



COLORADO

Colorado Water Conservation Board

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

December 6, 2024

Scott Kolb, Secretary/Treasurer
The Duke Ditch Company
PO Box 488
Hotchkiss, CO 81419
Ph (970) 234-4780

Re: Piping of Duke Ditch (CT2017-915) - Loan Contract Amendment No.1

Dear Mr. Kolb:

Please sign Loan Contract Amendment No.1, CMS 195920, and return it to the following address:

Jessica Halverson
CWCB
1313 Sherman St., Room 718
Denver, CO 80203

Once Loan Contract Amendment No.1 is fully executed, CWCB will send you an executed copy of the amendment along with the released Deed of Trust.

If you have any questions, please don't hesitate to contact me at (303) 842-2700.

Sincerely,

Kaylee Salazar

Kaylee Salazar,
Contracts Manager



LOAN CONTRACT AMENDMENT NO. 1

State Agency Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. # 1 Contract Number CMS 195920 CT2017-915
Borrower and Address The Duke Ditch Company 503 North 2 nd Hotchkiss, CO 81419	Original Contract Number CMS 88645
Contract Maximum Amount \$ 0.00	Contract Performance Beginning Date 8/2/2016
Project Name Piping the Duke Ditch Project	Contract Performance End Date The effective date of this Amendment #1
Reason for Modification This loan has been deauthorized. This amendment will reduce the Contract Maximum Amount to \$0.00 and the Performance End Date will be the effective date of this amendment.	

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

BORROWER The Duke Ditch Company _____ (Signature) Name: _____ Title: _____ Date: _____ ATTEST: _____ (Signature) Name: _____ Title: _____ Date: _____	STATE OF COLORADO Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board _____ (Signature) Name: Kirk Russell, P.E., Section Chief Date: _____
In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Name: _____ Title: _____ Amendment Effective Date: _____	

1. PARTIES

This Amendment (the "Amendment") to the Original Contract (the "Contract") shown on the Signature and Cover Page for this Amendment is entered into by and between the Borrower ("Borrower" or "Authority"), and the State ("CWCB").

2. TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

3. AMENDMENT EFFECTIVE DATE AND TERM

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date.

The Parties' respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment.

4. PURPOSE

The Borrower was approved for a CWCB loan contract, in March 2016, for the Piping the Duke Ditch project. The loan was de-authorized in November 2024 and the parties agree to amend the contract to reduce the loan amount to \$0.00. The amount of the current loan contract is decreased by \$90,900.00 from \$90,900.00 to \$0.00. The total loan amount is hereby modified accordingly.

5. MODIFICATIONS

The Contract and all prior amendments thereto, if any, are modified as follows:

- A. The Original Contract Maximum loan amount is hereby deleted and replaced with the Current Contract Maximum Amount of \$0.00 shown on the Signature and Cover Page for this Amendment.
- B. The Original Performance Period End Date is hereby deleted and replaced with the Performance Period End Date of the effective date of this Amendment#1 shown on the Signature and Cover Page for this Amendment.
- C. The Promissory Note, attached to the Original Loan Contract as Appendix 3, is now cancelled and it shall be marked as such.
- D. The Security Agreement, attached to the Original Loan Contract as Appendix 5, is now cancelled and it shall be marked as such.
- E. The Contract is closed-out and cancelled as of the Effective Date of this Amendment.

6. LIMITS OF EFFECT AND ORDER OF PRECEDENCE

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments or other modifications to the Contract, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Contract, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract or any prior modification to the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Contract to the extent that this Amendment specifically modifies those Special Provisions.

PROMISSORY NOTE

Date: June 27, 2016

Borrower: The Duke Ditch Company, a Colorado nonprofit corporation

Principal Amount: \$90,900.00

Interest Rate: 2.00% per annum

Term of Repayment: 30 years

Loan Contract Number: CT2017*915

Annual Loan Payment: \$4,058.68

Payment Initiation Date*: _____
(to be filled in at Substantial Completion of Project)

Maturity Date*: _____
(to be filled in at Substantial Completion of Project)

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

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

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

BORROWER: The Duke Ditch Company,
a Colorado nonprofit corporation

(SEAL)

By: John A. Hotchkiss
Signature

CANCELLED

NAME: John A. Hotchkiss
TITLE: PRESIDENT

DATE: 6/27/2016

By: Scott Koltb
Signature

NAME: Scott Koltb

TITLE: Sec. Treas.

DATE: 6/27/16

SECURITY AGREEMENT

DATE: JUNE 27, 2016

BORROWER: THE DUKE DITCH COMPANY, A COLORADO NONPROFIT CORPORATION

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

PROMISSORY NOTE: \$90,900

TERMS OF REPAYMENT: 2.00% INTEREST FOR 30 YEARS

LOAN CONTRACT NUMBER: CT2017*915

PLEDGED REVENUES: All revenues derived from assessment revenues and all of DEBTOR's right to receive said revenues to repay the loan as described in PLEDGED REVENUES provisions of the LOAN CONTRACT and DEBTOR'S Resolutions adopted June 1, 2016.

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 BORROWER grants to SECURED PARTY a security interest in the above described PLEDGED REVENUES.

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

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

BORROWER 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 BORROWER; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of BORROWER 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 BORROWER to deliver or make the PLEDGED REVENUES available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY'S reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the 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 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 BORROWER. 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 BORROWER 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 BORROWER shall bind its successors or assigns.

BORROWER: The Duke Ditch Company,
a Colorado nonprofit corporation

(SEAL)

Attest:

CANCELLED

By: *John A. Hutchings*
Signature

NAME: John A. Hutchings

TITLE: PRESIDENT

DATE: 6/27/2016

By: *Scott Kolb*
Signature

NAME: Scott Kolb

TITLE: Sec. Treas.

DATE: 6/27/17