

Plan of Merger
of
Boulder King Ranch Estates Water Company
into
Boulder Farmstead Water Company

WHEREAS, Boulder Farmstead Water Company (“Boulder Farmstead”) is a Utah nonprofit corporation, with a principal place of business in Boulder, Utah, that delivers water to its shareholders; and

WHEREAS, Boulder King Ranch Estates Water Company (“BKRE”) is a Utah nonprofit corporation, with a principal place of business in Boulder, Utah, that delivers water to its shareholders; and

WHEREAS, the Board of Directors of Boulder Farmstead and the Board of Trustees of BKRE (collectively, “the Boards”) deem it desirable and in the best interest of their respective nonprofit corporations that BKRE be merged with and into Boulder Farmstead.

NOW, THEREFORE, in consideration of the mutual covenants and subject to the terms and conditions hereinafter set forth, the Boards agree to a plan of merger as follows:

SECTION 1: MERGER

In conformance with and subject to the provisions of Utah Code Ann. §§ 16-6a-1101 through 16-6a-1105, BKRE shall merge with and into Boulder Farmstead as a single nonprofit corporation, with Boulder Farmstead being the surviving nonprofit corporation. On the effective date of the merger, the separate existence of BKRE shall cease.

SECTION 2: TERMS AND CONDITIONS OF MERGER

A. Effectuation of Plan of Merger. Boulder Farmstead and BKRE shall submit to the terms and conditions of the merger, the method of carrying it into effect, the manner of converting BKRE shares of stock into Boulder Farmstead shares, and all other provisions of the Plan as hereinafter set forth in order to effectuate the Plan.

B. Rights, Privileges, Debts, and Obligations.

i. On the effective date of the merger, Boulder Farmstead shall possess all of the rights, privileges, powers, and immunities, and all right, title, estate, and interest in and to all of the property, real, personal, and mixed, and all debts due to BKRE on whatever account, all other choses in action, and all and every other interest of or belonging to or due to BKRE, all of which shall be deemed to be transferred to and vested in Boulder Farmstead without further act or deed, and no right, title, estate, or interest in and to any said property shall revert to BKRE or be impaired in any way be reason of the merger.

ii. On the effective date of the merger, Boulder Farmstead shall be deemed and become liable for all lawful liabilities and obligations of BKRE, and any claims existing by or against BKRE shall be collected from and may be prosecuted to judgment against Boulder Farmstead. No right of any creditor of BKRE or lien against its property shall be impaired by the merger. Boulder Farmstead shall execute and deliver any and all instruments or documents which may be required for it to assume or otherwise comply with the outstanding obligations of BKRE.

C. Conversion and Issuance of Boulder Farmstead Shares, Assessments.

i. Upon the effective date of the merger, each BKRE shareholder shall be required to surrender to Boulder Farmstead, or its duly appointed agent, the certificates representing their shares of stock in BKRE, which, upon receipt, shall be canceled upon BKRE's books and records. If a BKRE shareholder never received a certificate, or the certificate has been lost, stolen, or destroyed, the shareholder shall submit a Lost Share Certificate Affidavit in lieu of surrendering a certificate. In exchange for a surrendered certificate or a Lost Share Certificate Affidavit, Boulder Farmstead shall thereupon issue to each former BKRE shareholder a Boulder Farmstead certificate representing shares of Boulder Farmstead stock equal to the number of shares of BKRE stock owned by said shareholder.

a. The owners of "connected lots" in BKRE will be issued shares in Boulder Farmstead upon surrender of their BKRE shares or submission of a Lost Share Certificate Affidavit. Nevertheless, the owners will, immediately upon the effective date of the merger, be subject to Boulder Farmstead's water user fees, which are currently \$30.00 per month for 0 - 50,000 gallons, and \$2.00 for each 1,000 gallons above 50,000 gallons. The owner of Lot 68 will continue to make payments towards the connection fee (with a current balance owing of \$1,906.76) to Boulder Farmstead under the same terms and conditions as the agreement with BKRE.

b. The owners of "standby lots" in BKRE will be issued shares in Boulder Farmstead upon surrender of their BKRE shares or submission of a Lost Share Certificate Affidavit. Nevertheless, the owners will, immediately upon the effective date of the merger, be subject to Boulder Farmstead's water user fees, which are currently \$30.00 per month for 0 - 50,000 gallons, and \$2.00 for each 1,000 gallons above 50,000 gallons. The owners of the standby lots that still owe connection fees (Lot 2 - \$2,595.81 and Lot 44 - \$3,655.00) will be required to pay these amounts to Boulder Farmstead prior to connecting to the water system and receiving water service. These amounts represent the connection fee amounts previously owed to the Dale Clarkson, the developer of the Boulder King Ranch Estates development, that will be paid by Boulder Farmstead to Mr. Clarkson as part of the merger.

c. The owners of "dry lots" in BKRE (Lots 6, 10, 20, and 21), who are not currently shareholders in BKRE, will not be issued shares in Boulder Farmstead upon merger. If a dry lot owner desires to connect to the water system and receive water service, the dry lot owner will be required to pay Boulder Farmstead a fee of \$4,870.00.

The \$4,870.00 fee represents the connection fee amount previously owed to the Dale Clarkson, the developer of the Boulder King Ranch Estates development, that will be paid by Boulder Farmstead to Mr. Clarkson as part of the merger.

iii. After the effective date of the merger, it is the intent of the parties that the new Boulder Farmstead stock be expeditiously issued as provided herein. Only shareholders holding Boulder Farmstead shares shall be entitled to the rights of membership, including delivery and use of water through the Boulder Farmstead system, voting rights in Boulder Farmstead, etc. Accordingly, owners of connected lots shall surrender their BKRE shares or submit a Lost Share Certificate Affidavit within 90 days of the effective date of the merger; otherwise, Boulder Farmstead shall be permitted to shut off or disconnect the connection pursuant to 30 days' written notice. Owners of standby lots shall not be permitted to connect to the water system until they have been surrendered their BKRE shares or submitted a Lost Share Certificate Affidavit. Furthermore, any BKRE shareholder who surrenders his or her shares of BKRE stock or submits a Lost Share Certificate Affidavit within 90 days from the effective date of the merger shall not be charged a Certificate Change Fee. Any BKRE shareholder who surrenders his or her shares of BKRE stock or submits a Lost Share Certificate Affidavit after 90 days from the effective date of the merger shall be charged a Certificate Change Fee of \$100.

iv. Each Boulder Farmstead share issued to BKRE shareholders shall be equally assessed with all other Boulder Farmstead shares for the costs of administering the corporation and of operating, maintaining, repairing, and developing the facilities required to divert, store, and distribute water in connection with the Boulder Farmstead system.

v. All connected lots and standby lots in BKRE will have meters installed as part of the funding for system improvements, and will not be required to pay a meter installation fee. All dry lots in BKRE will be required to have water meters installed by Boulder Farmstead and pay the applicable meter installation fee before receiving water service.

D. Conveyance of Water Rights. Upon the effective date of the merger, BKRE shall convey all of its water rights to Boulder Farmstead by executing and delivering a Water Rights Warranty Deed and Assignment. Boulder Farmstead shall thereafter record the Water Rights Warranty Deed and Assignment with the Garfield County Recorder and file a Report of Water Right Conveyance with the Utah Division of Water Rights.

E. Subsequent Acts. If at any time Boulder Farmstead shall consider or be advised that any further assignment, transfer, or assurance in law are necessary or desirable to vest or to perfect or confirm of record in Boulder Farmstead the title to any property or rights of BKRE or to otherwise carry out the provisions hereof, the proper officers and trustees of BKRE as of the effective date of the merger shall execute and deliver any and all such proper assignments, transfers, and assurances in law, and do all such things necessary or proper to vest, perfect, or confirm title to such property or rights in Boulder Farmstead and to otherwise carry out the provisions of this Plan.

F. Expenses of Merger. Boulder Farmstead shall pay all the expenses of accomplishing the merger.

G. Payment of Debt Obligations to Developer. Boulder Farmstead shall pay the debt obligations of BKRE and its shareholders to Dale Clarkson, the developer of the Boulder King Ranch Estates Development, as well as purchase Lot 13, which houses the BKRE well, tank, and related equipment, from Mr. Clarkson. Boulder Farmstead will pay Mr. Clarkson a total sum of \$45,000 for (1) payment of the debt obligations and (2) the purchase of Lot 13.

SECTION 3: ARTICLES OF INCORPORATION

The Articles of Incorporation of Boulder Farmstead, dated June 1, 1953, and amended May 18, 1978; October 24, 1982; September 9, 1997; and October 10, 2001, shall, upon the effective date of the merger, be amended as follows:

A. Article II. Article II shall be amended to read:

The duration of the corporation shall be perpetual, unless dissolved according to law.

B. Article V. Article V shall be amended by replacing the word “charges” with the word “assessments.”

C. Article VI. Article VI shall be amended to read:

The aggregate number of shares which the corporation shall have authority to issue is two hundred fifty-three (253) shares, which shall be without nominal or pay value. Stock shall be issued from time to time without action of stockholders and by the Board of Directors. The shares when issued and the holders thereof shall be obligated for assessments levied for the maintenance and operation of the waterworks system of the corporation and for the retirement of any indebtedness of the corporation.

D. Article VII. Article VII shall be amended to read:

The number and kind of officers of this corporation and terms of office and time and manner of election, removal, and resignation are as follows: The general management of the corporation shall be vested in a Board consisting of five Directors. However, beginning at the effective date of the merger with Boulder King Ranch Estates Water Company (“BKRE”), there shall be seven Directors on the Board of Directors: the five Boulder Farmstead Directors serving as of the effective date of the merger, and two Directors selected by the former BKRE shareholders. These seven Directors shall serve as the Board of Directors until the third annual shareholder meeting following the effective date of the merger. At this meeting, all shareholders shall elect five new Directors, three of whom shall be elected to a two-year term and two of whom shall be elected to a three-year term. Thereafter, all directors shall be elected at the annual stockholder meeting for a term of two years, in order that all of the directorships are not vacated in any one year.

The Board of Directors shall, within ten days after their election, elect from their number a President and a Secretary-Treasurer of said corporation. No stockholder may hold the offices of President and Secretary-Treasurer at the same time.

The Board of Directors shall fill all vacancies occurring in the board between elections by appointment of a qualified stockholder to hold office for the remainder of the term, except that a majority of the stockholders shall have the power at any regular or special meeting called to remove any director or officer for cause and fill the vacancy thus created.

The Board of Directors of said corporation, when authorized by a majority vote of the stockholders at a regular or special meeting, shall have the express power to mortgage, hypothecate, or encumber the corporation's property for the purpose of obtaining loans of money for the construction of a distribution system from the Government of the United States or any of its agencies, from the State of Utah or any of its agencies, from any other political subdivision, or from any other loan agency.

E. Article VIII. Article VIII shall be amended to read:

During the time that there are seven Directors, four members of the Board of Directors shall constitute a quorum and they are authorized to transact the business of the corporation and exercise its corporate powers.

During the time that there are five Directors, three members of the Board of Directors shall constitute a quorum and they are authorized to transact the business of the corporation and exercise its corporate powers.

SECTION 4: BYLAWS

The 2011 Amended and Restated Bylaws of Boulder Farmstead shall be and remain the Bylaws following the effective date of the merger. No change or amendment thereof shall be required to effectuate the merger.

SECTION 5: EXTRAORDINARY TRANSACTIONS

Neither Boulder Farmstead nor BKRE shall, prior to the effective date of the merger, enter into or otherwise engage in any new or extraordinary contract or other transaction or activity other than in the ordinary course of business, except that both companies shall take such action as is necessary and appropriate to consummate this merger. Both companies may also take such action is appropriate and necessary to pursue the proposed project to expand the diversion, storage, and distribution system that will serve the companies following merger, including working with the Utah Division of Drinking Water, USDA Rural Development, and other potential funding entities.

SECTION 6: APPROVAL OF SHAREHOLDERS

This Plan of Merger shall be submitted for the approval of the shareholders of Boulder Farmstead and BKRE in conformance with the following procedure, which shall be applicable to both corporations:

- A. The Board of Directors/Trustees shall adopt a resolution approving this Plan of Merger and directing that it be submitted to a vote at a meeting of stockholders, which may be either an annual or special called for such purpose.
- B. The Board of Directors/Trustees shall submit the Plan of Merger, with a favorable recommendation for approval, to a vote at a meeting of stockholders, and shall provide the stockholders with written notice setting forth the date, time, and location of the meeting of stockholders
- C. This Plan of Merger shall be adopted upon receiving at least two-thirds of the votes that stockholders present at such meeting or represented by proxy are entitled to cast.

SECTION 7: ABANDONMENT OF MERGER

Anything to the contrary herein notwithstanding, if, after adoption of this Plan of Merger and at any time prior to the filing of the Articles of Merger as described below, the Board of Directors/Trustees of either Boulder Farmstead or BKRE should determine that for any legal, financial, economic, or business reason deemed sufficient by such Board, it is not in the interest of the corporation it represents, or the shareholders of such corporation, or is otherwise inadvisable or impracticable to consummate the merger, such Board may abandon the merger upon written notice to the Board of the other corporation, whereupon this Plan of Merger shall be void and of no effect.

The effectiveness of this Plan of Merger is specifically conditioned on receiving an exemption from regulation by the Utah Public Service Commission. Boulder Farmstead is currently exempt from regulation, but BKRE is not. Boulder Farmstead desires to not be regulated by the Public Service Commission. Accordingly, if the merger cannot be consummated without Boulder Farmstead being brought under Public Service Commission regulation, the merger shall be abandoned and this Plan of Merger shall be void and of no effect.

SECTION 8: ARTICLES OF MERGER

After this Plan of Merger has been approved by the stockholders of both Boulder Farmstead and BKRE, and the condition provided in Section 7 has been met to the satisfaction of both corporations, Articles of Merger, prepared in conformance with state law, shall be executed by the President and verified by the Secretary of each corporation. Upon execution, the Articles of Merger shall be duly filed with the Utah Division of Corporations and Commercial Code.

SECTION 9: EFFECTIVE DATE

The effective date of the merger shall be the date when the Certificate of Merger is issued by the Utah Division of Corporations and Commercial Code.