COLORADO
Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

April 16, 2025

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 Deauthorization

Dear Mr. Kolb:

This letter is to inform you that on November 20, 2024, the Colorado Water Conservation Board approved the de-authorization of your loan for the project referenced above. The loan was originally approved in March, 2016 for $90,900.00. No funds were accessed, and the funds are no longer available for use on the subject project. If you have any questions, please don't hesitate to contact me. Kaylee Salazar, CWCB Loan Contracts Manager will be in touch to cancel the loan contract.

On behalf of the Board, I would like to thank you for your interest in a loan from the CWCB.

Sincerely,

Kirk Russell, P.E., Chief
Finance Section

RECEPTION#: 758951, 03/07/2025 at 02:41:48 PM, 1pgs, R $13.00
TERI A. STEPHENSON, DELTA COUNTY, CO CLERK AND RECORDER

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 [X] / 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

December 18, 2024	Date
The Duke Ditch Company, a Colorado nonprofit corporation	Original Grantor (Borrower)
PO Box 100	Current Address of Original Grantor, Assuming Party, or Current Owner
Wellington, CO 80549	
[ ] Check here if current address is unknown	
Colorado Water Conservation Board	Original Beneficiary (Lender)
June 27, 2016	Date of Deed of Trust
August 10, 2016	Date of Recording and/or Re-Recording of Deed of Trust
689296 SOA 758662	Recording Information
County Rcpt. No. and/or Film No. and/or Book/Page No. and/or Torrens Reg. No.	

TO THE PUBLIC TRUSTEE OF

Delta 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, Room 718, Denver, CO 80203
SOA 758662 Name, Title and Address of Officer, Agent, or Attorney of Current Owner and Holder

12/18/24
Signature/Date

JESSICA GIBBS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20234011689
MY COMMISSION EXPIRES MARCH 27, 2027

State of Colorado, County of Denver
The foregoing Request for Release was acknowledged before me on 12-18-24 (date) by*
Kirk Russell
Finance Section Chief
3-27-27 Date Commission Expires
*If applicable, insert title of officer and name of current owner and holder

Jessica Gibbs
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.

STATE OF COLORADO, COUNTY OF DELTA
Signed by LISA J. TAFOYA, Public Trustee
On MAR 07 2025
(Notarization no longer required in Colorado. Per Statute 38-35-106 C.R.S.)

DELTA COUNTY LISA J. TAFOYA PUBLIC TRUSTEE STATE OF COLORADO
(Public Trustee's Seal)

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.)

JESSICA GIBBS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20234017689
MY COMMISSION EXPIRES MARCH 27, 2027

RECEPTION#: 689296, 08/10/2016 at
11:18:07 AM, 3, R $21.00
TERI A. STEPHENSON, DELTA COUNTY,
CO CLERK AND RECORDER

Deed of Trust

DATE:	June 27, 2016
GRANTOR:	THE DUKE DITCH COMPANY, A COLORADO NONPROFIT CORPORATION
BENEFICIARY:	COLORADO WATER CONSERVATION BOARD
COUNTY:	DELTA
TOTAL LOAN AMOUNT:	$90,900
LOAN CONTRACT NUMBER:	CT2017*915
TERMS OF REPAYMENT:	2.00% interest for 30 years
PLEDGED PROPERTY:	An undivided one-hundred percent interest in the Duke Ditch 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 and amount, set forth in the LOAN CONTRACT, for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY, with TERMS OF REPAYMENT and in accordance with the PROMISSORY NOTE or until loan is paid in full.
2. The GRANTOR is desirous of securing payment of the PRINCIPAL LOAN AMOUNT and interest of said PROMISSORY NOTE to the BENEFICIARY.

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

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 PLEDGED PROPERTY 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 PLEDGED PROPERTY sold. The BENEFICIARY may purchase said PLEDGED PROPERTY 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 PLEDGED PROPERTY 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 PLEDGED PROPERTY as a

Homestead Exemption or other exemption, now or hereafter provided by law. The GRANTOR further covenants that the PLEDGED PROPERTY is free and clear of all liens and encumbrances whatever and that the GRANTOR shall warrant and forever defend the PLEDGED PROPERTY in the quiet and peaceable possession of the PUBLIC TRUSTEE, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

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

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

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

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

Executed the day and date first written above.

GRANTOR: The Duke Ditch Company,
a Colorado nonprofit corporation

(S E A L)

By _____
Signature

Name JOHN A. HOTCHKISS

Title PRESIDENT

Date 6/27/2016

ATTEST:

By _____
Signature

Name Scott Kolb

Title Sec. Treas.

Date 6/27/16

Notary Required

State of Colorado)
) ss.
County of DELTA)

The foregoing instrument was acknowledged before me on 6/27, 2016, by JOHN A. HOTCHKISS (Name) as PRESIDENT (Title) and SCOTT KOLB (Name) as SEC./TREAS. (Title) of The Duke Ditch Company

Witness my hand and official seal.

STEVEN K HARPER
NOTARY PUBLIC - STATE OF COLORADO
Notary Identification #19914017312
My Commission Expires 1/12/2020

_____
Notary Public Signature

My commission expires 1-12-2020 (SEAL)

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

STEVEN A. BAUFER
NOTARY PUBLIC - STATE OF COLORADO
Notary Identification #19974047312
My Commission Expires 12/23/2021

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 2nd 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 Zachary J Cunningham (Signature) Name: Zachary J Cunningham Title: President Date: 04-05-2025 **ATTEST:** (Signature) Name: Scott Kolb Title: Sec. Treas Date: 4/5/25	**STATE OF COLORADO** Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board KL RLL (Signature) Name: Kirk Russell, P.E., Section Chief Date: April 28, 2025 | 2:28 PM MDT

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: Ion Cotsapas

Name: Ion Cotsapas

Title: DNR Procurement Director

Amendment Effective Date: May 1, 2025 | 11:26 AM MDT

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.

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 me 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.

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

NAME: JOHN A. HOTCHKISS

TITLE: PRESIDENT

DATE: 6/27/2016

CANCELLED

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Treu.

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

(S E A L)

By: John A. Hotchkiss
Signature

Attest:

NAME: JOHN A. HOTCHKISS

TITLE: PRESIDENT

DATE: 6/27/2016

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Treas.

DATE: 6/27/17

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 2nd 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

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A. Amendment Effective Date

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4. PURPOSE

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5. MODIFICATIONS

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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 me 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

(S E A L)

By: John A. Hotchkiss
Signature

NAME: JOHN A. HOTCHKISS

TITLE: PRESIDENT

DATE: 6/27/2016

CANCELLED

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Treu.

DATE: 6/27/16

VOID

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

(S E A L)

By: John A. Hotchkiss
Signature

Attest:

NAME: JOHN A. HOTCHKISS

TITLE: PRESIDENT

DATE: 6/27/2016

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Treas.

DATE: 6/27/17

RESOLUTIONS OF THE SHAREHOLDERS OF THE DUKE DITCH COMPANY

The Shareholders of The Duke Ditch Company (Company) at a Shareholders' meeting held Feb 20 2016, at Hotchkiss, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of the Piping the Duke Ditch Project (Project), to replace the unlined ditch with polyvinyl chloride (PVC) pipe in an amount not to exceed $90,900.00 which includes the CWCB loan origination fee of 1% of the loan amount.

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

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in an amount not to exceed $90,900.00, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Duke Ditch pipeline for the loan, and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and DEED OF TRUST, necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

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

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 01 DAY OF June 2016

(SEAL)

ATTEST:

By: John A. Hotchkiss
Signature

NAME: JOHN A. HOTCHKISS

TITLE: PRES.

DATE: 6/1/16

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Treas.

DATE: 6/01/16

RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE DUKE DITCH COMPANY

The Board of Directors of The Duke Ditch Company (Company), at a meeting held Feb 20, 2016, at Hotchkiss, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of the Piping the Duke Ditch Project (Project), to replace the unlined ditch with polyvinyl chloride (PVC) pipe in an amount not to exceed $90,900.00 which includes the CWCB loan origination fee of 1% of the loan amount.

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

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in an amount not to exceed $90,900.00, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Duke Ditch pipeline for the loan, and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and a DEED OF TRUST, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

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

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 01 DAY OF June 2016

(SEAL)

ATTEST:

By: John R. Hotchkiss
Signature

NAME: JOHN R. HOTCHKISS

TITLE: PRES

DATE: 6/01/16

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Trea.

DATE: 6/01/16

VOID

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

By: _____
Signature

NAME: JOHN A. HOTCHKISS

TITLE: PRESIDENT

DATE: 6/27/2016

(SEAL)

Attest:

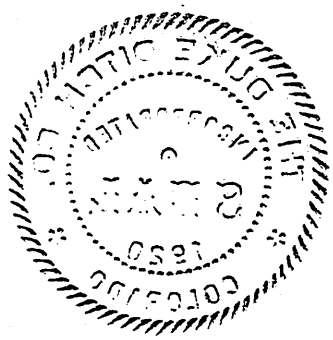
By: _____
Signature

NAME: Scott Kolb

TITLE: Sec. Treas.

DATE: 6/27/17

VOID



STEVEN K. HARPER, LLC

Attorney at Law

P.O. Box 2099
HOTCHKISS, CO 81419
(970) 872-3173
Fax: (970) 872-3186

June 22, 2016

Colorado Water Conservation Board
Colorado Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

Re: Loan Contract with The Duke Ditch Company
CWCB CMS: 88645;
CORE: CT2016-3070

Dear Sirs and/or Madams:

Please be advised that I have been engaged by The Duke Ditch Company of Hotchkiss, Colorado (hereafter "Company") for purposes of advising the Company and to provide you with an Attorney's opinion letter regarding the above-mentioned Loan Contract.

I have reviewed the Company's records and conferred with the Company Secretary/Treasurer Scott Kolb. I have also reviewed the draft Loan Contract, Promissory Note, Deed of Trust, Security Agreement, Company Resolutions and other related documents and offer the following:

(1) The Loan Contract has been duly executed by officers of the Company who are duly elected or appointed and are authorized to execute the Loan Contract and to bind the Company;

(2) The Resolutions of the Company authorizing the execution and delivery of the Loan Contract were duly adopted by the Company's Board of Directors and Shareholders;

(3) There are no provisions in the Company's articles of incorporation or bylaws or any state or local law that I am aware of that prevents the Loan Contract from binding the Company; and

(4) The Loan Contract will be valid and binding against the Company if entered into by the Colorado Water Conservation Board.

Please let me know if I may be of further assistance.

Thank you.

Sincerely,

Steven K. Harper

SKH:sh
xc: Scott Kolb, Secretary/Treasurer, The Duke Ditch Company

COLORADO
Colorado Water
Conservation Board
Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

TIME FOR PERFORMANCE EXTENSION AGREEMENT

July 14, 2019

The Duke Ditch Company
Attn: Marley Duclo
~~Address~~ 503 North 2nd
~~City, CO Zip~~ Hotchkiss, CO 81419

VOID

Re: ~~Name of~~ Piping Project, CWCB Loan Contract Number CT2017-915

Dear Ms. Duclo:

This letter is in response to your request for a time extension for CWCB *Loan Contract* Number CT2017-915. The initial time for performance, stated in Appendix 1, Section 11, of the original loan contract, of three years from the effective date of August 2, 2016, shall be amended to extend the time of performance. By signing below, The Duke Ditch Company and CWCB acknowledge that the time for performance shall be amended to a Project finish date of August 2, 2024.

Please sign and return this letter to Peg Mason, Contracts Manager at the address listed above. Once signed by our Section Chief, the extension is approved. I will then send a scanned copy back to you, at that time, for your records.

This letter does not extend the Grant Agreement. That will be done with a CWCB amendment.

The Duke Ditch Company

Signature

Name: JOHN A. HOTCHKISS

Title: PRESIDENT

Date: 7/15/19

Attest:

Signature

Name: Scott Kolb

Title: Sec Treu

Date: 7/15/19

State of Colorado
Department of Natural Resources

By:
Kirk Russell, P.E., Section Chief
Finance Section
Colorado Water Conservation Board
Date: 7/22/19

To:
Anna Mauss
Colorado Water Conservation Board
1313 Sherman St #718
Denver, CO 80203

Re: Loan Extension Request:

On August 4, 2016 The Duke Ditch wa approved the following Loan and Grant Agreement for Piping construction of the Duke Ditch.
CWCB Loan Contract No. CT2017-915 and Grant Agreement No. CTGG1 2017-212 for the Piping the Duke Ditch Project was approved and signed on August 4, 2016.

Due to problems with changes in engineering design problems and Basin States requirements the construction was waylaid and the Federal Grants were withdrawn.

The Duke Ditch is now requesting an Extension for the above funding to extend to August 2, 2024 to allow us to forge ahead on revised design and subsequent construction schedules allowing us to complete this project. We would sincerely appreciate your consideration of this request.

VOID

REVISED SCHEDULE

Task 1 - Final Engineering and Construction Management
Start date: August 2, 2016
End date: August 2, 2024

Task 2 - Construction (Pipe Installation)
Start date: September 1, 2019
End date: August 2, 2024

Signed: Duke Ditch Co.

President: John Hotchkiss

Sec/Treas: Scott Kolb

BORROWER: THE DUKE DITCH COMPANY
REQUESTED LOAN AMOUNT: $90,000
LOAN ORIGINATION FEE: $900
APPROVED LOAN AMOUNT: $90,900

AGENCY NAME: COLORADO WATER CONSERVATION BOARD
CONTRACT TYPE: LOAN/PRIVATE
CWCB CMS: 88645 CORE: CT2017-915

LOAN CONTRACT

This contract ("CONTRACT" or "LOAN CONTRACT") is made between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCB" or "State"), and **The Duke Ditch Company**, 503 North 2nd, Hotchkiss, Colorado, 81419 ("BORROWER"), a Colorado nonprofit corporation.

FACTUAL RECITALS

1. CWCB authority exists in the law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this CONTRACT; and

2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies; and

3. On March 16, 2016, the CWCB approved a loan request from the BORROWER for the Piping the Duke Ditch Project ("PROJECT") to replace the unlined ditch with polyvinyl chloride (PVC) pipe. The total estimated *Project Cost* is $749,374.00 The *Total Loan Amount* ("LOAN AMOUNT") of **$90,900.00**, *which includes a one percent (1%) loan origination fee* of $900, is payable over 30 years at an interest rate of 2.00%; and

4. The **PROJECT SUMMARY**, attached as **APPENDIX 1,** and incorporated herein contains BORROWER Information (Section 1), the PROJECT Description (Section 2), CWCB's authority for making this loan (Section 3), and CWCB Approval or Legislative Authorization (Section 4), identifying the amount of the loan and the terms of repayment. The PROJECT SUMMARY also contains sections on BORROWER'S debt, pledged revenues and property, procedures and eligible expenses.

5. The CWCB now desires, by this CONTRACT, to loan money to the BORROWER for this PROJECT upon mutually agreeable terms and conditions.

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

A. LOAN PROVISIONS

1. **Loan Origination Fee**. The LOAN AMOUNT shall include (1) the amount of the funds loaned by the CWCB to the BORROWER for the PROJECT and (2) a loan origination fee of one percent (1%) of the requested loan amount. In the event that the BORROWER does not use the full LOAN AMOUNT authorized, the parties shall amend this CONTRACT or exercise an **OPTION LETTER** (as outlined in section A.2. and attached as **APPENDIX 2**) to revise the LOAN AMOUNT including adjustment of the loan origination fee to reflect 1% of the actual LOAN AMOUNT disbursed to the BORROWER.

2. **Amendments and Option Letters.**

   a. If the amount of loan funds disbursed by the CWCB, to the Borrower, differs from the LOAN AMOUNT, the parties shall amend this CONTRACT or exercise an OPTION LETTER.

   b. An amendment to this CONTRACT shall be executed for the following changes including, *but not limited to*, an increase in LOAN AMOUNT, change in pledged revenues or Property, and decrease in LOAN AMOUNT with re-amortization of the Loan.

   c. **Upon substantial completion of the PROJECT** with a resulting decrease in the total LOAN AMOUNT *and the Borrower requests a change in the annual payment*; the PARTIES agree to amend this contract.

   d. **Upon substantial completion of the PROJECT** with a resulting decrease in the total LOAN AMOUNT, *but not a change in the annual payment*, the STATE may exercise an option and shall provide written notice to the BORROWER in form substantially equivalent to APPENDIX 2. If exercised, the provisions of the OPTION LETTER and supporting documentation shall become part of and be incorporated into this CONTRACT for the total duration of this CONTRACT.

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

   a. A service fee shall be imposed on the BORROWER for amendments processed for the benefit of the BORROWER and necessary for the BORROWER'S course of business but not necessary for the CWCB, including, but not limited to, a change in BORROWER name, assignment of contract, substitution of pledged revenues or property, loan payment deferments in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including but not limited to, loan payment deferments (up to 3 per loan) and changes in terms of loan repayment will be processed at no additional charge to the BORROWER.

   b. The amount charged shall be in accordance with the service fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current service fee for an amendment is $1,000.

   c. The BORROWER shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded.

4. **Promissory Note Provisions.**
   The PROMISSORY NOTE shall identify the LOAN AMOUNT. The CWCB agrees to loan to the BORROWER an amount not to exceed the LOAN AMOUNT and the BORROWER agrees to repay the loan in accordance with the terms as set forth in the **PROMISSORY NOTE**, attached hereto as **APPENDIX 3** and incorporated herein.

5. **Interest Prior to PROJECT Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue, on the disbursed funds, at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to PROJECT'S substantial completion (as determined by the CWCB) and notify BORROWER of

such amount. The BORROWER shall repay that amount to the CWCB either within ten (10) days from the date of notification from the CWCB, or, at the CWCB's discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the BORROWER.

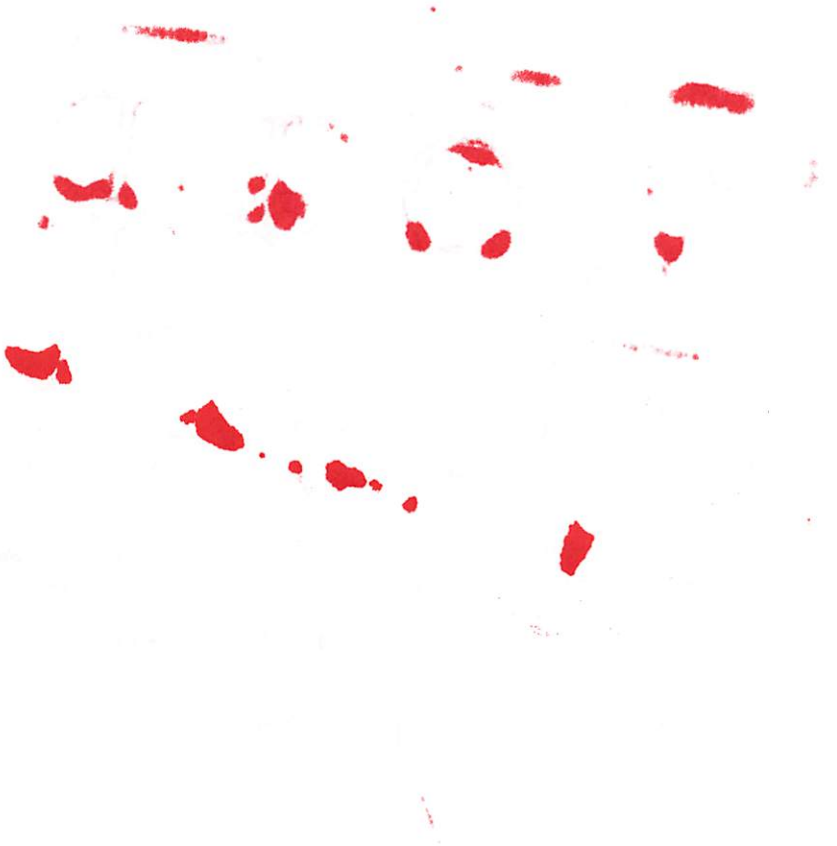
6. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of this CONTRACT shall be remitted to the CWCB within 30 calendar days from notification from the CWCB of either (1) completion of the PROJECT or (2) determination by the CWCB that the PROJECT will not be completed. Any such loan funds so remitted to CWCB shall be applied to the principal payment of amounts due on the Loan.

7. **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 RESOLUTIONS** are attached as **APPENDIX 4a**, Resolutions of the Shareholders (if required) and **Appendix 4b,** Resolutions of the Board of Directors (required) and incorporated herein. **Attorney's Opinion Letter.** Prior to the execution of this CONTRACT by the CWCB, the BORROWER shall submit to the CWCB a letter from its attorney stating that it is the attorney's opinion that:

   a. the CONTRACT has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the CONTRACT and to bind the BORROWER; and
   b. the resolutions of the BORROWER authorizing the execution and delivery of the CONTRACT were duly adopted by the BORROWER's board of directors and/or shareholders; and
   c. there are no provisions in the BORROWER's articles of incorporation or bylaws or any state or local law that prevent this CONTRACT from binding the BORROWER; and
   d. the CONTRACT will be valid and binding against the BORROWER if entered into by the CWCB.

8. **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:

   e. the CONTRACT has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the CONTRACT and to bind the BORROWER; and
   f. the resolutions of the BORROWER authorizing the execution and delivery of the CONTRACT were duly adopted by the BORROWER's board of directors and/or shareholders; and
   g. 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
   h. the CONTRACT will be valid and binding against the BORROWER if entered into by the CWCB.



9. **Pledge of Revenues.** The BORROWER irrevocably pledges, to the CWCB, for purposes of repayment of this loan the PLEDGED REVENUES as defined in the LOAN RESOLUTION set forth in APPENDIX 4a and 4b and any other funds legally available to the BORROWER in an amount sufficient to pay the annual payment due under this CONTRACT (collectively PLEDGED REVENUES).

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 5** and incorporated herein, to provide a security interest to the CWCB in the PLEDGED REVENUES. The CWCB shall have priority over all other competing claims for said revenues, except for the liens of the BORROWER'S existing loans as listed in Section 5 (Schedule of Existing Debt), of the PROJECT SUMMARY (APPENDIX 1), which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s).

c. **Assessment Covenant.** Pursuant to its statutory authority and as permitted by law, the BORROWER shall take all necessary actions consistent therewith during the term of this CONTRACT to establish, levy and collect rates, charges and fees as described in APPENDIX 4a and 4b, in amounts sufficient to pay this loan as required by the terms of this CONTRACT and the PROMISSORY NOTE, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves, including obtaining voter approval, if necessary, of increases in the BORROWER'S rate schedule or taxes, if applicable.

d. **Debt Service Reserve Account or Fund.** To establish and maintain the debt service reserve account or fund, the BORROWER shall deposit an amount equal to one-tenth of an annual payment into its debt service reserve account or fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan. In the event that the BORROWER applies funds from this account to repayment of the loan, the BORROWER shall replenish the account within ninety (90) days of withdrawal of the funds. The debt service reserve account or fund requirement is in effect until the loan is paid in full.

e. **Additional Debts or Bonds.** The BORROWER shall not issue any indebtedness payable from the PLEDGED REVENUES and having a lien thereon which is superior to the lien of this loan. The BORROWER may issue parity debt only with the prior written approval of the CWCB, provided that:

i. The BORROWER is currently and at the time of the issuance of the parity debt in substantial compliance with all of the obligations of this CONTRACT, including, but not limited to, being current on the annual payments due under this CONTRACT and in the accumulation of all amounts then required to be accumulated in the BORROWER'S debt service reserve fund;

ii. The BORROWER provides to the CWCB a Parity Certificate from an independent certified public accountant certifying that, based on an analysis of the BORROWER'S

revenues, for 12 consecutive months out of the 18 months immediately preceding the date of issuance of such parity debt, the BORROWER'S revenues are sufficient to pay its annual operating and maintenance expenses, annual debt service on all outstanding indebtedness having a lien on the pledged revenues, including this loan, the annual debt service on the proposed indebtedness to be issued, and all required deposits to any reserve funds required by this CONTRACT or by the lender(s) of any indebtedness having a lien on the pledged revenues. The analysis of revenues shall be based on the BORROWER'S current rate structure or the rate structure most recently adopted. No more than 10% of total revenues may originate from tap and/or connection fees.

iii. The BORROWER acknowledges and understands that any request for approval of the issuance of additional debt must be reviewed and approved by the CWCB prior to the issuance of any additional debt.

f. **Annual Statement of Debt Coverage.** Each year during the term of this CONTRACT, the BORROWER shall submit to the CWCB an annual audit report.

g. **Pledged Revenues During Loan Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the PLEDGED REVENUES, 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.

9. **Pledge of Property.** The BORROWER irrevocably pledges to the CWCB, for purposes of repayment of this loan, an interest in the PLEDGED PROPERTY. The PLEDGED PROPERTY as further described in Section 6 (LOAN SECURITY) of the PROJECT SUMMARY is authorized by the BORROWER'S AUTHORIZING RESOLUTION, and secured by the **DEED OF TRUST (APPENDIX 6)**.

10. **Pledged Property during Loan Repayment**. The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of 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 PLEDGED REVENUES 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 REVENUES and PLEDGED PROPERTY 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 APPENDIX 1, PROJECT SUMMARY, SECTION 5, SCHEDULE OF EXISTING DEBT, 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 pledged revenues and property; and

d. take any other appropriate action.

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

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

16. **BORROWER'S Liability Insurance.**

    a. Upon execution of this CONTRACT and continuing until complete repayment of the loan is made to the CWCB, the BORROWER shall maintain commercial general liability insurance, with a company that is satisfactory to the CWCB, with minimum limits of $1,000,000 combined single limit for each occurrence and $2,000,000 general aggregate, including products/completed operations and personal injury.

    b. Prior to the disbursement of any loan funds, the BORROWER shall provide the CWCB with an 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 Conditions & Contract Requirements, Section 7 of the PROJECT SUMMARY.

B. PROJECT PROVISIONS

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

2. **Eligible Expenses.** The PROJECT expenses for which the BORROWER is eligible for loan disbursements are listed in Eligible Expenses, Section 9 of the PROJECT SUMMARY.

3. **Loan Disbursements.** The CWCB shall disburse loan funds in accordance with the Disbursement Schedule, Section 10 of the PROJECT SUMMARY.

4. **Time for Performance.** The BORROWER recognizes that time is of the essence in the performance of all of its obligations under this CONTRACT. Therefore, the BORROWER shall complete the PROJECT within the time specified in Time for Performance, Section 11 of the PROJECT SUMMARY.

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 contractor and any subcontractors to maintain the following insurance coverage, in the limits shown, during the term of their contracts and until the PROJECT is complete. CWCB may request proof of construction contractor's and subcontractor's insurance during the term of the PROJECT.

    a. 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 damage.

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.

C. GENERAL PROVISIONS

1. **Periodic Inspections.** Throughout the term of this CONTRACT, the BORROWER shall permit a designated representative of the CWCB to make periodic inspections of the PROJECT. Such inspections shall cover the condition of the PROJECT, operating records, maintenance records, and financial records. These inspections are solely for the purpose of verifying compliance with the terms and conditions of this CONTRACT and shall not be construed or interpreted as an approval of the actual design, construction or operation of any element of the PROJECT facilities.

2. **Applicable Laws.** The BORROWER shall strictly adhere to all applicable federal, state, and local laws and regulations that are in effect or may hereafter be established throughout the term of this CONTRACT.

3. **Designated Agent Of The CWCB.** The CWCB's employees are designated as the agents of the CWCB for the purpose of this CONTRACT.

4. **Assignment.** BORROWER'S rights and obligations, under this CONTRACT, are personal and may not be transferred, assigned without the prior, written consent of the State. Any attempt at assignment without such consent shall be void. All assignments approved by BORROWER or the State are subject to all of the provisions hereof.

5. **Contract Relationship.** The Parties to this CONTRACT intend that the relationship between them under this CONTRACT is that of lender-borrower, not employer-employee. No agent, employee, or servant of the BORROWER shall be, or shall be deemed to be, an employee, agent, or servant of the CWCB. The BORROWER shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, construction firms, and subcontractors during the term of this CONTRACT.

6. **Integration of Terms.** This CONTRACT is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or affect whatsoever unless embodied herein in writing. No subsequent renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to State fiscal rules, unless expressly provided for herein.

7. **Order of Precedence**. The provisions of this CONTRACT shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this CONTRACT and its exhibits and attachments, including, but not limited to, those provided by Contractor,

such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

i. Colorado Special Provisions (provided that the Parties hereby agree that, for the purposes of such Special Provisions "CONTRACTOR" shall mean "BORROWER")
ii. The provisions of the main body of this CONTRACT
iii. Appendices

8. **Controlling Terms.** In the event of conflicts or inconsistencies between the terms of this CONTRACT and conditions as set forth in any of the appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: (1) Colorado Special Provisions, provided that the parties hereby agree that, for the purposes of such Special Provisions, "Contractor" shall mean BORROWER, (2) the remainder of this CONTRACT, and (3) the Appendices.

9. **Casualty and Eminent Domain.** If, at any time during the term of this CONTRACT, **(a)** the BORROWER'S PROJECT facilities, including buildings or any portion thereof, are damaged or destroyed, in whole or in part, by fire or other casualty, *or* **(b)** title to or use of the PROJECT facilities or any part thereof shall be taken under the exercise of the power of eminent domain, the BORROWER shall cause the net proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of the PROJECT facilities or any portion thereof, or to repayment of this loan. Any net proceeds remaining after such work has been completed or this loan has been repaid, shall be retained by the BORROWER. If the net insurance proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the BORROWER shall complete the work and pay any cost in excess of the net proceeds. In the event BORROWER chooses to apply the net proceeds of an insurance claim or a condemnation award to repayment of the loan, BORROWER shall repay the full loan amount outstanding regardless of the amount of such insurance proceeds or condemnation award.

10. **Captions.** The captions and headings in this CONTRACT are for convenience of reference only, and shall not be construed so as to define, or limit its provisions.

11. **CWCB's Approval.** This CONTRACT requires review and approval of plans, specifications, and various other technical and legal documents. The CWCB'S review of these documents is only for the purpose of verifying BORROWER'S compliance with this CONTRACT and shall not be construed or interpreted as a technical review or approval of the actual design or construction of the PROJECT. Notwithstanding any consents or approvals given to the BORROWER by the CWCB on any such documents, BORROWER and any of its consultants, by preparing any such documents, shall be solely responsible for the accuracy and completeness of any of said documents.

12. **Waiver**. Waiver of any breach under a term, provision, or requirement of this CONTRACT, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed as or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

13. **CORA Disclosure.** To the extent not prohibited by federal law, this CONTRACT and the

performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

14. **Binding Effect.** All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

15. **Entire Understanding**. This CONTRACT represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

16. **Severability.** Provided this CONTRACT can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this CONTRACT in accordance with its intent.

17. **Third Party Beneficiaries**. Enforcement of this CONTRACT and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this CONTRACT are incidental to the CONTRACT, and do not create any rights for such third parties.

18. **Counterparts.** This CONTRACT may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

19. **Indemnification.** The Borrower shall indemnify, save, and hold harmless CWCB against any and all claims, damages, liability, and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Borrower, or its employees, agents, or subcontractors pursuant to the terms of this Loan Agreement; provided, however, that the provisions of this clause are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the Colorado Governmental Immunity Act (Section 24-10-101, *et seq.,* C.R.S.), or under the laws of the United States or the State of Colorado.

20. **Addresses for mailing.** All notices, correspondence, or other documents required by this CONTRACT shall be delivered or mailed to the addresses shown in the Section 1 (BORROWER Information) of the **Project Summary**, for the BORROWER and to the address below for the CWCB:

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

Special Provisions

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

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1)**. This contract shall not be valid until it has been approved by the Colorado State Controller or designee.

2. **FUND AVAILABILITY. CRS §24-30-202(5.5)**. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. **GOVERNMENTAL IMMUNITY**. No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

4. **INDEPENDENT CONTRACTOR**. Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.

5. **COMPLIANCE WITH LAW**. Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

6. **CHOICE OF LAW**. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.

7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contact or incorporated herein by reference shall be null and void.

8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00**. State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. **VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.** [***Not Applicable to intergovernmental agreements***] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(a)** unpaid child support debts or child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. **PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101.** [***Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services***] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor **(a)** shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, **(b)** shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, **(c)** shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(d)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. **PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of CRS §24-76.5-101 et seq., and **(c)** has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

SPs Effective
1/1/09

[END OF SPECIAL PROVISIONS]

IN WITNESS WHEREOF, the Parties hereto have executed this CONTRACT

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

BORROWER: The Duke Ditch Company,
a Colorado nonprofit corporation

BY: John A. Hotchkiss
Signature

NAME: JOHN A. HOTCHKISS

TITLE: PRES

DATE: 6/01/16

Attest

BY: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Trea.

DATE: 6/01/16

STATE OF COLORADO
John W. Hickenlooper, Governor
Department of Natural Resources

BY: KR

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

DATE: 7/8/16

LEGAL REVIEW
Attorney General

By: N/A
Signature - Assistant Attorney General

VOID

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

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

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By Maggie VanCleef

Name Maggie VanCleef
Purchasing Director
Title

Effective Date 8/2/2016

Project Summary – The Duke Ditch Company

SECTION 1 –BORROWER INFORMATION

Name: The Duke Ditch Company
Type of Entity: A Colorado nonprofit corporation
Address: 503 North 2nd, Hotchkiss, Colorado 81419
Contact: Scott Kolb, Secretary/Treasurer
Phone Number: 970-872-3380
E-mail address: m.duclo@tds.net c/o Marley Duclo

SECTION 2 – PROJECT DESCRIPTION

A. Description of PROJECT: The BORROWER applied to the CWCB for a loan to be used for the Piping the Duke Ditch Project ("PROJECT") to replace the unlined ditch with polyvinyl chloride (PVC) pipe. The PROJECT is located in Delta County, at a total estimated project cost of $749,374.00.

B. Description of Feasibility Study: The CWCB has reviewed a feasibility study report, on the PROJECT, dated January 2015, titled "Feasibility of Piping the Duke Ditch," which was prepared by Beth Karberg, Colorado Department of Agriculture, with engineering and technical support provided by Shana Harness, NRCS Soil Conservationist and is incorporated herein by this reference. Based upon the feasibility report, the CWCB determined the PROJECT to be technically and financially feasible.

SECTION 3 – CWCB'S AUTHORITY

***Construction Fund*:** This loan is made pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S., which authorizes 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 without prior approval from the General Assembly.

SECTION 4 - BOARD APPROVAL

At its March, 2016 meeting the CWCB approved a Small Project Loan from the Construction Fund, to the BORROWER, in an amount up to $90,000.00 for PROJECT Costs. CWCB's loan origination fee of 1% in the amount of $900.00, in accordance with CWCB Policy No. 16, added to the LOAN CONTRACT results in a **Total Loan Amount of $90,900.00**, at an interest rate of 2.00% per annum for a repayment term of thirty (30) years.

SECTION 5 – SCHEDULE OF EXISTING DEBT

No other debt, backed by the loan security, described in Section 6 below, exists.

SECTION 6 – LOAN SECURITY

The SECURITY provided for this loan, as evidenced by the executed SECURITY AGREEMENT (APPENDIX 5) and incorporated herein, shall be a pledge of assessment revenues backed by an undivided one hundred percent (100%) interest in the Duke Ditch pipeline as more particularly described in the attached DEED OF TRUST (APPENDIX 6), incorporated herein, and in accordance with CWCB Policy No. 5.

SECTION 7 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS

None.

SECTION 8 – "CONSTRUCTION FUND PROGRAM" PROCEDURES FOR PROJECTS

A. The BORROWER shall employ an engineer, registered in the State of Colorado to prepare plans and specifications for the PROJECT.

B. Engineering contracts 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 that effect changes to the construction costs must be approved in writing by CWCB.

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. The BORROWER shall notify CWCB of the bid opening date, time and location. CWCB staff may elect to attend the bid opening.

E. CWCB must approve the award of the construction contract.

F. The BORROWER shall contract for the construction of the work with responsible and capable Construction Firms, selected by the BORROWER and found acceptable by the CWCB staff.

G. The BORROWER must provide a copy of the following construction contract documents: executed contractor's proposal, executed construction contract, executed performance bond, executed payment bond, executed notice of award, proposed 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.

H. The BORROWER shall conduct a pre-construction conference at which time the CWCB staff shall have the opportunity to review and approve the construction schedule.

I. 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.

J. The BORROWER shall construct the PROJECT in accordance with the approved plans and specifications.

K. 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.

L. Upon completion of the PROJECT construction, the BORROWER shall arrange a final inspection for the CWCB staff.

M. 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.5 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.

J. PROJECT-related expenses incurred prior to the Effective Date of this CONTRACT in accordance with the approval of this loan.

SECTION 10 – DISBURSEMENT SCHEDULE

<u>For project expenses:</u> The BORROWER shall prepare a periodic progress report that sets forth 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 expenses, as described above, the CWCB will pay to the BORROWER the amount set

forth in the report or such portion as 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 TO BEGIN: Upon Effective Date of this CONTRACT (the date this CONTRACT is signed by the State Controller or his designee).

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

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SAMPLE OPTION LETTER

(TO BE SIGNED, IF APPLICABLE, UPON SUBSTANTIAL COMPELTION OF PROJECT)

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

1) **OPTIONS:**
   a. Decrease contract value (herein referred to as "Loan Contract Amount").

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

For use with all Options 1a:

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

3) **Effective Date**. The effective date of this Option Letter is upon approval of the State Controller or Delegate.

STATE OF COLORADO
John W. Hickenlooper, Governor
Department of Natural Resources
Colorado Water Conservation Board

By: _____

Title: _____

Date: _____

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

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

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

Name: _____

Title: _____

Date: _____

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)

COPY

* 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.

VOID

COPY

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

(S E A L)

By: John A. Hotchkiss
Signature

NAME: JOHN A. HOTCHKISS

TITLE: PRESIDENT

DATE: 6/27/2016

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Treu.

DATE: 6/27/16

VOID

COPY

RESOLUTIONS OF THE SHAREHOLDERS OF THE DUKE DITCH COMPANY

The Shareholders of The Duke Ditch Company (Company) at a Shareholders' meeting held Feb 20 2016, at Hotchkiss, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of the Piping the Duke Ditch Project (Project), to replace the unlined ditch with polyvinyl chloride (PVC) pipe in an amount not to exceed $90,900.00 which includes the CWCB loan origination fee of 1% of the loan amount.

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

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in an amount not to exceed $90,900.00, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Duke Ditch pipeline for the loan, and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and DEED OF TRUST, necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

VOID

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 01 DAY OF June 2016

(SEAL)

ATTEST:

By: John A. Hotchkiss
Signature

NAME: JOHN A. HOTCHKISS

TITLE: PRES.

DATE: 6/1/16

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Treas.

DATE: 6/01/16

COPY

RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE DUKE DITCH COMPANY

The Board of Directors of The Duke Ditch Company (Company), at a meeting held Feb 20, 2016, at Hotchkiss, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of the Piping the Duke Ditch Project (Project), to replace the unlined ditch with polyvinyl chloride (PVC) pipe in an amount not to exceed $90,900.00 which includes the CWCB loan origination fee of 1% of the loan amount.

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

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in an amount not to exceed $90,900.00, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge the Duke Ditch pipeline for the loan, and
6. to execute all documents as required by the LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT and a DEED OF TRUST, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

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

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 01 DAY OF June 2016

VOID

(SEAL)

ATTEST:

By: John R. Hotchkiss
Signature

NAME: JOHN R. HOTCHKISS

TITLE: PRES

DATE: 6/01/16

By: Scott Kolb
Signature

NAME: Scott Kolb

TITLE: Sec. Trea.

DATE: 6/01/16

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.

COPY

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)

By: _____
Signature

NAME: JOHN A. HOTCHKISS

TITLE: PRESIDENT

DATE: 6/27/2016

Attest:

By: _____
Signature

NAME: Scott Kolb

TITLE: Sec. Treas.

DATE: 6/27/17

VOID

Deed of Trust

DATE:	June 27, 2016
GRANTOR:	THE DUKE DITCH COMPANY, A COLORADO NONPROFIT CORPORATION
BENEFICIARY:	COLORADO WATER CONSERVATION BOARD
COUNTY:	DELTA
TOTAL LOAN AMOUNT:	$90,900
LOAN CONTRACT NUMBER:	CT2017*915
TERMS OF REPAYMENT:	2.00% interest for 30 years
PLEDGED PROPERTY:	An undivided one-hundred percent interest in the Duke Ditch 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 and amount, set forth in the LOAN CONTRACT, for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY, with TERMS OF REPAYMENT and in accordance with the PROMISSORY NOTE or until loan is paid in full.
2. The GRANTOR is desirous of securing payment of the PRINCIPAL LOAN AMOUNT and interest of said PROMISSORY NOTE to the BENEFICIARY.

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

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 PLEDGED PROPERTY 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 PLEDGED PROPERTY sold. The BENEFICIARY may purchase said PLEDGED PROPERTY 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 PLEDGED PROPERTY 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 PLEDGED PROPERTY as a

Homestead Exemption or other exemption, now or hereafter provided by law. The GRANTOR further covenants that the PLEDGED PROPERTY is free and clear of all liens and encumbrances whatever and that the GRANTOR shall warrant and forever defend the PLEDGED PROPERTY in the quiet and peaceable possession of the PUBLIC TRUSTEE, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

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

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

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

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COPY

Executed the day and date first written above.

GRANTOR: The Duke Ditch Company,
a Colorado nonprofit corporation

(S E A L)

By _____
Signature

Name JOHN A. HOTCHKISS

Title PRESIDENT

Date 6/27/2016

ATTEST:

By _____
Signature

Name Scott Kolb

Title Sec. Treas.

Date 6/27/16

VOID

Notary Required

State of Colorado)
County of DELTA) ss.
)

The foregoing instrument was acknowledged before me on 6/27, 2016, by JOHN A. HOTCHKISS (Name) as PRESIDENT (Title) and SCOTT KOLB (Name) as SEC./TREAS. (Title) of The Duke Ditch Company

Witness my hand and official seal.

STEVEN K HARPER
NOTARY PUBLIC - STATE OF COLORADO
Notary Identification #19914017312
My Commission Expires 1/12/2020

_____
Notary Public Signature

My commission expires 1-12-2020 (SEAL)

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

UCC Financing Statement

Colorado Secretary of State
Date and Time: 08/09/2021 03:28:25 PM
Master ID: 20212076918
Validation Number: 20212076918
Amount: $8.00

Debtor: (Organization)

Name: THE DUKE DITCH COMPANY
Address1: P.O. BOX 488
Address2: 503 N 2ND
City: HOTCHKISS State: CO ZIP/Postal Code: 81419-1131
Province: Country: United States

Secured Party: (Organization)

Name: STATE OF COLORADO WATER CONSERVATION BOARD
Address1: 1313 SHERMAN ST RM718
Address2:
City: DENVER State: CO ZIP/Postal Code: 80203
Province: Country: United States

Collateral

Description:

SECURED PARTY'S REVENUES PLEDGED TO REPAY LOAN OF $90,900 IN ACCORDANCE WITH LOAN CONTRACT NO. CT2017-915 AND PROMISSORY NOTE, DATED JUNE 27, 2016.

Optional Information

Optional filer reference data/miscellaneous information:

This is a continuation of 20162070920

UCC Financing Statement

Colorado Secretary of State
Date and Time: 08/04/2016 01:51:24 PM
Master ID: 20162070920
Validation Number: 20162070920
Amount: $8.00

Debtor: (Organization)

Name: DUKE DITCH COMPANY
Address1: P.O. BOX 488
Address2:
City: HOTCHKISS State: CO ZIP/Postal Code: 81419
Province: Country: United States

Secured Party: (Organization)

Name: STATE OF COLORADO - COLORADO WATER CONSERVATION BOARD
Address1: 1313 Sherman Street Room 718
Address2:
City: Denver State: CO ZIP/Postal Code: 80203
Province: Country: United States

Collateral

Description:

SECURED PARTY'S REVENUES PLEDGED TO REPAY LOAN OF $90,900 IN ACCORDANCE WITH LOAN CONTRACT NO. CT2017-915 AND PROMISSORY NOTE, DATED JUNE 27, 2016.