costs associated with collection, including reasonable attorney's fees, next to outstanding interest, and then to the principal sum of the Loan.
5. The rights and remedies of the Assignee stated in this Assignment are in addition to any other rights the Assignee may have under the Loan Contract or any law.

6. This Assignment shall be construed in accordance with the laws of the State of Colorado.

Executed this 20 day of September, 2010.

Grand River Ditch Company

By Alvin Hansen  
Alvin Hansen, President

ATTEST: Nella Barker  
By Nella Barker, Secretary

PAID IN FULL