

## **SITE RELINQUISHMENT AND LEASE AGREEMENT**

This Site Relinquishment, Mineral Acquisition and Lease Agreement ("Agreement") is made by and among the City of Longmont, Colorado, a municipal corporation with an address of 350 Kimbark Street, Longmont, Colorado 80501 ("City"), Cub Creek Energy, LLC, whose mailing address is 200 Plaza Drive, Suite 100, Highlands Ranch, Colorado 80129 ("Cub Creek"), CCW Energy, LLC, whose mailing address is 200 Plaza Drive, Suite 100, Highlands Ranch, Colorado 80129 ("CCW"), and TOP Operating Co., whose address is 3609 S. Wadsworth Blvd, Ste. 340, Lakewood, Colorado 80235 ("TOP"). These parties may be collectively referred to herein as the "Parties" or individually as a "Party".

### **RECITALS**

- A. The City and TOP are parties to that certain Master Contract Concerning Consolidated Oil and Gas Exploration and Production Facilities, Property Purchase, Oil and Gas Mineral Leases and Reciprocal Compensation, dated effective August 8, 2012 and recorded at Reception No. 3866504 of the records of the Clerk and Recorder of Weld County, Colorado ("Master Contract").
- B. The City and TOP are parties to that certain Operator's Agreement dated effective July 17, 2012 and recorded at Reception No. 3866504 of the records of the Clerk and Recorder of Weld County, Colorado ("Operator's Agreement").
- C. The City and TOP have previously amended the Master Contract and Operator's Agreement via that certain First Amendment to (1) Master Contract Concerning Consolidated Oil and Gas Exploration and Production Facilities, Property Purchase, Oil and Gas Mineral Leases and Reciprocal Compensation, (2) Operator's Agreement and (3) Oil and Gas Leases ("First Amendment"), effective as of February 28, 2013.
- D. The City and TOP have also executed a Royalty Account Agreement dated effective October 30, 2013, which implements certain provisions of the Master Contract ("Royalty Account Agreement").
- E. The City has consented to TOP's assignment of certain rights, interests, and obligations to CCW, a wholly owned subsidiary of Cub Creek, via a letter dated June 26, 2017 ("Assignment Letter").
- F. Proceedings are pending at the Colorado Oil and Gas Conservation Commission ("Commission"), to force-pool the minerals included in the Lease attached as Exhibit A.

### **AGREEMENT**

NOW THEREFORE, in consideration and mutual promises set forth in this Agreement, including those in the Recitals herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

1. Master Contract and the Operator's Agreement. The Parties intend for this Agreement to amend, but not replace in its entirety the terms of the Master Contract, Operator's Agreement, First Amendment, Royalty Account Agreement, and Assignment Letter. To the extent there is a conflict with the terms and conditions set forth in this Agreement and the terms and conditions of those agreements, the terms and conditions of this Agreement shall control.

2. Lease. The City shall grant to Cub Creek an oil and gas lease covering approximately 514 acres of land in Sections 29 and 32, Township 3 North, Range 68 West, 6<sup>th</sup> P.M., Weld County, Colorado, known by the City as Hartman, Hernor, and French properties, as described in Exhibit A, substantially in the form attached as Exhibit A ("Lease"). As further set forth in the Lease itself, the Lease shall be limited to twenty years and prohibit the lessee from disturbing the surface of the leased properties. The Lease shall be executed concurrently with the execution of this Agreement. The Lease shall automatically expire and terminate with no further action being required by the City should Cub Creek or TOP, or an assignee or successor of rights and/or interests owned by Cub Creek or TOP as of the date of this Agreement in and to any lands where the surface is owned by the City as of the date of this Agreement that lie within the area described as the Property as defined in the Master Contract or the Operator's Agreement (such lands being here referred to as "City Property"), or Related Party of Cub Creek or TOP, commence or cause to be commenced the drilling of a new oil and gas well without the prior written consent of the City from a surface location on the City Property. In such event, any rights granted by the Lease shall be null and void ab initio ("Termination"). In the event of Termination, Cub Creek and successors or assigns of interest in the Lease agree to sign and record in the county records a full and complete release of the Lease as to all rights and interests. Should Cub Creek or the successors or assigns fail to sign and record such a release, the City is hereby given full authority to sign and record such a release on their behalf and as their agent in fact. "Related Party" as used in this Agreement shall mean for a person, another person that controls, is controlled by, or is under common control with that person, as well as any agent, partner, manager, member, shareholder, officer, contractor, successor, joint operating agreement partner (with the exception of any person who has independent rights prior to the date of this Agreement to drill where it drills within the City Property and such a person's successors and assigns), or any other person to whom the person gives operating rights in any manner on the City Property. TOP, CCW, and Cub Creek shall not participate as a working interest owner in any well drilled on City Property—such event shall also result in Termination. "Related Party" shall also include a Related Party of the person's successor, assign, or representative, as well as a successor, assign, or Related Party of a Related Party. For purposes of this definition, "control" means the ownership by one person, directly or indirectly, of fifty percent (50%) or more of the voting securities or rights of a corporation or, for other persons, the equivalent ownership interest, and "person" means an individual, corporation, partnership, trust, estate, unincorporated organization, association, or other entity. Upon Termination of the Lease, if Cub Creek, as Operator, or its successor or assign or Related Party, has not drilled a well within the 1,280-Acre Unit, as defined in this Agreement, or participated in any boundary well adjacent thereto with the interest that is derived from the Lease, then the City agrees to reimburse Cub Creek for the entire amount of the Lease bonus paid to the City upon the execution of the Lease, with such reimbursement to be made within thirty (30) days after the filing of the release by Cub Creek in the records of Weld County.

3. Well Closures.

- a. TOP agrees that it shall commence the process to plug and abandon the Powell #1 well (API no. 05-123-10814), immediately upon the execution of this Agreement. TOP further agrees that it shall cause this well, subject to all the required permits, consents and approvals being timely obtained, to be permanently plugged and abandoned in compliance with all applicable laws no later than 120 days after the date of execution of this Agreement.
- b. TOP agrees that subject to all the required permits, consents and approvals being timely obtained, it shall cause the Stamp #31-2C Well (API no. 05-123-10615), to be permanently plugged and abandoned in compliance with all applicable laws no later than ninety (90) days after commencement of production of oil and gas from a new well or wells where the unit(s) for such well or wells includes all lands in the West Half of Section 31, Township 3 North, Range 68 West, Weld County, Colorado.
- c. TOP agrees that subject to all the required permits, consents and approvals being timely obtained, it shall cause the Serafini Gas Unit #1 (API no. 05-123-10290) to be permanently plugged and abandoned in compliance with all applicable laws no later than (i) two (2) years after the execution of this Agreement, or (ii) ninety (90) days after commencement of production of oil and gas from a new well or wells where the unit(s) for such new well or wells includes all lands in the unit of the Serafini Gas Unit #1 well, whichever is sooner.
- d. Subject to all the required permits, consents and approvals being timely obtained, TOP shall also permanently plug and abandon the following wells in compliance with all applicable laws: Mayeda, John Y. #2 (API no. 05-123-11075), Evans #6 (API no. 05-123-20093), City of Longmont #1 (API no. 05-123-23019), Sherwood #1 (API no. 05-123-23886), and Sherwood #2 (API no. 05-123-23908). In order to allow TOP and Cub Creek to keep in effect their oil and gas leasehold interests beyond their primary terms, TOP agrees that subject to all the required permits, consents and approvals being timely obtained, it shall plug and abandon each such existing well no later than ninety (90) days after commencement of production of oil and gas from a new well or wells where the unit(s) for such new well or wells includes all lands in the unit of the respective existing well.
- e. At such time as any of the wells described in this section is plugged and abandoned, TOP shall cause the abandonment or removal, pursuant to state law and regulations, of all of its flowlines, gathering lines, and other lines, associated with such wells and no longer connected to a producing oil and gas well.
- f. Where this section makes TOP's plugging and abandonment of any well subject to any required permit, consent or approval being timely obtained, TOP shall make best efforts to ensure that the required permit, consent or approval is timely obtained.
- g. TOP agrees never again to frack or recomplete any of the wells described in this section, effective immediately. None of these wells shall be used as an injection well.

- h. In the event that circumstances outside of the control of TOP occur, such as fire, flood, explosions, strikes, or labor disputes, which prevent TOP from plugging and abandonment operations as described in this section, TOP's time to commence operations shall be extended until the circumstances are such that TOP is able to perform such operations. In the event that such a force majeure situation arises, TOP shall promptly notify the City in writing of such situation, shall use its best efforts to remedy its inability to perform, and shall notify the City if and when the situation is resolved.

4. Commission Applications and Withdrawals of Protests. Cub Creek has filed with the Commission both applications for spacing and pooling (Commission Docket Nos. 171200838 and 171200840) for an approximate 1,280-acre drilling and spacing unit covering Sections 29 and 32, Township 3 North, Range 68 West, 6<sup>th</sup> P.M. ("1,280-Acre Unit"), as well as Applications for Permit-to-Drill ("APDs"), Form 2's, and an Oil and Gas Location Assessment ("OGLA"), Form 2A, within said Section 29 ("Olander Site"). In addition, Cub Creek has filed with the Commission both applications for spacing and pooling (Commission Docket Nos. 171200880 and 171200881), for an approximate 1,440-acre drilling and spacing unit covering certain portions of Section 30 and Section 31, Township 3 North, Range 68 West, 6<sup>th</sup> P.M., and Section 6, Township 2 North, Range 68 West, 6<sup>th</sup> P.M. ("1,440-Acre Unit"), as well as APDs and OGLA from a location within said Section 30 ("Knight Site"). The City agrees to withdraw any and all protests of or objections to the spacing and pooling applications referenced above in this section 4 as have been filed with the Commission, and not to protest or object to the APDs and OGLA.

5. Withdrawal of Application for Recovery and Statutory Penalties. Cub Creek agrees not to seek cost recovery and statutory risk penalties under any pooling order issued by the Commission for the City's interests subject to the Lease. However, Cub Creek may continue to seek relief under the pending Pooling Application (Commission Docket No. 171200840), to pool all interests in the 1,280-Acre Unit and the authority of the Commission to capture cost recovery and statutory risk penalties from those interests belonging to any unleased and/or nonconsenting owner. The City agrees to not protest any subsequent application filed by Cub Creek to capture cost recovery and statutory risk penalties from interests belonging to any other nonconsenting owner for the drilling of wells to access minerals within drilling and spacing units as created by the Commission.

6. Royalty Account Amendment. The City and TOP hereby amend the Master Contract and Royalty Account Agreement as follows. The City shall no longer be required to pay TOP out of the Royalty Account as described in those agreements ("Royalty Account"), for the Rider Well Replacement, the Rider Directional Offset Costs, or the Sandstone Pipeline. See Master Contract ¶¶ 2(d), 2(e), 2(f), 9; Royalty Account Agreement ¶ 4. The City shall also no longer be entitled to a Union Reservoir Offset Credit. See Master Contract ¶ 7; Royalty Account Agreement ¶ 5. However, as compensation for the costs and lost benefits to TOP of the site relinquishment described below, upon and subject to the relinquishment described below, TOP shall be entitled to receive \$3 million ("Relinquishment Compensation") from the Royalty Account as it currently exists and from future royalties accruing to it from the City's mineral interests from the wells described below, as those funds accrue. In particular, the parties agree to amend and do hereby amend the Royalty Account Agreement as follows:

- a. The following royalties shall be placed in the Royalty Account: royalties payable to the City from any and all wells drilled by Cub Creek or other operator from the Knight and Olander pads, royalties from the existing wells being operated by TOP that are currently subject to the Royalty Account Agreement until such wells are plugged and abandoned, and all royalties accruing to the City under the Lease identified in paragraph 2 above.
- b. Upon notice to the Commission of completion of the plugging and abandonment of two wells—both the Powell #1 well and the Serafini Gas Unit #1 well—as described in section 3, and delivery of a letter to the City confirming the same, the City shall promptly pay TOP the current balance, as of the effective date of this Agreement, of the Royalty Account, in reimbursement for the costs of the plugging and abandonment, as the first payment toward the Relinquishment Compensation. This City payment obligation is otherwise unconditional and not subject to setoff, except under the circumstances described in section 8.
- c. Except as for amounts paid to TOP pursuant to Section 6(b) above, during the period from execution of this Agreement to the Relinquishment Date, neither the City nor TOP shall make any withdrawals of funds from the Royalty Account, except that the City may withdraw and keep any amount that would exceed the remainder eventually due to TOP of the Relinquishment Compensation. Such withdrawal need not be subject to the debit filter described in section 2 of the Royalty Account Agreement.
- d. Upon the Relinquishment Date as defined below, or the date of expiration of the sites as described in section 1(d) of the Operator's Agreement ("Expiration Date"), whichever is sooner, the City shall disburse to TOP any funds then accrued in the Royalty Account, up to the remaining amount due to TOP of the Relinquishment Compensation. Should those funds not fully satisfy the Relinquishment Compensation, the City shall pay TOP the remainder thereof as it accrues in the Royalty Account, under the procedures described in the Royalty Account Agreement. Such payments by the City shall be unconditional and not subject to setoff, so long as TOP, CCW, and Cub Creek fulfill their obligations under section 9 below.
- e. TOP shall be ineligible to receive any portion then or thereafter due of the Relinquishment Compensation should TOP or Cub Creek, or an assignee or successor of rights and/or interests owned by Cub Creek or TOP as of the date of this Agreement in the City Property or a Related Party of either TOP or Cub Creek, conduct any drilling operations on any well upon the surface of City Property prior to the Relinquishment Date.
- f. When under this Agreement TOP is no longer entitled to any further amount of the Relinquishment Compensation, the Royalty Account Agreement shall conclude as described in section 10 thereof. See also section 8(b) of this Agreement.

- g. To the full extent permitted by law, payment to TOP from the Royalty Account shall be reported to TOP by the City on an annual 1099 form as royalty payments in box 2.

7. Site Relinquishment.

- a. Subject to the terms of Section 8(c) hereof, effective upon the effective date of this Agreement, TOP, Cub Creek, and CCW hereby irrevocably and forever relinquish any and all rights under the Master Contract, Operator's Agreement, First Amendment, Royalty Account Agreement, Assignment Letter, any oil and gas leases, or by the operation of law, to conduct any operations or placement of any surface facilities upon the Sandstone Site, Sherwood Site, or the Evans Site, as those sites are identified in Exhibits 1A-1H of the Operator's Agreement.
- b. Subject to the terms of Section 8(c) hereof, effective upon the completion of a well capable of producing in paying quantities to access the 1,280-Acre Unit—on the Olander Site or any other site outside the City drilled after the effective date of this Agreement by Cub Creek or TOP or their assigns or successors or Related Parties—TOP, Cub Creek, and CCW hereby irrevocably and forever relinquish any and all rights under the Master Contract, Operator's Agreement, First Amendment, Royalty Account Agreement, Assignment Letter, any oil and gas leases, or by the operation of law, to conduct any operations or placement of any surface facilities upon the Upper Adrian Site, Lower Adrian Site, Pietrzak Drill Site, Koester Site, Hernor Drill Site, Hernor Facilities Site, Bogott Site, Adrian Tank Battery Location, and Dworak Drill Site, as those sites are identified in Exhibits 1A-1H of the Operator's Agreement. Upon this date, the only site on the City Property still potentially available for use by TOP, Cub Creek, or CCW shall be the Smith Site, also known as the Northern Shores Site, as identified in Exhibit 1F of the Operator's Agreement ("Smith Site").
- c. Subject to the terms of Section 8(c) hereof, effective upon the completion of a well to access the 1,440-Acre Unit—on the Knight Site or any other site outside the City drilled after the effective date of this Agreement by Cub Creek or TOP or their assigns or successors or Related Parties—TOP, Cub Creek, and CCW hereby irrevocably and forever relinquish any and all rights under the Master Contract, Operator's Agreement, First Amendment, Assignment Letter, any oil and gas leases, or by the operation of law, to conduct any operations or placement of any surface facilities upon any site identified in Exhibits 1A-1H of the Operator's Agreement and any other City Property (collectively being herein referred to as "Relinquished Rights"). This date shall be known as the Relinquishment Date.
- d. Notwithstanding the foregoing, Cub Creek and its successors, assigns, or Related Parties shall construct no wells on any site on the City Property except the Smith Site, and then only if the Knight Site is not drilled.
- e. In order to avoid any oil and gas operations or facilities in the City, subject to Cub Creek obtaining all necessary permits, Cub Creek shall drill the Knight Site and shall make best efforts, including no more than reasonable financial efforts, to obtain all permits, consents, and approvals to do so. Cub Creek shall construct

no wells on the Smith Site unless, having made best efforts, including no more than reasonable financial efforts, to obtain and keep all necessary governmental permits and approvals for construction of wells on the Knight Site, such permits and approvals are denied or revoked.

- f. This Agreement shall not affect any otherwise effective expiration of any right to use any site on City Property, including as described in section 1(d) of the Operator's Agreement, as modified by the First Amendment.
  - g. Effective upon the Relinquishment Date, neither Cub Creek nor TOP shall apply to the City for approval to establish any further oil and gas operation or facility on the surface of the lands within the City.
8. Consequences of Drilling within City Property. Should TOP, Cub Creek, CCW, or any of their successors, assigns, or Related Parties initiate the drilling of a well on the City Property, including but not limited to the Smith Site, prior to the Relinquishment Date, the following shall result:
- a. Lease Termination shall occur as described in section 2 hereof; the Lease shall terminate immediately. Cub Creek shall disgorge to the City all profits from that portion of any wells producing that are attributable to the lands covered by the Lease prior to the expiration of the Lease, or shall retroactively (to the date of execution of the Lease) increase the City's royalty payments to 25%, whichever payment to the City is greater, and shall pay such sum to the City within thirty (30) days or as promptly thereafter as the amount of the payment can be reasonably determined, but in no event later than 120 days thereafter. For the purposes of this Agreement, the term "profits" shall be deemed to include any amount received from the sale of oil and gas from a well that is in excess of the direct and indirect costs and expenses incurred to drill, complete, and/or operate the well, plus the bonus paid for the Lease. Such costs shall include, but not be limited to, reasonable costs and expenses charged to a working interest owner participating in the drilling of the well, including that working interest owner's overhead as chargeable under a standard form joint operating agreement.
  - b. TOP shall no longer be entitled to any amount of the Relinquishment Compensation then or thereafter due, but may retain any funds already paid to it. All City obligations to pay TOP under section 6 hereto not already due and owing shall be null and void, and the Royalty Account Agreement shall revert to its form prior to the execution of this Agreement. The City shall receive a credit on the Royalty Account Ledger described therein for any portion of Relinquishment Compensation the City has already paid to TOP.
  - c. Notwithstanding anything contained herein to the contrary, the Relinquished Rights shall revert to TOP. However, Cub Creek and its successors and assigns and Related Parties may thereafter make use only of the Smith Site, and may not conduct surface operations elsewhere on the City Property.
  - d. The permit described in section 11 hereto shall terminate immediately.
  - e. TOP's, CCW's, and Cub Creek's obligations to amend leases upon the Relinquishment Date or the Expiration Date, as described in section 9(b) hereto, shall be null and void.

9. Amendment of Leases. Without representation as to accuracy or completeness, and without liability for any reliance thereon, TOP and Cub Creek will promptly provide to the City oil and gas leasehold ownership information as identified in any title opinion it may have rendered within two (2) years after the date of this Agreement, which covers that portion of the lands within the 1,280-Acre Unit or 1,440-Acre Unit in which the City owns surface rights.

- a. TOP and Cub Creek will not oppose and will support the City in its efforts to secure the agreement of all the lease interest holders to amend all such leases covering lands in the 1,280-Acre Unit or 1,440-Acre Unit in which the City owns surface rights to prohibit the lessees from disturbing the surface of the leased properties.
- b. Subject to section 8(e) above, upon the Relinquishment Date or the Expiration Date, whichever is sooner, TOP, CCW and Cub Creek agree to file of record an Amendment, which the City will also sign, amending any oil and gas lease covering lands within the City Property as to those portions of the lease where the City owns the surface rights, relinquishing all rights to use the surface of any City owned lands subject to each such lease except to the extent necessary to plug and abandon wells as required under this Agreement.

10. Withdrawal of Local Applications. Cub Creek shall withdraw all its current applications pending before the City for permits for oil and gas operations and facilities (i) for the Pietrzak Drill Site and Hernor Facilities Site upon commencement of production of oil and gas in paying quantities from a well on the Olander Site; and (ii) for the Koester Site and Lower Adrian Site upon commencement of production of oil and gas in paying quantities from a well on the Knight Site. Effective upon the Relinquishment Date, TOP will rescind its notice to drill of January 31, 2018, and withdraw any application pending before the City to permit wells on the Relinquished Property.

11. Access to Knight Site. The City hereby grants Cub Creek the permit attached as Exhibit B in order to construct and maintain a road to access the Knight Site. However, upon the Relinquishment Date, the Master Contract and Operator's Agreement shall be deemed amended to the extent necessary to prohibit pipelines on or across the Property, as could otherwise be deemed required, for example, to access the Knight Site.

12. Entire Agreement. Other than as specifically altered by the Parties in this Agreement, all other provisions of the Master Contract, Operator's Agreement, Royalty Account Agreement, and First Amendment shall remain in full force and effect. The provisions and covenants contained herein shall be binding upon and inure to the benefit of each of the Parties, and their respective successors and assigns.

13. Further Assurances. The Parties agree to execute such additional documents and provide each other with such further assurances as may be reasonably required to accomplish the provisions of this Agreement.



14. Dispute Resolution and Arbitration. Any dispute, disagreement or controversy arising out of, relating to or connected with this Agreement shall be governed by the Dispute Resolution and Arbitration provisions of paragraph 29 of the Master Contract. Each Party shall retain the right to make claims for breach of contract and to seek judgments against any other Party as described in that paragraph.

15. Counterpart Executions. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

16. Financial Obligations of City. All City's financial obligations under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge those obligations. Nothing in this Agreement constitutes a debt, a direct or indirect multiple fiscal year financial obligation, a pledge of the City's credit, or a payment guarantee by the City.

EXECUTED AND EFFECTIVE THIS 23rd DAY OF May, 2018.

THE CITY OF LONGMONT  
A municipal corporation

  
\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:


  
\_\_\_\_\_  
ASSISTANT CITY ATTORNEY

4/30/18  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
PROOFREAD

4/30/18  
\_\_\_\_\_  
DATE

APPROVED AS TO FORM AND SUBSTANCE:

  
\_\_\_\_\_  
GENERAL MANAGER OF PUBLIC WORKS  
AND NATURAL RESOURCES


5/2/2018  
\_\_\_\_\_  
DATE

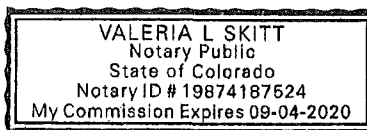
CA File: 10610

State of Colorado     )  
                                  ) ss.  
County of Boulder     )

I attest that the foregoing instrument was acknowledged before me this 23rd day of May, 2018, by Brian J. Bagley as the Mayor of the City of Longmont.

Witness my hand and official seal.

  
\_\_\_\_\_  
CITY CLERK, Notary Public



My commission expires Sept. 4, 2020

CUB CREEK ENERGY, LLC

By: Scott B. Baily

Title: President

State of Colorado )

) ss:

County of Douglas )

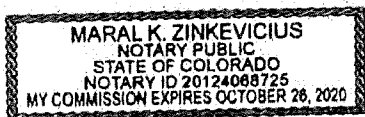
The foregoing instrument was acknowledged before me by Scott B. Baily,  
(Name of party signing)

a member/partner/manager/limited partner/agent (select one) on behalf of Cub Creek Energy, LLC  
(Name of limited liability company)

a limited liability company, this 30th day of April, 2018.

Witness my hand and official Seal.

My Commission expires October 26, 2020



Notary Public

A handwritten signature in dark ink, appearing to be "M. Zinkevicius", written over a horizontal line.

CCW ENERGY, LLC

By: Scott B. Bailly

Title: President

State of Colorado )

) ss:

County of Douglas )

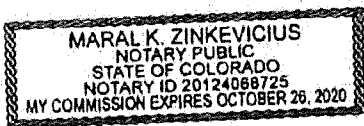
The foregoing instrument was acknowledged before me by Scott B. Bailly,  
(Name of party signing)

a member/partner/manager/limited partner/agent (select one) on behalf of CCW Energy, LLC  
(Name of limited liability company)

a limited liability company, this 30th day of April, 2018.

Witness my hand and official Seal.

My Commission expires October 26, 2020



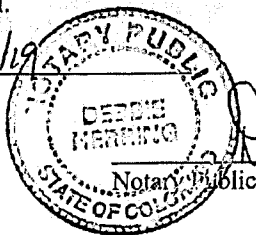
Notary Public

A handwritten signature in black ink, appearing to be "Maral K. Zinkevicius", written over the "Notary Public" text.

TOP OPERATING CO.

By: [Signature]Title: PresidentState of CO  
) ss:  
County of JeffersonThe foregoing instrument was acknowledged before me by \_\_\_\_\_,  
(Name of party signing)as President of TOP Operating Co.  
(Title of party signing) (Name of corporation)a Colorado corporation, on behalf of the corporation, this  
(State of incorporation)1<sup>st</sup> day of May, 2018.

Witness my hand and official Seal.

My Commission expires 2/1/19

**EXHIBIT A  
OIL AND GAS LEASE**

THIS Oil and Gas Lease ("Lease") is made and entered into this \_\_\_\_ day of October, 2017, by and between **City of Longmont**, a municipal corporation, whose mailing address is 350 Kimbark Street, Longmont, Colorado 80501 ("Lessor") (whether one or more), and **Cub Creek Energy, LLC**, whose mailing address is 200 Plaza Drive, Suite 100, Highlands Ranch, Colorado 80129, ("Lessee").

WITNESSETH: That Lessor, for and in consideration of Ten Dollars, the receipt and sufficiency of which are hereby acknowledged, and of certain other bonus compensation paid by Lessee to Lessor under a letter agreement between the Parties dated the same as this Lease, and the covenants and agreements hereinafter contained does hereby grant, demise, lease and let exclusively unto the said Lessee, its successors and assigns, the following described land for the purpose of carrying on geological, geophysical and other exploratory work, and the investigating, exploring, prospecting, drilling, mining, operating for, producing and saving of oil, liquid hydrocarbons, gas, gas condensate, gas distillate, casinghead gas, casinghead gasoline, coal bed methane gas and all other gases and their constituent parts, other minerals and substances produced in connection with oil and gas operation hereunder, as a by-product of oil and gas, (collectively and/or individually hereinafter referred to as "Lease Substances") and any and all other rights and privileges necessary, incident to or convenient in the economical or efficient operation of said land, or lands pooled therewith or adjacent thereto, together with any reversionary rights therein or rights hereafter vested in Lessor, said tract of land being situated in the County of Weld, State of Colorado, and described as follows, to-wit:

THIS IS A NO SURFACE OCCUPANCY OIL AND GAS LEASE. Notwithstanding anything in this Lease to the contrary, there shall be no operations, access or entry of any kind by Lessee on the surface of the Leased Premises described herein.

See Exhibit "A" hereto for a description of the Leased Premises.

together with all lakes, streams, roads, easements, and rights-of-way which traverse or adjoin said lands owned or claimed by Lessor, or which may hereinafter be established to be owned by Lessor, and also in addition to the above described lands and rights, any and all strips or parcels of land other than those constituting regular governmental subdivisions, adjoining or contiguous to the above described land owned or claimed by Lessor, all of the above described lands being hereinafter referred to as the "Leased Premises", which land shall, for the purpose of calculating the amount of any money payment permitted or required by the terms of this Lease be considered as containing 515.863 net mineral acres, whether there is more or less.

TO HAVE AND TO HOLD the same, subject to the provisions herein contained, for a term of three (3) years from this date (hereafter called "Primary Term") and as long thereafter as Leased Substances are being or may be produced from said Leased Premises in paying quantities, or operations for the drilling or production thereof are continued as hereinafter provided, but not to exceed a total of more than twenty (20) years for the Primary Term and any extended term for this Lease. This is a paid-up lease and Lessee shall have no obligation to make annual rental payments to Lessor over and above the consideration stated above and the production royalty payments described below.

In consideration of these premises, it is hereby mutually agreed as follows:

Paid-up Lease Form - Revised 2016

1. Royalties on the Lease Substances produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons separated at Lessee's separator facilities, the royalty shall be twenty percent (20%) of the gross proceeds derived from the sale of such production, payable to Lessor as hereinafter provided, less Lessor's proportionate part of ad valorem taxes and production, severance or other excise taxes provided that Lessee shall have the continuing right to sell such production to itself or an affiliate at the fair market price then paid for production in an arms-length transaction of similar grade and gravity at the point of sale; and, (b) for gas, gas condensate, gas distillate, casinghead gas, casinghead gasoline, coal bed methane gas and all other gases and their constituent parts, other minerals and all other substances covered hereby, the royalty shall be twenty percent (20%) of the gross proceeds derived from the sale thereof, after deducting from Lessor's share its proportionate amount of ad valorem taxes, gross production taxes, and severance taxes, or other excise taxes, provided that Lessee shall have the continuing right to sell such production to itself or an affiliate at the prevailing fair market price paid for production of similar quality in the same field in an arms-length transaction at the point of sale.

2. Notwithstanding any of the prior provisions of this Lease to the contrary, Lessee shall have free use of the Lease Substances, water, gravel, and other materials from the Leased Premises, except domestic or irrigation water from Lessor's wells and tanks, for all operations hereunder.

3. All royalty payments under this Lease shall be paid or tendered to Lessor or its successors in currency, by check or by draft by deposit in the U.S. Mail in a stamped envelope addressed to Lessor at the last address known to Lessee, which shall constitute proper payment.

4. Subject to the restrictions above on the total term of this Lease, it is expressly agreed that if Lessee shall commence operations for the drilling of a well at any time while this Lease is in force, this Lease shall remain in force and its term shall continue for so long as Operations are prosecuted on the well and, if production results therefrom in paying quantities, then so long as such production may continue. If, after the expiration of the Primary Term of this Lease, production on the Leased Premises shall cease from any cause, this Lease shall not terminate provided Lessee resumes or commences operations for the drilling of a well or any other Operations within one hundred eighty (180) days from the date of such cessation, and this Lease shall remain in force and effect during the prosecution of such operations, so long as any one or more of such operations are prosecuted with no interruption of more than one hundred eighty (180) days, and if production results therefrom, then as long as such production continues, Lessee shall be deemed to have commenced operations by actual drilling. The term "Operations" shall include any and all activities designed to obtain, enhance, deliver or market production of the Lease Substances from the Leased Premises, or lands pooled therewith, including by way of example, but not limited to reworking, deepening, sidetracking, plugging back, completing, treating, stimulating, refitting, installing equipment, construction of facilities relating to transporting, treating and marketing of Lease Substances, contracting for the marketing and sale of Lease Substances, and construction of water disposal facilities and removal of water.

5. If after the Primary Term one or more wells on the Leased Premises or lands pooled or unitized therewith are capable of producing Lease Substances in paying quantities, but such well or wells are either shut in or production therefrom is not being sold by Lessee, such well or wells shall nevertheless be deemed to be producing in paying quantities for the purpose of maintaining this Lease. If for a period of ninety (90) consecutive days such well or wells are shut in or production therefrom is not sold by Lessee and this Lease is not otherwise being maintained, then Lessee shall pay an aggregate shut-in royalty of twenty dollars (\$20.00) per acre then covered by this Lease. The payment shall be made to Lessor on or before the first anniversary date of the Lease following the end of the 90 day period and

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thereafter on or before each anniversary while the well or wells are shut in or production therefrom is not being sold by Lessee. Provided that if this Lease is otherwise being maintained by operations under this Lease, or if production is being sold by Lessee from another well or wells on the Leased Premises or lands pooled or unitized therewith, no shut-in royalty shall be due until the first anniversary date of the Lease following the end of the 90 day period after the end of the period next following the cessation of such operations or production, as the case may be. Lessee's failure to properly pay shut-in royalty shall render Lessee liable for the amount due, but shall not operate to terminate this Lease.

6. Lessee, at its option is hereby given the right and power at any time and from time to time as a recurring right, either before or after production, as to all or any part of the Leased Premises and as to any one or more of the formations hereunder, to pool or unitize the leasehold estate and the mineral estate covered by this Lease with other land, lease or leases in the immediate vicinity for the production of the Leased Substances, whether one or more, when in Lessee's reasonable judgment it is necessary or advisable to do so. Likewise, a unit previously formed to include formations not producing oil or gas, may be reformed to exclude such non-producing formations. The forming or reforming of any unit shall be accomplished by Lessee executing and filing of record a declaration of such pooling, unitization or reformation, which declaration shall describe the unit. Provided, however the absence of such recorded declaration shall not affect the continued validity of this Lease or the creation of a unit by established operations and/or the payment of royalties on a unit basis. Any such unit may include land upon which a well has therefore been completed or upon which operations for drilling have therefore been commenced. Production, drilling or Operations or a well shut in for want of market anywhere on a unit which includes all or part of this Lease shall be treated as if it were production, drilling or Operations or a well shut in for want of a market under this Lease. In lieu of the royalties elsewhere herein specified, Lessor shall receive on production from the unit so pooled royalties only on the portion of production allocated to this Lease. Such allocation shall be that proportion of the unit production that is the total number of surface acres covered by this Lease and included in the unit bears to the total number of surface acres in such unit. In addition to the foregoing, Lessee shall have the right to unitize, pool, or combine all or any part of the Leased Premises as to one or more of the formations thereunder with other lands in the same general area by entering into a cooperative or unit plan of development or operation approved by any government authority and, from time to time, with like approval, to modify, change or terminate any such plan or agreement and, in such event, the terms, conditions and provisions of this Lease shall be deemed modified to conform to the terms, conditions, and provisions of such approved cooperative or unit plan of development or operation and, particularly, all drilling and development requirements of this Lease, expressed or implied, shall be satisfied by compliances with the drilling and development requirements of such plan or agreement, and this Lease shall not terminate or expire while such plan or agreement remains in force and in effect. If the Leased Premises or any part thereof shall hereafter be operated under any such cooperative or unit plan of development or operation whereby the production therefrom is allocated to different portions of land covered by said plan, then the production allocated to any particular tract of land shall, for the purpose of computing the royalties to be paid hereunder to Lessor, be regarded as having been produced from the particular tract of land to which it is allocated and not to any other tract of land, and the royalty payment to be made hereunder to Lessor shall be based upon production only as so allocated. Lessee shall obtain Lessor's consent, not to be unreasonably withheld, to any cooperative or unit plan of development or operation adopted by Lessee and approved by any government agency. Upon request of Lessee, Lessor agrees to acknowledge Lessor's consent to any cooperative or unit plan of development or operation adopted by Lessee and approved by any governmental agency by executing the same. Any pooled or unitized area that includes the Lands covered by this Lease shall not exceed 1280 surface acres unless a larger unit is approved and established by the Colorado Oil and Gas Conservation Commission.



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7. The rights of either party hereunder may be assigned or conveyed in whole or in part and the provisions hereof shall extend to their heirs, successors, and assigns, but no change or division in the ownership of the land, royalties, however accomplished, shall operate or be constructed so as to enlarge or increase the obligations or burdens of Lessee, or diminish its rights. Specifically, but not by way of limitation of the foregoing, Lessee shall not be required to offset wells on separate tracts into which the land covered by this Lease may hereafter be divided, or to furnish separate measuring or receiving tanks. Notwithstanding any actual or constructive knowledge of or notice to Lessee, no change in the ownership of said land or the right to receive royalties hereunder, or any interest therein, however accomplished, shall be binding on Lessee until thirty (30) days after Lessee has been furnished with written notice thereof, together with the supporting information hereinafter referred to, by the party claiming as the result of such change in ownership or interest. Such notice shall be supported by original or certified copies of all recorded documents and other instruments or proceedings necessary in Lessee's opinion to establish the ownership of the claiming party. At such time as any part of Lessor's interest covered by this Lease is conveyed or transferred, Lessee may at its sole discretion and option require Lessor to appoint an agent for all purposes of this Lease, including receiving payments and notices. Any payments or notices, or other obligations required by Lessee under this Lease, made to such agent shall constitute payment or notice, or complete satisfaction of any other obligation to any party taking or acquiring an interest in this Lease by or through Lessor.

8. No litigation shall be initiated by Lessor for damages, forfeiture or cancellation with respect to any breach or default by Lessee hereunder, for a period of at least 30 days after Lessor has given Lessee written notice fully describing the breach or default, and then only if Lessee fails to substantially remedy the breach or default within such period. In the event any matter is litigated and there is a final judicial determination to remedy the breach or default that has occurred, this Lease shall not be forfeited or cancelled in whole or in part unless and until Lessee is given a reasonable time, not to exceed 90 days, after said judicial determination to remedy the breach or default and Lessee fails to substantially do so.

9. If Lessor owns less than the full mineral estate in all or any part of the Leased Premises, the royalties payable hereunder for any well on any part of the Leased Premises or lands pooled therewith shall be reduced to the proportion that Lessor's interest in such part of the Leased Premises bears to the full mineral estate in such part of the Leased Premises. To the extent any royalties or other payment attributable to the mineral estate covered by this Lease is payable to someone other than Lessor, or in the event of any improper payment of such royalties or other payment to Lessor, Lessee shall be entitled to recover from Lessor, in full any such improper payment. Any amounts owed by Lessee to Lessor under this provision may, in addition to other legal or equitable remedies, be recovered by Lessee by deducting the same from any royalties or other payment thereafter due to Lessor.

10. Lessee may, at any time and from time to time, deliver to Lessor or file or record a written release of this Lease as to a full or undivided interest in all or any portion of the area covered by this Lease or any depths or zones thereunder, and shall thereupon be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases less than all of the interest or area covered hereby, Lessee's obligations shall be proportionately reduced in accordance with the net acreage interest retained hereunder, provided however, that any rights granted to Lessee by this Lease, including the rights-of-way and easements, and the right to penetrate any and all depths and formations underlying the lands described herein, shall continue to the extent necessary for the efficient and convenient operation of the interest retained by Lessee.

11. Lessee's Operations, obligations and covenants under this Lease, whether expressed or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental agency

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or authority having jurisdiction, including but not limited to restrictions on the drilling and production of wells, and regulation of the transportation of oil, gas and other substances covered hereby. When drilling, production or other Operations are prevented or delayed, whether before or after the expiration of the Primary Term by laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements after Lessor's reasonable efforts, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by inability to obtain a satisfactory market for production or failure of purchaser or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control, this Lease shall not terminate because of such prevention or delay, and the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any provisions or implied covenants of this Lease when drilling, production or other Operations are so prevented or delayed. This paragraph shall not excuse Lessee from timely paying Lessor any royalties or other compensation owed under this Lease.

12. Lessor hereby warrants and agrees to defend the title to the land above described from any defects created by, through, or under Lessor, but not otherwise, and agrees that Lessee shall have the right at any time to redeem for Lessor, by payment, any mortgage, taxes or other liens on the above described land in the event of default of payment by Lessor and Lessee shall be subrogated to the rights of the holder thereof, and Lessor hereby agrees that any such payments made by Lessee for Lessor may, at Lessee's option, be deducted from any amounts of money which may become due or payable to Lessor under the terms of this Lease.

13. In the absence of any other condition which may extend this Lease beyond its Primary Term, Lessor hereby grants to Lessee, its successors and assigns the right and option to extend the Primary Term of this Lease, as to part or all of the lands covered hereby, for an additional period of two (2) years by payment to Lessor of an additional bonus of the amount per net mineral acre equal to the amount paid for the original Primary Term of this Lease, payable on or before the expiration of the initial Primary Term. Should Lessee, its successors or assigns, exercise its option to extend the Primary Term of this Lease, then this Lease and all its provisions shall remain in full force and effect as to the lands to which the extended lease applies; provided, however, that the total term of this Lease, as extended by this paragraph shall not exceed twenty (20) years from the date hereof.

14. Lessor does hereby grant, transfer and convey unto Lessee, its successors or assigns, a non-exclusive right-of-way and easement to drill and operate from lands not subject to this Lease, one or more horizontal and/or directional wells under the surface and through the subsurface of the Leased Premises if such well is producing from the Leased Premises or lands pooled therewith.

15. This Lease and all of its terms and conditions shall be binding upon Lessor and Lessee, their successors and assigns. Should any one or more of the parties above named as Lessor fail to execute this Lease, it shall nevertheless be binding upon all Lessors whose signatures are affixed hereto. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that any payment or payment made by Lessee to the owner of any interest subject to this Lease shall be sufficient payment hereunder as to such interest notwithstanding the joinder herein of the spouse of any such party as a party Lessor for the purpose of waiving homestead, dower or inchoate rights of inheritance, if any. Should any provisions of this Lease or portion thereof be deemed unenforceable by a court of law, this Lease shall remain in full force and effect as to all other provisions and parts thereof and to the extent necessary this Lease shall be modified to permit the enforcement of this Lease in its entirety.

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16. This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. An electronic copy of the executed Lease shall be deemed as an original executed copy for all purposes.

17. The provisions of the Addendum attached to this Lease shall be incorporated in and considered to be part of this Lease.

**LESSOR:**

CITY OF LONGMONT, a municipal corporation

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Proofread

\_\_\_\_\_  
Date

Approved as to Form and Substance:

\_\_\_\_\_  
Originating Department

\_\_\_\_\_  
Date

CA File: 10610

State of Colorado            )  
                                      ) ss:  
County of Boulder         )

I attest that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2018, by \_\_\_\_\_, as the Mayor of the City of Longmont.

Witness my hand and official seal.

\_\_\_\_\_  
CITY CLERK



Paid-up Lease Form - Revised 2016

EXHIBIT A

**Section 29, Township 3 North, Range 68 West, of the 6<sup>th</sup> P.M. - containing 157.882 acres more or less**

Lot B of recorded Exemption No. 1207-29-4RE459, recorded October 22, 1980, in Book 918, as Reception No. 1839557, being a part of the Southeast Quarter of Section 29, Township 3 North, Range 68 West of the 6<sup>th</sup> P.M., County of Weld, State of Colorado. Being more particularly described as follows:

Beginning at the Southeast corner of said Section 29, thence along the South line of the Southeast Quarter South 89°36'36" West 1707.53 feet to the Southeast corner of Lot A of recorded Exemption No. 1207-29-4-RE459; thence along the boundary lines of said Lot A the following five courses, North 01°28'37" East 364.98 feet; South 89°42'55" East 104.07 feet; North 00°13'11" West 341.45 feet; South 89°37'19" West 297.12 feet; South 00°53'48" West 705.25 feet to a point on the aforesaid South line; thence South 89°36'36" West 755.22 feet to the South one-quarter corner of said Section 29; thence North 00°01'20" East 2647.50 feet to the center of said Section 29; thence North 89°30'25" East 2664.02 feet to the East one-quarter corner of said Section 29; thence South 00°08'07" West 2652.34 feet to the point of beginning, containing 157.882 acres more or less.

**Section 32, Township 3 North, Range 68 West, of the 6<sup>th</sup> P.M. - containing 357.981 acres more or less**

**Tract 1:**

A tract of land located in the South Half of Section 32, Township 3 North, Range 68 West of the Sixth Principal Meridian, Weld County, State of Colorado, said tract being a portion of Parcel "B" of Weld County recorded Exemption No. 1207-32-1-RE1417, recorded June 24, 1992 in book 1340 as Reception Number 2293085 and being more particularly described as follows:

Beginning at the South Quarter corner of Section 32, Township 3 North, Range 68 West of the Sixth Principal Meridian, from whence the Southwest corner of said Section 32 Bears South 89°41'20" West, and with all other bearing contained herein relative thereto:

Thence along the South line of the Southwest Quarter of Section 32, South 89°41'20" West, 1023.90 feet; thence North 00°10'23" East, 455.00 feet; thence South 89°41'20" West 544.24 feet; thence North 06°20'00" East, 842.42 feet; thence North 22°55'00" East, 265.79 feet; thence North 68°20'00" East 597.66 feet; thence North 17°50'00" East 332.58 feet; thence North 47°00'00" East, 800.01 feet; thence North 85°19'59" East, 459.49 feet to a point on the North line of the Southeast Quarter of Section 32; thence South 39°21'16" West, 509.64 feet to the East line of the Southwest Quarter of Section 32; thence South 00°10'27" West, 2254.76 feet to the point of beginning, containing 65.72 acres more or less.

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**Tract 2:**

That portion of Lot B, recorded Exemption No. 1207-32-1-RE 1417, being a part of Section 32, Township 3 North, Range 68 West of the Sixth P.M., Weld County, Colorado, described as follows:

Beginning at a point on the South line of the Northeast Quarter of said Section 32, whence the Southeast corner thereof bears North 89°26'55" East 1222.83 feet; thence along said South line South 89°26'55" West 1128.18 feet; thence South 85°19'44" West 459.49 feet to a point on the Easterly boundary of Union Reservoir; thence along said Easterly boundary the following 4 courses: North 33°48'17" East 323.82 feet; North 19°19'00" East 409.63 feet; North 11°49'00" East 468.75 feet; North 05°11'00" West 4.73 feet; thence South 85°25'00" East 708.41 feet; thence along the arc of a curve to the left (said curve having a radius of 110.74 feet, a central angle of 54°00'10" chord of said arc bears South 42°24'01" East 100.56 feet) a distance of 104.38 feet; thence South 69°24'06" East 192.47 feet; thence South 14°12'06" East 899.82 feet to the Point of Beginning, containing 28.29 acres more or less.

**Tract 3:**

That portion of Lot B, recorded Exemption No. 1207-32-1-RE 1417, being a part of Section 32, Township 3 North, Range 68 West of the Sixth P.M., Weld County, Colorado, described as follows:

Beginning at the North one-quarter corner of said Section 32, thence along the North line of the Northeast Quarter North 89°36'36" East 692.94 feet; thence South 00°55'26" West 525.58 feet to a point of curve; thence along the arc of said curve to the left (said curve having a radius of 150.69 feet, a central angle of 37°31'07", chord of said arc bears South 17°50'08" East 96.92 feet) a distance of 98.68 feet; thence South 36°35'41" East 146.82 feet; thence North 89°36'36" East 30.89 feet; thence South 07°22'46" East 18.96 feet; thence South 09°44'02" East 348.49 feet to a point of curve; thence along the arc of said curve to the right (said curve having a radius of 476.05 feet, a central angle of 10°20'56" chord of said arc bears South 04°33'34" East 85.87 feet) a distance of 85.99 feet; thence South 00°36'54" West 110.50 feet to a point of curve; thence along the arc of said curve to the left (said curve having a radius of 341.87 feet, a central angle of 13°44'13", chord of said arc bears South 06°15'13" East 81.77 feet) a distance of 81.97 feet; thence South 13°07'19" East 35.65 feet; thence South 14°11'16" East 191.05 feet; thence South 15°23'56" East 37.44 feet; thence North 85°25'00" West 708.41 feet to a point on the Easterly boundary of Union Reservoir; thence along said Easterly boundary the following 4 courses:

North 05°11'00" West 309.29 feet; North 20°06'00" West 575.11 feet; North 23°41'00" West 242.23 feet; North 47°46'00" West 196.37 feet; thence North 00°10'27" East 366.14 feet parallel with the East line of the Northwest Quarter of said Section 32; thence along the North line of said Northwest Quarter North 89°30'12" East 200.00 feet to Point of Beginning, containing 28.00 acres more or less.

**Tract 4:**

Lot B of recorded Exemption No. 1207-32-1-RE2516 recorded January 26, 2001 as Reception No. 2821721 being a part of the Northeast Quarter of Section 32, Township 3 North, Range 68 West of the 6th P.M., County of Weld, State of Colorado, containing 86.02 acres more or less.

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**Tract 5:**

Sec. 32: Lot B of Recorded Exemption No. 1207-32-4 RE-3163, according to the map recorded September 26, 2001 as Reception No. 2886587, being located in the SE 1/4 of Section 32, Township 3 North, Range 68 West of the 6th P.M., County of Weld, State of Colorado, containing 144.956 acres more or less.

**Tract 6:**

That portion of the SE 1/4 of Section 32, Township 3 North, Range 68 West of the 6th P.M., being more particularly described as follows:

Beginning at the E. 1/4 of Section 32;

Thence along the East Line of said S.E. 1/4, S00°20'10" E, 2648.80 feet to the S.E. Corner of said Section 32;

Thence leaving said East Line and along the South Line of said S.E. 1/4, S89°31'00"W, 30.00 feet;

Thence Leaving said South Line and parallel to the East Line of Said S.E. 1/4, N00°20'10"W, 2648.80 feet to a point on the North Line of said S.E. 1/4; thence N89°26'51"E, 30.00 feet to the True Point of Beginning, County of Weld, State of Colorado, containing 1.824 acres more or less.

**ADDENDUM TO OIL AND GAS LEASE  
BY AND BETWEEN  
THE CITY OF LONGMONT, A MUNICIPAL CORPORATION, ("LESSOR" OR  
"CITY")  
AND CUB CREEK ENERGY, LLC ("LESSEE" OR "CUB CREEK")**

This Addendum is incorporated in and shall be considered to be a part of the Oil and Gas Lease between Lessor and Lessee dated \_\_\_\_\_, 2018. Notwithstanding any provision in the said Lease to the contrary, the Parties agree as follows:

1. **No Disposal Wells.** Lessee shall not use the Leased Premises for any waste, water or other underground injection facility.
2. **Oil and Gas Only.** Notwithstanding any of the other provisions of the Lease, the Lease covers only oil, gas and associated hydrocarbons produced with oil or gas in liquid or gaseous form, and any references to other minerals in the Lease shall be deemed to refer only to such oil, gas and hydrocarbons and not to any other minerals.
3. **Warranty of Title.** It is understood that this Lease is executed without any warranty of title, express or implied, except from any defects of title created by, through, or under Lessor, but not otherwise. Lessee at Lessee's option may pay and discharge any taxes, mortgages or liens existing, levied or assessed on or against the leased premises. If Lessee exercises such option, Lessee shall be subrogated to the rights of the party to whom payment is made, and, in addition to its other rights, may reimburse itself out of any royalties or shut-in royalties otherwise payable to Lessor hereunder.
4. **Indemnity.** Lessee will indemnify and hold Lessor, its officers, directors, employees, agents, representatives, elected and appointed officials, successors and assigns (hereafter collectively referred to as "Indemnified Parties") harmless from any and all claims, demands, suits, losses, damages, and costs (including, without limitation, any costs of litigation and attorney fees) incurred by the Indemnified Parties or which may be asserted against the Indemnified Parties that are caused by or arise from the activities or Operations of Lessee, or its agents, representatives, contractors or subcontractors or Affiliates, under this Lease or on the lands pooled or unitized with this Lease, (including, without limitation, any claims by any owners or lessees of minerals that Lessee's operations hereunder are either illegal, unauthorized, or constitute an improper interference with their rights). This indemnity specifically includes any claim of whatever nature which may be asserted by reason of, or which may arise out of, or which may be related to, the completion or fracturing or refracturing of any well drilled by Lessee on the Leased Premises or lands pooled or unitized therewith and shall survive the termination of this Lease. However, this indemnity shall not apply to any claim asserted by a citizen group, environmental group or other third party that challenges the legality of or seeks to oppose or set aside any permits granted to Lessee in connection with Lessee's operations under this Lease.
5. **Option to Extend.** This Lease may, at Lessee's option, be extended as to all or part of the lands covered hereby for an additional Primary Term of 2 years commencing on the date that the Lease would have expired but for the extension. Lessee may exercise its option by



giving Lessor written notice thereof not less than 30 days prior to the expiration of the primary term. If Lessee exercises its option to extend the primary term of this lease, Lessor within 5 days of receiving Lessee's notice, will provide Lessee with its wire or banking deposit instructions. Within 5 days of receiving Lessor's wire instructions, Lessee will pay by wire cash, or good funds to Lessee an extension payment of the amount equal to the original bonus amount paid for this Lease per net mineral acre. If Lessee exercises this option, the Primary Term of this Lease shall be considered to be continuous, commencing on the date of the Lease and continuing from that date to the end of the extended Primary Term.

The Lessor and Lessee acknowledge and agree that the term of the Lease is limited to twenty (20) years from the effective date of the Lease. Provided, however, if at the end of the twenty (20) year term, the Lease, or a portion thereof, would otherwise be maintained by the terms of the Lease, had there not been a 20-year term limit, then Lessee may, prior to the expiration date of the Lease by sending written notice to the Lessor, request an extension of all or a portion of the lands then subject to the Lease that will expire at the end of the 20-year term. Any extension request shall include an offer of fair market value compensation for the granting of the extension of the Lease. Upon such request, the Lessor shall conduct a review of Lessee's compliance with the terms and conditions of this Lease within thirty (30) days of the request. If the Lessor determines that Lessee has materially and substantially complied with such terms and conditions, then Lessor shall reasonably consider granting to Lessee the requested extension of the Lease.

6. **Records.** Lessee agrees to provide Lessor, at Lessor's written request, no more frequently than the payment period provided for royalties under this Lease, information related to the volumes and prices of oil and gas produced and sold from the lands to which this Lease relates, for which Lessor is being paid for the most recent period and for any other previous periods within five (5) years from the date of production for which Lessee has not already provided such information. Lessee's records as to production, sales, prices and payments pursuant to this Lease shall be available to Lessor and its authorized agents at Lessee's office address above during Lessee's normal business hours. Lessor shall have the right to audit the records, books and other accounting documentation relating to payment of all amounts due pursuant to this Lease after first giving written notice to Lessee of its desire to do so. Any such audit shall take place at times and locations convenient to Lessee and Lessee shall utilize its best efforts to accommodate Lessor's written requests for information relevant to such audit. Lessee's obligations under this Section 6 are subject to any restrictions on disclosure as contained in agreements between Lessee and third parties.

7. **Compliance with Environmental Laws.** Lessee agrees to comply with all applicable local, county, state and federal laws and regulations governing the Operations of the Lessee with respect to all environmental and other matters, including, but not limited to, release or discharge of any gas, liquid, waste, produced water or other substance into the air, ground or water. Lessor shall not have a private right of action to enforce any such laws or regulations.

8. **Pugh Clause.** Subject to the other provisions of this Lease, at the expiration of the primary term, as the same may have been extended, this Lease shall automatically terminate and expire as to all lands and formations that are subject to this Lease which are located outside the boundaries of a spacing unit established by the Colorado Oil and Gas Conservation Commission,

upon which there is a producing well or a well capable of producing in paying quantities which is shut-in for the reasons stated in this Lease. Lessee shall file a release of those portions of the leased premises in the Weld County records within 30 days of such termination. Furthermore, if some or all of the Leased Premises are unitized with other lands pursuant to the Lease, and a portion of the lands covered by this Lease are committed to a unit area and a portion of the lands covered by this Lease are outside of such unit area, this Lease shall be vertically segregated into separate leases, one covering all formations underlying the lands within such unit area and the other covering all formations underlying the lands outside such unit area, such segregation to be effective as of the anniversary date of this Lease next ensuing after the expiration of ninety (90) days from the effective date of unitization; provided, however, that the segregated Lease as to the outside lands shall continue in force and effect for the longer of either the Primary Term hereof or for two (2) years from the date of such segregation and then so long thereafter as there is production or operations conducted under the provisions of this Lease, but not to exceed twenty (20) years from the date of this Lease. The provisions of this paragraph shall survive any unitization of this Lease, notwithstanding the provisions of any unit agreement to the contrary.

9. **Reasonable and Prudent Operator.** Lessee agrees to conduct all Operations relating to the Lease as a reasonable, prudent operator and to use commercially reasonable efforts to explore, develop and market the oil or gas produced from the Leased Premises to the mutual economic benefit of Lessor and Lessee hereunder.

10. **Notice.** Lessee agrees to notify Lessor in writing at the address shown above, at least thirty (30) days prior to any hearing set before or any proceeding instituted by it or participated in by it before the Colorado Oil and Gas Conservation Commission affecting the Leased Premises.

11. **Assignment.** In addition to the provision of Section 7 of the Lease, except as to any partial assignment of rights in and to the Lease as may be made to TOP Operating Co., Lessee may not execute a partial assignment of this Lease without Lessor's written consent, not to be unreasonably withheld. Lessee shall notify Lessor in writing of the name and address of any party to which Lessee assigns any interest in this Lease.

12. **Costs and Deductions.** Subject to the limitations described herein, royalties paid to Lessor only for gas and liquid hydrocarbons extracted therefrom via third-party processing under this Lease shall bear one hundred percent (100%) of Lessor's proportionate share of all actual costs and expenses incurred after the gas produced from the Leased Premises is in a marketable condition, except to the extent that such costs and expenses exceed the enhanced value resulting to Lessor's royalty payment as a result of incurring such costs and expenses. Such costs and expenses ("Costs and Expenses") to be borne and deducted from the amounts on which royalty is to be paid to Lessor for gas hereunder shall include, but not be limited to, Lessor's proportionate share of those Costs and Expenses which are incurred by Lessee, directly or indirectly, and which are associated with or attributable to marketing, delivering, refining, purifying, separating, dehydrating, transporting, compressing, manufacturing, processing, treating, gathering or marketing of gas produced from the Leased Premises or lands pooled therewith. There shall be no deductions, Costs or Expenses of any nature from Lessor's royalties or directly or indirectly which are associated with or attributable to marketing, delivering, refining, purifying, separating,

dehydrating, transporting, compressing, manufacturing, processing, treating, gathering or marketing of liquid hydrocarbons or oil produced from the Leased Premises or lands pooled therewith incurred to place the liquid hydrocarbons or oil into a marketable condition and deliver it to the commercial marketplace. In addition, Lessor shall not be entitled to any royalty of any Lease Substances used by Lessor on or off the Leased Premises or of that portion of the Lease Substances used as fuel or lost due to shrinkage, flaring, venting, line loss or otherwise.

13. **Timely Payment of Proceeds.** Pursuant to C.R.S. § 34-60-118.5 as may be amended from time to time, Lessee agrees to be bound to the payment of proceeds rules and definitions stated therein and more specifically that the Lessee shall be bound to distribute royalty payments within six months from first production, and to continue to make royalty payments each and every month thereafter.

14. **No Surface Occupancy or Use Permitted.** It is expressly agreed and understood that this is a no surface occupancy or use Lease, and that Lessee shall never enter on the surface of the Leased Premises for any reason whatsoever. Lessee, may, however access the minerals underlying the Leased Premises through directional, horizontal, or other drilling and completion techniques which do not enter on, use, disturb or occupy the surface of the Leased Premises. Moreover, nothing in this Lease shall be construed to convey any rights to Lessee to install any roads, pipelines, fences, production equipment, or conduct any other operations on the surface of the Leased Premises. This Lease shall automatically expire and terminate with no further action being required by the City should Cub Creek or TOP (as those entities are defined in the Site Relinquishment Agreement), or an assignee or successor of rights and/or interests owned by Cub Creek or TOP as of the date of the Site Relinquishment Agreement (as defined in section 17 hereto) in and to any lands where the surface is owned by the City as of the date of such Agreement that lie within the area defined as the City Property in the Site Relinquishment Agreement ("City Property"), or Related Party of Cub Creek or TOP, commence or cause to be commenced the drilling of a new oil and gas well without the prior written consent of the City from a surface location on the City Property. In such event, any rights granted by the Lease shall be null and void ab initio ("Termination") In the event of Termination, Cub Creek and successors or assigns of interest in the Lease agree to sign and record in the county records a full and complete release of the Lease as to all rights and interests. Should Cub Creek or the successors or assigns fail to sign and record such a release, the City is hereby given full authority to sign and record such a release on their behalf and as their agent in fact. "Related Party" as used in this Lease shall mean for a person, another person that controls, is controlled by, or is under common control with that person, as well as any agent, partner, manager, member, shareholder, officer, contractor, successor, joint operating agreement partner with the exception of any person who has independent rights prior to the date of this Agreement to drill where it drills within the City property and such a person's successors and assigns, or any other person to whom the person gives operating rights in any manner on the City Property. TOP, CCW, and Cub Creek (as those entities are defined in the Site Relinquishment Agreement) shall not participate as a working interest owner in any well drilled on City Property – such event shall also result in Termination. "Related Party" shall also include a Related Party of the person's successor, assign, or representative, as well as a successor, assign, or Related Party of a Related Party. For purposes of this definition, "control" means the ownership by one person, directly or indirectly, of fifty percent (50%) or more of the voting securities or rights of a corporation or, for other persons, the equivalent ownership interest, and "person" means

an individual, corporation, partnership, trust, estate, unincorporated organization, association, or other entity. Upon Termination of the Lease, if Cub Creek, as Operator, or its successor or assign or Related Party, has not drilled a well within the 1,280-Acre Unit, as defined in the Site Relinquishment Agreement, or participated in any boundary well adjacent thereto with the interest that is derived from the Lease, then the City agrees to reimburse Cub Creek for the entire amount of the Lease bonus paid to the City upon the execution of the Lease, with such reimbursement to be made within thirty (30) days after the filing of the release by Cub Creek in the records of Weld County.

15. **Bonus Amount.** Lessee shall pay a Bonus Amount to Lessor of \$1000 per acre covered by this Lease within five (5) business days of the date the City signs the Lease, for a total payment of \$515,863.00. Lessee shall pay the same amount should Lessee exercise the option granted in paragraph 5 of this Addendum.

16. **Right of First Refusal.** Notwithstanding the termination of this Lease, if at any time after the expiration of this Lease the Lessor shall receive a bona fide offer to lease the same lands covered by this Lease or any portion thereof for oil and gas purposes, the Lessor shall send Lessee a copy of the proposed new lease and notify Lessee of its intention to accept the same. Lessee shall have the right within 30 (thirty) days to accept the terms of the proposed lease in writing and within 30 (thirty) days thereafter to lease such lands in its own name or in the name of a nominee, on the terms specified in the proposed new lease. If Lessee shall not so elect or so lease within the said respective period of 30 (thirty) days, the Lessor may then enter the lease with the offeror provided the lease is on the terms and conditions set forth in the proposed lease sent to Lessee. Notwithstanding the foregoing, this right of first refusal shall extinguish and shall not apply if the Lease is terminated not because of expiration of the twenty year term described in the Lease or paragraph 5 of this Addendum, but for reasons described in the Site Relinquishment Agreement or paragraph 14 of this Addendum.

17. This Lease is subject to the terms of the certain Site Relinquishment and Lease Agreement dated effective May \_\_\_\_, 2018 by and between City of Longmont, Cub Creek Energy, LLC, CCW Energy, LLC and TOP Operating Co ("Site Relinquishment Agreement").

18. This Addendum shall apply to the said Oil and Gas Lease, and any extensions, renewals, amendments or revisions thereof.

**LESSOR:**  
CITY OF LONGMONT, a municipal corporation

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Proofread

\_\_\_\_\_  
Date

Approved as to Form and Substance:

\_\_\_\_\_  
Originating Department

\_\_\_\_\_  
Date

CA File: 10610

State of Colorado            )  
  ) ss:  
County of Boulder            )

I attest that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_ 2018, by \_\_\_\_\_, as the Mayor of the City of Longmont.

Witness my hand and official seal.

\_\_\_\_\_  
CITY CLERK

CUB CREEK ENERGY, LLC

By: \_\_\_\_\_

State of \_\_\_\_\_)  
County of \_\_\_\_\_) ss:

The foregoing instrument was acknowledged before me by \_\_\_\_\_,  
(Name of party signing)

as \_\_\_\_\_ of \_\_\_\_\_  
(Title of party signing) (Name of corporation)

a \_\_\_\_\_ corporation, on behalf of the corporation, this \_\_\_\_\_  
(State of incorporation)

day of \_\_\_\_\_, 2018.

Witness my hand and official seal.

Notary Public

My Commission expires \_\_\_\_\_.

**EXHIBIT B**  
**CUB CREEK ENERGY ACCESS ROAD**  
**REVOCABLE PERMIT AND AGREEMENT**

THIS REVOCABLE PERMIT AND AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between Cub Creek Energy, LLC, whose mailing address is 200 Plaza Drive, Suite 100, Highlands Ranch, Colorado 80129 ("Grantee"), and the City of Longmont, Colorado, a municipal corporation, ("Grantor" or "City"), whose mailing address is 350 Kimbark Street, Longmont, Colorado 80501.

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the parties agree as follows:

1. Grantor by this Agreement does grant, sell, convey and confirm to the Grantee, its successors and assigns, a temporary non-exclusive permit ("Permit") to use the land described in Exhibit 1 ("Premises"), attached hereto and incorporated herein by this reference, located in Weld County, Colorado, for the purposes of:

- 1.1 Surveying, locating, installing, constructing, using, operating, maintaining, inspecting, repairing, altering, removing and replacing a gravel road no wider than 30 feet ("Road"), except Grantee shall be allowed to use Grantor's adjacent lands to the Road (i) as reasonably necessary to provide a safe turn-off at the intersection of the Road and Weld County Road 3, and (ii) within 20 feet of the Road as reasonably necessary during the construction of the Road (as generally illustrated in Exhibit 1);
- 1.2 Ingress and egress along the Road (i) to access any and all oil and/or gas wells and associated facilities to be located on that certain tract of land described as Parcel 1, Subdivision Exception No. 638, being a part of the East ½ of the West ½ of the Northeast ¼ of Section 30, Township 3 North, Range 68 West of the 6th P.M., Weld County, Colorado per map recorded June 16, 1997 in book 1611 as Reception No. 2553235, and adjacent lands ("Knight Property"); and (ii) for the conduct of operations for or in any way associated with the drilling, completing, re-completing, reworking, operating, producing and marketing of oil and/or gas wells located on the Knight Property; and;
- 1.3 Marking the location of the Premises, and any improvements, by suitable markers set and maintained in the ground at locations which shall not interfere with such reasonable use as Grantor shall make of the Premises under the terms of this Agreement.

2. Grantor, at its sole risk and liability, except to the extent of Grantee's negligence, reserves the right to use and occupy the Premises for any lawful purpose under the rights and privileges granted herein which will not interfere with or endanger any of the Grantee's rights or improvements on or under the Premises or Grantee's use thereof, provided that Grantor shall not construct or allow the construction of any building, structure, or other improvement on or under the Premises, or take any action which would impair or in any way modify the improvements or

lateral or subjacent support for the improvements, without obtaining the specific written permission of the Grantee for the Premises.

3. Grantee takes the Premises "as is," and the Grantor makes no covenant as to maintenance of the Premises.

4. This Permit to use the Premises shall terminate at the earliest of: (1) twenty years from the effective date of this Agreement, or (2) for cause, in the City's discretion, at or after such time as the Grantee violates any provision of this Agreement and fails to cure such violation within 30 days' notice of the violation by the Grantor, or for the reason described in section 8(d) of the Site Relinquishment Agreement as referenced below. Should the City terminate the Permit to use the land for cause, other terms of this Agreement shall survive the Permit itself. The Grantor recognizes that Grantee requires access to the Knight oil and gas location for the life of the wells to be located thereon, and intends to renegotiate with the Grantee in good faith for extension of the Permit should it otherwise terminate after twenty years.

5. Further Access Conditions.

a. Grantee shall ensure that the disturbed area caused by its operations on the Knight Property has an adequate storm water management plan, meeting the requirements of the governing authority, to prevent impacts to the nearby City property.

b. Grantee shall use dust abatement product on the Road. This is typically a semi-annual application.

c. Grantee shall gate the Road if requested by the City. Grantee is solely responsible for securing this gate and shall provide the City with a key or combination to the lock. Grantee is responsible for controlling access to the Road by its guests.

d. Grantee shall conduct operations on the Knight Property as a prudent operator to insure safe operations in the instance of any abnormal situation.

e. For the purposes of detecting fugitive emissions in excess of those allowed by state law and regulations, Grantee shall conduct FLIR (Forward Looking Infrared Camera) inspection of the location as required by the terms of the rules and regulations of the Colorado Oil and Gas Conservation Corporation Commission.

f. All operations on the Knight Property shall be conducted by Grantee subject to the rules and regulations of the Colorado Oil and Gas Conservation Corporation Commission, and shall be in accordance with best management practices at the time of installation.

g. Grantee shall perform maintenance on the Road as necessary for the Road to be used by Grantee.

6. Grantee shall submit adequate engineering plans for the Road, including drainage plans and any necessary surveying, which meet the City's design specifications. The minimum full depth thickness shall be six (6) inches of class six (6) aggregate base course placed on compacted



subgrade. Grantee shall not begin construction of the Road until the City's Public Works and Natural Resources General Manager has approved such plans in writing, which approval shall not be unreasonably withheld or delayed.

7. This Permit being non-exclusive, the City may use the Road, at its own risk, provided that the City shall be responsible for and repair any damage it causes except to the extent that any damage resulted from Grantee's negligence.

8. Grantee shall obtain the required permits for the drilling of the oil and gas wells on Knight Property before installing and constructing the Road.

9. Grantee agrees to indemnify and hold harmless Grantor and its officers and employees from any and all suits, claims, damages, liability or court awards, including costs and attorney fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone including but not limited to any person, firm, partnership or corporation in connection with or arising from Grantee's use, maintenance, and operation of the Premises and any and all of its improvements installed thereon.

10. Grantee may not transfer its rights under this Agreement without prior written approval of the Grantor, which shall not be unreasonably withheld.

11. No representations, warranties, or certifications express or implied shall exist as between the parties, except as specially stated in this Agreement.

12. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party of the source of the language in question.

13. None of the terms or conditions in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the Grantee or the Grantor receiving services or benefits under this Agreement shall be only an incidental beneficiary.

14. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

15. This Agreement is an integration of the entire understanding of the parties with respect to the matters stated herein. The parties shall only amend this Agreement in writing with the proper official signatures attached hereto.

16. No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.

17. The parties warrant that they have taken all actions necessary or required by their own procedures, bylaws, or applicable law, to authorize their respective signatories to sign this Agreement for them and to bind them to its terms.

18. All City's financial obligations under this Permit are contingent upon appropriation, budgeting, and availability of specific funds to discharge those obligations. Nothing in this Permit

constitutes a debt, a direct or indirect multiple fiscal year financial obligation, a pledge of the City's credit, or a payment guarantee by the City to the Grantee.

19. This Agreement is subject to the terms of the certain Site Relinquishment and Lease Agreement dated effective May \_\_\_\_\_, 2018 by and between City of Longmont, Cub Creek Energy, LLC, CCW Energy, LLC and TOP Operating Co ("Site Relinquishment Agreement").

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the date first above written.

GRANTEE:

CUB CREEK ENERGY, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) ss:  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by \_\_\_\_\_,  
(Name of party signing)

as \_\_\_\_\_ of \_\_\_\_\_  
(Title of party signing) (Name of corporation)

a \_\_\_\_\_ corporation, on behalf of the corporation, this \_\_\_\_\_  
(State of incorporation)

day of \_\_\_\_\_, 2018.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_.

CITY OF LONGMONT, a municipal corporation

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Proofread

\_\_\_\_\_  
Date

Approved as to Content:

\_\_\_\_\_  
Originating Department

\_\_\_\_\_  
Date

CA File: 10610

State of Colorado            )  
  ) ss:  
County of Boulder            )

I attest that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_ 2017, by \_\_\_\_\_, as the Mayor of the City of Longmont.

Witness my hand and official seal.

\_\_\_\_\_  
CITY CLERK

# EXHIBIT 1

