

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This **ASSIGNMENT AND ASSUMPTION OF AGREEMENT** (this “**Assignment**”) is made and entered into as of this 14th day of February, 2021 (the “**Effective Date**”), by and between **PV, LLC** (“**Assignor**”), and **PIONEER COMMUNITY AUTHORITY BOARD**, a public corporation and political subdivision of the State of Colorado (the “**Assignee**”) (each a “**Party**”, and collectively, the “**Parties**” hereto) and is consented to by the **TOWN OF KEENESBURG, COLORADO**, a Colorado municipal corporation, acting by and through its Water Activity Enterprise (“**Keenesburg**”).

RECITALS

A. Assignor and Assignee are parties to a certain Contract for Purchase and Sale of Wells, Water Rights, and Water Line Capacity dated November 9, 2020 (the “**Purchase Contract**”).

B. Pursuant to the Purchase Contract, Assignee would assume and acquire the rights initially created by an agreement between Pioneer Regional Metropolitan District Water Activity Enterprise, a quasi-municipal corporation and political subdivision of the State of Colorado (“**Pioneer Regional**”) and Keenesburg, dated April 17, 2008, and recorded with the Weld County Clerk and Recorder on May 21, 2008 at Reception No. 3555655 (the “**Original Agreement**”).

C. The Original Agreement was subsequently assigned to Pioneer Metropolitan District No. 3 a quasi-municipal corporation and political subdivision of the State of Colorado (“**Pioneer No. 3**”) pursuant to a First Amendment to and Assignment of Agreement by and among Pioneer No. 3, Pioneer Regional and Keenesburg, dated May 10, 2012 and recorded with the Weld County Clerk and Recorder on May 14, 2012 at Reception No. 3845481 (the First Amendment to and Assignment of Agreement described herein, together with the Original Agreement, are referred to as the (“**Second Agreement**”).

D. The Town of Castle Rock (“**Castle Rock**”) then agreed to buy and Pioneer No. 3 agreed to sell all of Pioneer No. 3’s right, title and interest in and to the rights of capacity in a water line then contained in the Second Agreement, and the Second Agreement was subsequently assigned to Castle Rock (with Keenesburg’s requisite consent) by an Assignment and Assumption of Agreement, dated March 31, 2017 and recorded with the Weld County Clerk and Recorder on April 3, 2017 at Reception No. 4290585 (the “**Third Agreement**”).

E. Assignor then agreed to buy and Castle Rock agreed to sell all of Castle Rock’s right, title and interest in and to the rights of capacity in a water line then contained in the Third Agreement, and the Third Agreement was subsequently assigned to Assignor (with Keenesburg’s requisite consent) by an Assignment and Assumption of Agreement, dated January 29, 2021 and recorded with the Weld County Clerk and Recorder on February 10, 2021 at Reception No. 4681388 (the “**Fourth Agreement**”).

F. A true and correct copy of the Original Agreement, Second Agreement, Third Agreement, and Fourth Agreement are attached hereto and incorporated herein as **Exhibit A**.

G. Paragraph 17 of the Original Agreement requires Assignor obtain Keenesburg's consent to an assignment of the Fourth Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises, rights, and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

AGREEMENT

1. Defined Terms. Capitalized terms used but not otherwise defined in this Assignment shall have the respective meanings ascribed to such terms by the Fourth Agreement.

2. Incorporation of Recitals. The recitals set forth above are incorporated into the terms of this Assignment.

3. Assignment; Assumption. Assignor hereby sells, conveys, transfers, assigns, and sets over unto Assignee all of Assignor's right, title and interest in, to, and under the Fourth Agreement. Assignee hereby accepts such right, title and interest and assumes and agrees to be bound by all of the terms, covenants, and agreements of the Fourth Agreement, and to perform, from and after the date hereof, all of the duties and obligations of Assignor under the Fourth Agreement.

4. Release. Keenesburg and Assignee each release and discharge the Assignor from any and all obligations under the Fourth Agreement after the date of this Assignment and Assignor shall have no outstanding obligations or responsibilities thereunder from and after the date hereof.

5. Consent to Assignment and Estoppel. Keenesburg hereby approves and consents to the assignment of all of Assignor's interests, rights and obligations to Assignee, pursuant to the terms and conditions set forth herein. Keenesburg confirms that, as of the date of its signature on this Assignment and to the best of its knowledge, there are no defaults or breaches by Assignor. Keenesburg acknowledges that Assignee is relying on this confirmation in proceeding to acquire Assignor's interest in the Fourth Agreement.

6. Ratification. Except as expressly set forth in this Assignment, Keenesburg, Assignor and Assignee hereby ratify and reaffirm each of the terms, covenants, and conditions of the Fourth Agreement.

7. Miscellaneous.

(a) Integration. This Assignment constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

(b) Severability. If any covenant, term, condition, or provision under this Assignment shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

(c) Governing Law and Jurisdiction. This Assignment shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Assignment shall be exclusive to the State District Court in and for the County of Weld, Colorado.

(d) Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via FedEx or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To Assignor:	PV, LLC 9033E. Easter Place, Suite 112 Centennial, CO 80112 Email: joelharkas@gmail.com
With a Copy To:	Matthew S. Poznanovic Eric K. Trout Hayes Poznanovic Korver LLC 1999 Broadway, Suite 3200 Denver, CO 80202 Email: matt@hpkwaterlaw.com eric@hpkwaterlaw.com
To Assignee:	Pioneer Community Authority Board 450 E 17th Avenue, Suite 400 Denver, CO 80203 Email: joelharkas@gmail.com
With a Copy To:	Paula Williams McGeady Becher P.C. 450 E 17th Avenue, Suite 400 Denver, CO 80203 Email: pwilliams@specialdistrictlaw.com
To Keenesburg:	Town of Keenesburg Attn: Mayor P.O. Box 312 Keenesburg, CO 80543 Email: tokmanager@rtcbb.net
With a Copies To:	Paul G. Anderson, LLC Attorney/Mediator P.O. Box 50631 Colorado Springs, CO 80949 Email: pandllc@comcast.net

Kathleen M. Kelly
Kelly, PC
999 18th Street, Suite 1450
Denver, CO 80202
Kathleen@kellypc.com

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service, upon electronic confirmation of email transmission, or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change address and contact information.

(e) Non-Waiver. No waiver of any of the provisions of this Assignment shall be deemed to constitute a waiver of any other provision of this Assignment, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed to be a waiver of any subsequent default hereunder.

(f) Counterparts. This Assignment may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

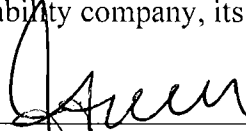
[SIGNATURES ON FOLLOWING PAGES]

[SIGNATURE PAGE 1 OF 3]

IN WITNESS WHEREOF, the Parties execute this Assignment on the date first set forth above.

PV, LLC.

By: Pioneer Holdco, LLC, a Delaware limited liability company, its sole member



Joel H. Farkas, Manager

STATE OF COLORADO)

) ss.

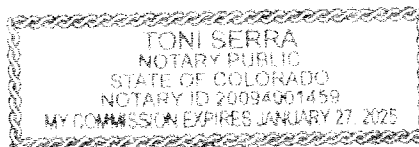
COUNTY OF Arapahoe)

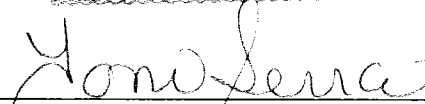
The foregoing instrument was acknowledged before me this 15th day of February, 2021, by Joel H. Farkas, as Manager of Pioneer Holdco, LLC, a Delaware limited liability company.

Witness my hand and official seal.

My commission expires:

01-27-2025



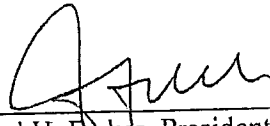


Notary Public

[SIGNATURE PAGE 2 OF 3]

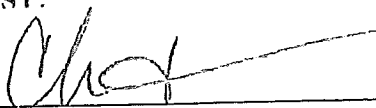
**PIONEER COMMUNITY AUTHORITY
BOARD**, a public corporation and political
subdivision of the State of Colorado

By:


Joel H. Parkas, President

ATTEST:

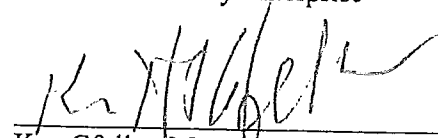
By:


Chanda Thomsen, Secretary

[SIGNATURE PAGE 3 OF 3]

TOWN OF KEENESBURG, COLORADO, a
Colorado municipal corporation, acting by and
through its Water Activity Enterprise

By:


Ken Gfeller, Mayor

ATTEST:

By:



Christina Fernandez, Town Clerk

Exhibit A to Assignment and Assumption Agreement

4681388 02/10/2021 02:11 PM

Total Pages: 63 Rec Fee: \$323.00

Carly Koppes - Clerk and Recorder, Weld County, CO

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF AGREEMENT (this “Assignment”) is made and entered into as of this 29th day of January, 2021 (the “Effective Date”), by and between **TOWN OF CASTLE ROCK BY AND THROUGH THE TOWN OF CASTLE ROCK WATER ENTERPRISE**, a Colorado municipal corporation (“Assignor”), and **PV, LLC** a Colorado limited liability company (the “Assignee”) (each a “Party”, and collectively, the “Parties” hereto) and is consented to by the **TOWN OF KEENESBURG, COLORADO**, a Colorado municipal corporation, acting by and through its Water Activity Enterprise (“Keenesburg”).

RECITALS

A. Assignor and Assignee are parties to a certain Contract for Purchase and Sale of Water Assets and Water Line Capacity Agreement dated February 4, 2020 (the “Purchase Contract”).

B. Pursuant to the Purchase Contract, Assignee would assume and acquire the rights initially created by an agreement between Pioneer Regional Metropolitan District Water Activity Enterprise, a quasi-municipal corporation and political subdivision of the State of Colorado (“Pioneer Regional”) and Keenesburg, dated April 17, 2008, and recorded with the Weld County Clerk and Recorder on May 21, 2008 at Reception No. 3555655 (the “Original Agreement”).

C. The Original Agreement was subsequently assigned to Pioneer Metropolitan District No. 3 a quasi-municipal corporation and political subdivision of the State of Colorado (“Pioneer No. 3”) pursuant to a First Amendment to and Assignment of Agreement by and among Pioneer No. 3, Pioneer Regional and Keenesburg, dated May 10, 2012 and recorded with the Weld County Clerk and Recorder on May 14, 2012 at Reception No. 3845481 (the First Amendment to and Assignment of Agreement described herein, together with the Original Agreement, are referred to as the “Second Agreement”).

D. Assignor then agreed to buy and Pioneer No. 3 agreed to sell all of Pioneer No. 3’s right, title and interest in and to the rights of capacity in a water line then contained in the Second Agreement, and the Second Agreement was subsequently assigned to Assignor (with Keenesburg’s requisite consent) by an Assignment and Assumption of Agreement, dated March 31, 2017 and recorded with the Weld County Clerk and Recorder on April 3, 2017 at Reception No. 4290585 (the “Third Agreement”).

E. A true and correct copy of the Original Agreement, Second Agreement, and Third Agreement is attached hereto and incorporated herein as Exhibit A.

F. Paragraph 17 of the Original Agreement requires Assignor obtain Keenesburg’s consent to an assignment of the Third Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual

AGREEMENT

1. **Defined Terms.** Capitalized terms used but not otherwise defined in this Assignment shall have the respective meanings ascribed to such terms by the Third Agreement.

2. **Incorporation of Recitals.** The recitals set forth above are incorporated into the terms of this Assignment.

3. **Assignment; Assumption.** Assignor hereby sells, conveys, transfers, assigns, and sets over unto Assignee all of Assignor's right, title and interest in, to, and under the Third Agreement. Assignee hereby accepts such right, title and interest and assumes and agrees to be bound by all of the terms, covenants, and agreements of the Third Agreement, and to perform, from and after the date hereof, all of the duties and obligations of Assignor under the Third Agreement.

4. **Release.** Keenesburg and Assignee each release and discharge the Assignor from any and all obligations under the Third Agreement after the date of this Assignment and Assignor shall have no outstanding obligations or responsibilities thereunder from and after the date hereof.

5. **Consent to Assignment and Estoppel.** Keenesburg hereby approves and consents to the assignment of all of Assignor's interests, rights and obligations to Assignee, pursuant to the terms and conditions set forth herein. Keenesburg confirms that, as of the date of its signature on this Assignment and to the best of its knowledge, there are no defaults or breaches by Assignor. Keenesburg acknowledges that Assignee is relying on this confirmation in proceeding to acquire Assignor's interest in the Third Agreement.

6. **Ratification.** Except as expressly set forth in this Assignment, Keenesburg, Assignor and Assignee hereby ratify and reaffirm each of the terms, covenants, and conditions of the Third Agreement.

7. **Miscellaneous.**

(a) **Integration.** This Assignment constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

(b) **Severability.** If any covenant, term, condition, or provision under this Assignment shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

(c) **Governing Law and Jurisdiction.** This Assignment shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Assignment shall be exclusive to the State District Court in and for the County of Weld, Colorado.

(d) **Notices.** All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier

delivery via FedEx or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To Assignor: Town of Castle Rock
c/o Mark Marlowe, Director of Castle Rock Water
175 Kellogg Court
Castle Rock, Colorado 80109
Email: mmarlowe@crgov.com

With a Copy To: Town of Castle Rock
c/o Bob Slentz, Town Attorney
100 Wilcox Street
Castle Rock, Colorado 80104
Phone: 303-830-2500
Email: bslenz@crgov.com

With a Copy To: Lyons Gaddis
c/o Madoline Wallace-Gross
950 Spruce Street, Unit 1B
Louisville, Colorado 80027
Email: mwg@lyonsgaddis.com

To Assignee: PV, LLC
9033E. Easter Place, Suite 112
Centennial, CO 80112
Email: joelhfarkas@gmail.com

With a Copy To: Matthew S. Poznanovic
Eric K Trout
Hayes Poznanovic Korver LLC
1999 Broadway, Suite 3200
Denver, CO 80202
Email: matt@hpkwaterlaw.com
eric@hpkwaterlaw.com

To Keenesburg: Town of Keenesburg
P.O. Box 312
Keenesburg, Colorado 80543
Email: _____
Attn: Mayor Ken Gfeller

With a Copy To:

Paul G. Anderson, LLC
Attorney/Mediator
P.O. Box 50631
Colorado Springs, Colorado 80949-0631
719-510-9420
Email: pandllc@comcast.net

Kathleen M. Kelly
Kelly, PC
999 18th Street, Suite 1450
Denver, CO 80202
Kathleen@kellypc.com
303-298-1601 X 215

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service, upon electronic confirmation of email transmission, or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change address and contact information.

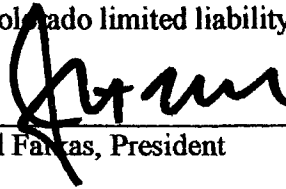
(e) Non-Waiver. No waiver of any of the provisions of this Assignment shall be deemed to constitute a waiver of any other provision of this Assignment, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed to be a waiver of any subsequent default hereunder. Notwithstanding any provision to the contrary in this Assignment, no term or condition of this Assignment shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits or protection provided to Assignor under the Colorado Governmental Immunity Act.

(f) Counterparts. This Assignment may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

[SIGNATURE PAGE 1 OF 3]

IN WITNESS WHEREOF, the Parties execute this Assignment on the date first set forth above.

PV, LLC,
a Colorado limited liability company



Joel Faras, President

ATTEST:

NA


Secretary

[SIGNATURE PAGE 2 OF 3]

TOWN OF CASTLE ROCK, COLORADO, a
Colorado municipal corporation

By:

Name: Jason Gray, Mayor



ATTEST:

By:

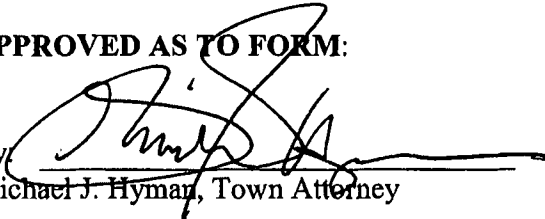
Lisa Anderson, Town Clerk



APPROVED AS TO FORM:

By:

Michael J. Hyman, Town Attorney



[SIGNATURE PAGE 3 OF 3]

TOWN OF KEENESBURG, COLORADO, a
Colorado municipal corporation, acting by and
through its Water Activity Enterprise

By: 

Name: Ken Gfeller, Mayor

ATTEST:

By: 

Christina Fernandez, Town Clerk

EXHIBIT A to Assumption and
Assignment of Agreement

655

3656655 05/21/2008 10:09A Weld County, CO
1 of 14 R 71.00 D 0.00 Steve Moreno Clerk & Recorder

AGREEMENT

THIS AGREEMENT is made and entered into as of the 17th day of April, 2008, by and between the TOWN OF KEENESBURG, COLORADO, acting by and through its Water Activity Enterprise, hereinafter called "Town," and PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a quasi-municipal corporation and political subdivision of the State of Colorado, hereinafter called "District."

RECITALS:

WHEREAS, on December 7, 2006 the Town and Resource Colorado Water and Sanitation Metropolitan District entered into a Letter of Agreement regarding the Keenesburg Well Water Transmission Line, described on the attached Exhibit A ("Water Line").

WHEREAS, Paragraph 4 of the December 7, 2006 Letter of Agreement outlined additional negotiations would occur as follows:

"4. The Town and the District further agree to enter into negotiations for compensation for benefits to the District and Town resulting from construction of the Keenesburg Well Water Transmission Line and the Access Point and the benefits to the District for use of line capacity water storage site and such easements as necessary to facilitate its use by the District."


WHEREAS, Resource Colorado Water and Sanitation Metropolitan District has assigned to the District all rights associated with Paragraph 4 of the December 7, 2006 Letter of Agreement.

WHEREAS, the District has established a Water Activity Enterprise in accordance with C.R.S. § 37-45.1-101 et seq. for the purpose of pursuing or continuing water activities.

WHEREAS, the Town and the District have agreed to terms and conditions for the Town and the District to share the use of the Water Line, and this Agreement specifies the term and conditions.

THEREFORE, in consideration of the mutual promises and agreements specified in this Agreement, the parties agree as follows:

1. **Incorporation of Recitals.** The parties confirm and incorporate the foregoing recitals into this Agreement.
2. **Use of Water Line.** The Town has constructed the Water Line and the approximate route of the Water Line is depicted on the attached Exhibit A. The Water Line has an estimated design capacity of 1,200 gallons per minute ("gpm"). The Town shall have the sole and exclusive right to use up to 300 gpm of the Water Line capacity for transmission of water at any time. The District shall have the sole and exclusive perpetual right to use up to 900 gpm of the Water Line capacity for transmission of water at any time. In the event that at any time either the Town or the District is not using all or a portion of the


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capacity of the Water Line allocated to the party, the other party may use the portion of the capacity not currently being used by the other party. Each party shall pay all pumping costs and other power costs associated with the transmission of the party's water through the Water Line. The Town shall manage the Water Line to maximize, to the extent reasonably possible as determined appropriate in the Town's sole discretion, the utilization of the Water Line.

3. **Water Line Connection.** The District shall construct and maintain, at its sole cost, a pipeline to connect to the Water Line ("District Pipeline"). At such time as the District has determined the location that the District Pipeline will connect with the Water Line, the District shall provide proposed construction plans to the Town. Within twenty (20) days following the date the District provides the construction plans to the Town, the parties shall meet to review the construction plans and determine the dates that the construction of the connection between the District Pipeline and the Water Line will occur. The construction plans shall include a water meter designed to continuously record water flow at or near the point the District Pipeline connects to the Water Line. The parties shall cooperate in reviewing and approving the construction plan and determining the dates the construction will be completed.
4. **Interconnection.** The parties acknowledge and agree that the interconnection of the parties' water systems will facilitate the operation of each system. The District proposes to construct water storage facilities on property owned by the Town [as depicted on the attached Exhibit B], and the water delivered through the Water Line may be delivered to the water storage facilities. All water storage facilities constructed by the Town shall be the sole and separate property of the Town and shall be exclusively available for use by the Town, except as may be agreed to by a separate agreement. All water storage facilities constructed by the District shall be the sole and separate property of the District and shall be exclusively available for use by the District, except as may be agreed to by a separate agreement. The Town agrees to execute and deliver to the District the Easement Deed in the form of the attached Exhibit C.

5. Water Quality. The water delivered to and carried in the Water Line shall be untreated groundwater from the alluvium of the Lost Creek Designated Basin or from the Denver Basin Aquifers. At any time when both parties are using the Water Line for delivery of water, the concentration of any chemical or physical constituent in the water delivered by either party into the Water Line shall be from an approved water supply well and the water delivered shall not exceed the state or federal primary drinking water standards, as measured at the point of connection, as such regulations may be amended from time-to-time.

With regard to "secondary" state federal drinking water regulations, and in consideration of payments by the District to the Town, and in consideration that the District may not have the same blending sources available to the Town, the District may elect to replace water supplied by Town well 31652FP with water from a (CDPHE) approved well as long as the "secondary" chemical or physical constituents do not exceed those in Town well 31652FP. The District shall give annual notice to the Town of the District's desire and intent to replace water from the Town well 31652FP in the form of an annual operational agreement that addresses proposed routine and non-routine operations.

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3 of 14 R 71.00 D 0.80 Steve Moreno Clerk & Recorder

At any time when only one party is using the Water Line for delivery of water for a period in excess of 30-days, or as agreed to in writing, the water carried in the Water Line may exceed the limitations specified in the preceding paragraph(s), but the party using the Water Line shall provide notice to the other party of the extent the conditions specified in the immediately preceding paragraph(s) are exceeded.

6.Payments. On or before May 25, 2008, and each 25th of May for the following 29 years, the District shall pay to the Town an amount equal to \$50,478.86. The final payment for the Water Line capacity shall be made by the District on May 25, 2037. To the extent either party uses capacity of the Water Line in excess of the capacity allocated to the party in compliance with the terms of this Agreement, no additional compensation shall be paid to the other party.

7.Repair and Maintenance. The Water Line will require repair and maintenance over time, and the Town shall (i) conduct periodic inspection of the Water Line to assess repair and maintenance requirements, and (ii) inspect, maintain and repair the Water Line in accordance with standard utility practices for water providers in Colorado. In the event of a break or leak in the Water Line that requires an immediate repair, the Town shall repair the break or leak in the Water Line. With respect to all other repair and maintenance of the Water Line, including, but not limited to, all underground and surface facilities related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains and conduits, valves, and vaults, and including any necessary replacement of the Water Line or any portion of the Water Line, the parties shall meet at least annually to agree on a written repair and maintenance schedule. In the event the parties cannot agree on a repair and maintenance schedule, the Town shall undertake such repairs and maintenance as it deems necessary for the proper and efficient operation of the Water Line, and the District shall nonetheless be obligated to pay its Seventy-five Percent (75%) share as outlined below. Unless the parties agree otherwise in writing, the Town shall be primarily responsible for the completion of the repairs and maintenance of the Water Line agreed to by the parties. The Town shall contract for all repairs and maintenance, and upon receipt of invoices shall forward copies of the same to the District. Within thirty (30) days after receipt of each invoice from the Town, the District shall pay Seventy-five Percent (75%) of the amount of the invoice or shall provide written objections to any charges in the invoice.

8.Water Trades and Sales. From time-to-time either the District or the Town may have water available and useable by the other party, and the District or the Town may, in their sole discretion, determine to make the water available to the other party. In the event either party determines that the party has water available to trade or sell, the party may provide notice to the other party. If the parties mutually agree to the trade or sale, the parties shall have a separate confirmation of the terms of the trade or sale.

9.No Additional Encumbrances. Neither party shall place any encumbrances on the Water Line or allow any liens, or encumbrances to be placed on the Water Line, except for the lien of the Colorado Water Conservation Board. In the event a lien or other encumbrance is placed on the Water Line, the party responsible for the lien or other encumbrance shall immediately remove the lien or other encumbrance.

3656655 06/21/2008 10:09A Weld County, CO
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10.Duplicate Counterparts; Authority. This Agreement may be executed in counterparts, each of which shall be deemed an original but which collectively shall be considered one Agreement. Each party represents that each has the right and authority to enter into this Agreement, and that any necessary board or council resolutions have been adopted.

11.Notices. Whenever any notice, demand, or request is required or provided for under this Agreement, such notice, demand, or request shall be provided in writing or by facsimile to the following addresses or such other addresses as may be designated by a party by notice. Notice shall be deemed received when: (1) personally delivered; or (2) when transmitted by facsimile; or (3) three (3) days after having been deposited in a U. S. Postal Service depository to be sent by registered or certified mail, return receipt requested, with all required postage prepaid; or (4) one (1) business day after having been sent by overnight courier:

To District: Pioneer Regional Metropolitan District
141 Union Bld. #150
Lakewood, Colorado 80228

Copy to: Christopher Paulson, President
4643 S. Ulster St., Suite 1300
Denver, Colorado 80237
Facsimile: (303) 740-8657

And copy to: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Facsimile: (303) 592-4385

To Keenesburg: Town of Keenesburg
Attn: Mayor
P. O. Box 312
Keenesburg, CO 80643
Facsimile: (303)732-0599

Copy to: Paul G. Anderson
P. O. Box 50631
Colorado Springs, CO 80949

And copy to: Light, Harrington & Dawes, P.C.
1512 Larimer St., #300
Denver, CO 80202
Facsimile: (303) 298-1627

12.Time is of the Essence. Time is of the essence with respect to each and every aspect of this Agreement, and strict compliance with all time requirements is at the heart of this Agreement and shall be strictly enforced.

3655855 05/21/2008 18:09A Weld County, CO
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13.No Third-Party Beneficiary. This Agreement is entered into between the parties for the purposes set forth herein. No other person or entity is a beneficiary of this Agreement, nor shall any other person or entity be considered as a beneficiary, third party or otherwise, of this Agreement.

14.Default. The failure of a party to this Agreement to perform or observe of any of the covenants, terms, or conditions of this Agreement shall be subject to the following terms and conditions.

- a. Any default that creates, or may create, a threat to public health, safety, or welfare shall be addressed immediately by the defaulting party with appropriate corrective measures. As to any other default, a party who claims that another party has failed to perform as required by this Agreement shall provide written notice to the other party setting forth the specific failure complained of and shall provide that party a minimum of thirty (30) days within which to cure or within which to agree with the complaining party on a plan to cure the default. If the defaulting party does not cure within the time allowed, it shall be deemed to constitute an Event of Default.
- b. Upon the occurrence of an Event of Default, the non-defaulting party will have the right to enforce its rights under this Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this agreement; provided, however, if the Event of Default is the District's failure to make any payment of money, the Town shall have the additional remedy of terminating the District's use of the Water Line by whatever means the Town finds necessary and appropriate, until such time as the payment is made by the District. Except as otherwise provided for herein, all rights and remedies of the parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy.
- c. The failure of a party to insist, on one or more occasions, upon the strict observation of any of the terms of this Agreement shall not be construed as a waiver or relinquishment in any future occasion of any of the terms of this Agreement.
- d. In the event of litigation arising out of this Agreement, the prevailing party shall be entitled to all reasonable costs and expenses regarding such litigation, including, but not limited to, attorney fees.

15.Entire Agreement; Modifications. The making, execution and delivery of this Agreement by the Parties has not been induced by any representations, statements, warranties or agreements other than those expressed in this Agreement. This Agreement constitutes the

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entire understanding between the Parties, and all prior negotiations, agreements and understandings, written or oral, concerning the subject matter of this Agreement are considered superseded and merged herein. Modification of this Agreement by the Parties may be made only by a writing signed by the Party or Parties to be bound by the modification.

16.No Limitation on Sale or Agreements. By entering into this Agreement, neither the District nor the Town shall be limited or restricted from entering into other agreements or transactions for sale or lease of other water rights.

17.Assignment and Delegation. District may assign all rights and obligations under the terms of this Agreement to a Water Activity Enterprise operated by Resource and notice of such assignment shall be provided to the Town; provided, however, that any purported assignment by District before such time as Resource has established a Water Activity Enterprise shall be void. Upon a valid assignment of all rights and obligations under this Agreement from District to a Water Activity Enterprise operated by Resource, District shall be relived of all obligations and shall have no rights pursuant to this Agreement and shall no longer be considered a party hereto. All other assignments of this Agreement and the rights and obligations pursuant to this Agreement shall be subject to notice to other parties and consent of the other parties, which consent shall not be unreasonably withheld.

18.Controlling Law and Venue. This Agreement shall be governed under and controlled pursuant to the laws of the State of Colorado, and the venue for any disputes hereunder shall be in the District Court, Weld County, State of Colorado.

19.Effective Date of Agreement. This Agreement shall be effective on the last date it is signed by all the parties.

20.Recording. This Agreement shall be recorded at the office of the Weld County Clerk and Recorder.

20.Term The term of this Agreement shall be perpetual, unless terminated by mutual agreement of the parties.

IN WITNESS HEREOF, the parties execute this Agreement effective as of the date set forth above.

TOWN OF KEENESBURG, COLORADO, a Colorado municipal corporation,
acting by and through its Water Activity Enterprise

By Mark D. Gray
Mark D. Gray, Mayor

Date: 4-17-08

ATTEST:

Debra L. Chumley
Debra L. Chumley, Town Clerk

Date: 4-17-08

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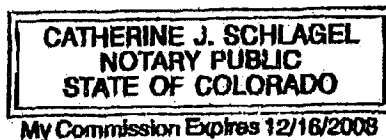
STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 17 day of April, 2008, by Mark D. Gray, as Mayor and by Debra L. Chumley, as Town Clerk of the Town of Keenesburg, Colorado, a Colorado municipal corporation, acting by and through its Water Activity Enterprise.

WITNESS my hand and official seal.

My commission expires: 12-16-2008

Catherine J. Schlager
Notary Public



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PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a
quasi-municipal corporation and political subdivision of the State of Colorado.

By: [Signature]

Date: 4-17-08

Name: CHRIS PAULSON

Title: President

Attest: [Signature]

Date: 4-17-08

Title: Assistant Secretary

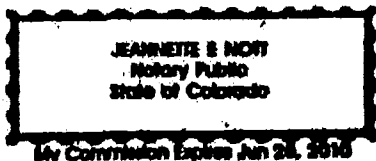
STATE OF COLORADO)

COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 17th day of April,
2008, by Chris Paulson, as President and by Toni Serra, as Assistant
Secretary of Pioneer Regional Metropolitan District Water Activity Enterprise, a quasi-municipal
corporation and political subdivision of the State of Colorado.

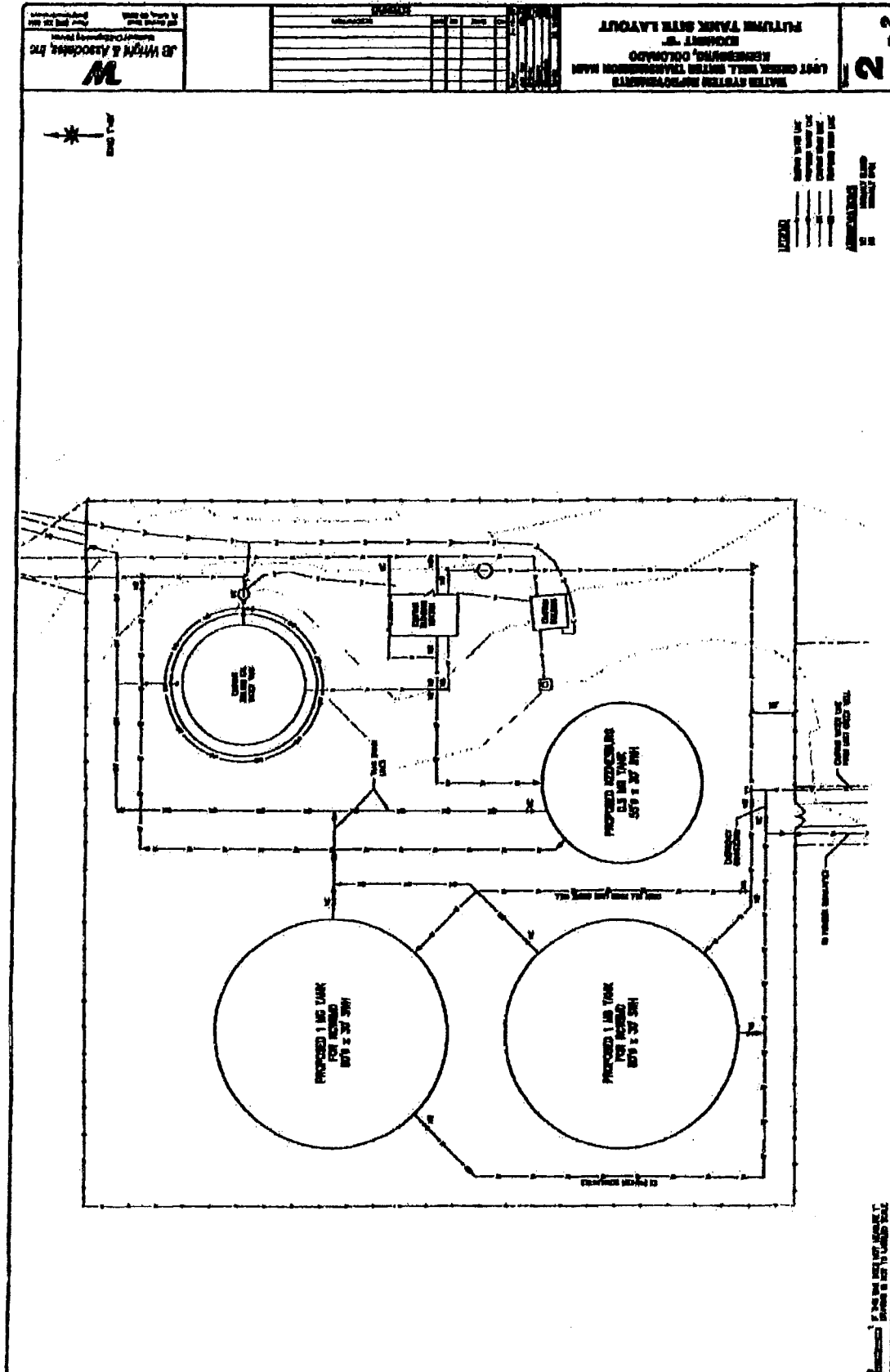
WITNESS my hand and official seal.

My commission expires: June 25, 2010



[Signature]

A topographic map showing a route through a mountainous area. The map includes contour lines, a road network, and several blacked-out rectangular areas. A vertical line runs through the center of the map, possibly indicating a specific route or boundary. Labels include "W 63" and "W 64". At the bottom right, there is a small legend box with text.



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EXHIBIT C

EASEMENT DEED

(Tank Site)

THIS EASEMENT DEED is made and entered into as of the 17th day of April, 2008, by and between the TOWN OF KEENESBURG, COLORADO, acting by and through its Water Activity Enterprise, hereinafter called "Grantor," and PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a quasi-municipal corporation and political subdivision of the State of Colorado, hereinafter called "Grantee," whose address is 141 Union Blvd. #150, Lakewood, CO 80228.

WITNESSETH:

For good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, an easement for the non-exclusive and permanent right to enter, re-enter, occupy and use the hereinafter described Property to construct, maintain, repair, replace, remove, enlarge and operate water storage facilities, tanks, water pipelines and all underground and surface appurtenances related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains and conduits, valves, vaults, well housings ("Facilities"), access to, ingress and egress from the property with vehicles of any type or description and the like in, through, over and across the following described parcel of land situate, lying and being in the County of Weld and State of Colorado, to wit:

Property described in Exhibit A, attached hereto and made a part hereof as if fully set forth herein.

IT IS HEREBY MUTUALLY covenanted and agreed by and between the parties hereto as follows:

With respect to easements on the Property described in Exhibit A that are used for access, ingress and egress, the Grantee shall have and exercise the right of access, ingress and egress in, to, over, through and across the Property described in Exhibit A for the full use of the easement provided for herein.

With respect to easements on the Property described in Exhibit A that are used to construct, maintain, repair, replace, remove, enlarge and operate water storage tanks and facilities, Grantee may construct permanent water storage tanks on the surface of the easement, and may fence the easement and the Grantee shall have the exclusive use of the portion of the easement comprising the permanent water storage tanks and facilities, and fenced area.

With respect to easements on the Property described in Exhibit A, that are used for water pipelines and all underground and surface facilities related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains



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and conduits, valves, Grantee shall bury such structures at a depth of not less than four and one-half (4.5) feet (where practicable and allowed by the applicable utility provider) and shall not fence that portion of the easement that includes the pipeline.

Grantee shall have and exercise the right of subjacent and lateral support for the full and complete use of the easement. It is specifically agreed between the parties that the Grantor shall not knowingly take any action which would impair the earth cover over, or the lateral or subjacent support for, any water line or related Facilities within the easement, provided, however that upon obtaining the specific written permission of Grantee, the earth cover over any pipeline or lines may be modified; except that permission normally will not be granted for modification involving cover of less than four and one-half (4.5) feet, nor greater than ten (10) feet measured vertically from the top of any lines or Facilities.

After construction, repair, replacement or enlargement of any lines or Facilities within the easement, the general surface of the ground shall be restored as nearly as reasonably can be done given the existence of these lines or Facilities to the grade and condition it was in immediately prior to construction. Topsoil shall be replaced in cultivated and agricultural areas, and any excess earth resulting from installation by Grantee shall be removed from the easement at the expense of Grantee. Grantee agrees that for a period of one year following construction that involves disturbance of the surface of the ground, Grantee shall maintain the surface elevation by correcting any settling or subsiding that may occur as a result of the work done by Grantee within the easement.

Grantor retains the right to the use and occupancy of the Property insofar as such use and occupancy is consistent with and does not unreasonably impair Grantee's use of the easement. Grantor agrees, however, that no such use or occupancy (whether for the installation of Grantor's facilities or otherwise) shall have the effect of unreasonably limiting Grantee's use of the Property for its constructed or proposed water storage tanks, facilities or related Facilities.

It is mutually agreed by and between the parties hereto that Grantee may commence the exercise of its rights to the use of the easement forthwith, or it may postpone the exercise of all or some part of its rights hereunder to some future time.

Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, successors and assigns of the parties hereto. In the event any party hereto or its successor or assign seeks to enforce its rights hereunder through litigation, arbitration or other administrative proceeding, the non-prevailing party shall be required to pay to the prevailing party as part of any judgment, order, or award reasonable attorney fees and costs.

To the extent not limited herein, the Grantor reserves the right to grant further easement interests in the Property to other utilities and grantees provided that such further easement interests shall not unreasonably interfere with or impair the easement granted herein.

Unless special provisions are attached hereto, the above and foregoing constitute the whole agreement between the parties and no additional or different oral representation; promise



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or agreement shall be binding on any of the parties hereto, with respect to the subject matter of this Agreement.

Grantor warrants the title to the easements against all persons claiming under the Grantor.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

TOWN OF KEENESBURG, COLORADO,
acting by and through its Water Activity
Enterprise

By: 
Mark D. Gray, Mayor

ATTEST:


Debra L. Chumley, Town Clerk

STATE OF COLORADO

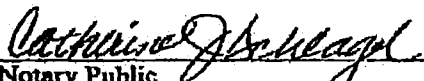
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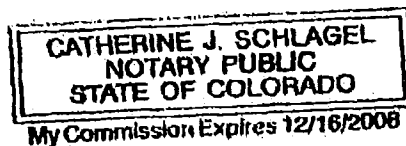
COUNTY OF WELD

The foregoing instrument was acknowledged before me this 17 day of April, 2008, by Mark D. Gray as Mayor and by Debra L. Chumley as Town Clerk, of the TOWN OF KEENESBURG, acting by and through its Water Activity Enterprise.

Witness my hand and official seal.

My commission expires: 12-16-2008


Notary Public



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EXHIBIT A

Tanks Site Legal Description Reception No. 1783436 as recorded in Book 861


That portion of the Southwest Quarter of Section 34, Township 2 North, Range 64 West of the 6th Principal Meridian, County of Weld, State of Colorado being more particularly described as follows:

Considering the North line of the Northeast Quarter of said Section 34 as bearing North 89° 39' 55" East and with all bearings contained herein relative thereto. Beginning at the North One Quarter corner of said Section 34; thence along the North - South centerline of said Section 34 South 00° 31' 37" East 2616.78 feet to the center of said Section 34;

thence South 13° 35' 06" West 1441.12 feet to the True Point of Beginning;
thence South 00° 27' 15" East 250 feet;
thence South 89° 32' 45" West 250 feet;
thence North 00° 27' 15" West 250 feet;
thence North 89° 32' 45" East 250 feet to the True Point of Beginning;

The above described parcel contains 1.43 Acres more or less.



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Steve Moreno, Clerk and Recorder, Weld County, CO


FIRST AMENDMENT TO AND ASSIGNMENT OF AGREEMENT

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into as of the 1st day of May, 2012, by and between the TOWN OF KEENESBURG, COLORADO, acting by and through its Water Activity Enterprise, hereinafter called "Town," PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a quasi-municipal corporation and political subdivision of the State of Colorado, hereinafter called "Assignor" or "Pioneer Regional," and PIONEER METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado ("Assignee" and/or "Pioneer 3").

RECITALS:

WHEREAS, the Town and Pioneer Regional entered into an Agreement dated April 17, 2008 for the purpose of sharing the use of a Water Line constructed by the Town, which Agreement was recorded with the Weld County Clerk and Recorder on May 21, 2008 at Reception No. 3555656; and

WHEREAS, market conditions have caused the development anticipated by Pioneer Regional to be delayed, and Pioneer Regional's anticipated funding for its obligations under the Agreement has not materialized; and

WHEREAS, Pioneer Regional has requested the Town temporarily suspend its payment obligations under the Agreement, in order to procure alternate funding; and

WHEREAS, the Town and Pioneer Regional additionally desire to revise the use of the Water Line, including their respective share of the capacity, as set forth herein; and


WHEREAS, Pioneer 3 has entered into a Facilities Funding, Construction, and Operations Agreement ("FFCO") with Pioneer Metropolitan District Nos. 2, 4 and 5 for the purpose of funding the construction, operations and maintenance of improvements, including the pipeline that is the subject of the Agreement; and

WHEREAS, Pioneer Regional desires to assign to Pioneer 3 all of Pioneer Regional's rights and obligations in and to the Agreement, as amended hereby; and

WHEREAS, Paragraph 17 of the Agreement requires Pioneer Regional to obtain the Town's consent to such an assignment; and

WHEREAS, the Town hereby grants its consent to such assignment by Pioneer Regional to Pioneer 3, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and agreements specified in this Agreement, the parties agree as follows:

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Steve Moreno, Clerk and Recorder, Weld County, CO


Section 1. The parties confirm and incorporate the foregoing recitals into this Agreement.


Section 2. Paragraph 2 of the Agreement between the Town of Keenesburg, Colorado and the Pioneer Regional Metropolitan District Water Activity Enterprise dated April 17, 2008 (the "Agreement") is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

2. **Use of Water Line.** The Town has constructed the Water Line and the approximate route of the Water Line is depicted on the attached Exhibit A. The Water Line has an estimated design capacity of 1,200 gallons per minute ("gpm"). The Town shall have the sole and exclusive right to use up to ~~300~~ 400 gpm of the Water Line capacity for transmission of water at any time. The District shall have the sole and exclusive perpetual right to use up to ~~900~~ 800 gpm of the Water Line capacity for transmission of water at any time. In the event that at any time either the Town or the District is not using all or a portion of the capacity of the Water Line allocated to the party, the other party may use the portion of the capacity not currently being used by the other party. Each party shall pay all pumping costs and other power costs associated with the transmission of the party's water through the Water Line. The Town shall manage the Water Line to maximize, to the extent reasonably possible as determined appropriate in the Town's sole discretion, the utilization of the Water Line.

Section 3. Paragraph 5 of the Agreement is hereby deleted in its entirety and replaced as follows:

5. **Water Quality.** The water delivered to and carried in the Water Line may be treated groundwater from the alluvium of the Lost Creek Designated Basin or from Denver Basin Aquifers, or from any other water supply well approved by the parties in writing. The water delivered shall not exceed the state or federal primary drinking water standards, as such regulations may be amended from time to time, as measured at the point of connection.

With regard to "secondary" state federal drinking water regulations, and in consideration of payments by the District to the Town, and in consideration that the District may not have the same blending sources available to the Town, the District may elect to replace water supplied by Town well 31652FP with water from a (CDPHE) approved well as long as the "secondary" chemical or physical constituents do not exceed those in Town well 31652FP. The District shall give annual notice to the Town of the District's desire and intent to replace water from the Town well 31652FP in the form of an annual operational agreement that address proposed routine and non-routine operations.

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Steve Moreno, Clerk and Recorder, Weld County, CO


At any time when only one party is using the Water Line for delivery of water for a period in excess of 30-days, or as agreed to in writing, the water carried in the Water Line may exceed the limitations specified in the preceding paragraph(s), but the party using the Water Line shall provide notice to the other party of the extent the conditions specified in the immediately preceding paragraph(s) are exceeded.

At such time as the District desires to connect to the Water Line, and as a condition to the District's connection to the Water Line, the District, at its sole cost and expense, shall install a functioning chlorination mechanism for use by the Town (the "Chlorination Mechanism"). The Chlorination Mechanism shall be located off the main water line and at a location mutually agreeable to the parties (the "Chlorination Location"). The Town agrees that it shall provide access to the District to the Chlorination Location through an easement or license agreement. The Chlorination Mechanism shall be constructed in accordance with plans and specifications acceptable to the parties.

Section 4. Paragraph 6 of the Agreement is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):


6. **Payments.** On or before May 25, 2008, and each 25th of May for the following ~~29~~ years, the District shall pay to the Town an amount equal to ~~\$63,098.58~~ 50,478.86:

2008-2010 (paid)
2013-2032

No payment shall be due from the District in years 2011 or 2012, and the~~The~~ final payment for the Water Line capacity shall be made by the District on May 25, ~~2037~~ 2032. To the extent either party uses capacity of the Water Line in excess of the capacity allocated to the party in compliance with the terms of this Agreement, no additional compensation shall be paid to the other party.

Section 5. The Agreement is hereby amended by the addition of a new Paragraph 6.5 to read as follows:

- 6.5 **District Budgeting for Payments.** The District shall provide copies to the Town of the preliminary budget documents submitted to it pursuant to Section 8.1 of the FFCO within fifteen (15) days after receiving the same from District Nos. 2, 4 and 5, and in no event later than September 30th of each year. If the Final Budget adopted by Pioneer 3 and District Nos. 2, 4 and 5 pursuant to Section 8.2 of the FFCO do not contain payment to the Town of the full amount due in the upcoming budget year, the District shall notify the Town

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Steve Moreno, Clerk and Recorder, Weld County, CO


immediately, and in no event later than November 15th of that Planning Year
(as that term is used in the FFCO).


Section 6. Paragraph 7 of the Agreement is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

7. **Repair and Maintenance.** The Water Line will require repair and maintenance over time, and the Town shall (i) conduct periodic inspection of the Water Line to assess repair and maintenance requirements, and (ii) inspect, maintain and repair the Water Line in accordance with standard utility practices for water providers in Colorado. In the event of a break or leak in the Water Line that requires an immediate repair, the Town shall repair the break or leak in the Water Line. With respect to all other repair and maintenance of the Water Line, including, but not limited to, all underground and surface facilities related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains and conduits, valves, and vaults, and including any necessary replacement of the Water Line or any portion of the Water Line, the parties shall meet at least annually to agree on a written repair and maintenance schedule. In the event the parties cannot agree on a repair and maintenance schedule, the Town shall undertake such repairs and maintenance as it deems necessary for the proper and efficient operation of the Water Line, and the District shall nonetheless be obligated to pay its ~~Seventy-five Percent (75%)~~ Sixty-seven Percent (67%) share as outlined below. Unless the parties agree otherwise in writing, the Town shall be primarily responsible for the completion of the repairs and maintenance of the Water Line agreed to by the parties. The Town shall contract for all repairs and maintenance, and upon receipt of invoices shall forward copies of the same to the District. Within thirty (30) days after receipt of each invoice from the Town, the District shall pay ~~Seventy-five Percent (75%)~~ Sixty-seven Percent (67%) of the amount of the invoice or shall provide written objections to any charges in the invoice.

Section 7. The addresses for notice set forth in Paragraph 11 of the Agreement are hereby designated as follows:

To Pioneer Regional: Pioneer Regional Metropolitan District
141 Union Bld. #150
Lakewood, Colorado 80228

Copy to: Pioneer Regional Metropolitan District
Joel H. Farkas, President
9033 E. Easter Place, Suite 112
Centennial, Colorado 80112
Facsimile: (303) 987-2032

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05/14/2012 02:06 PM R Fee:\$36.00
Steve Moreno, Clerk and Recorder, Weld County, CO


And copy to: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Facsimile: (303) 592-4385

To Pioneer 3: Pioneer Metropolitan District No. 3
141 Union Boulevard, Suite 150
Lakewood, CO 80228
Facsimile: (303) 987-2032

Copy to: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Facsimile: (303) 592-4385

To Town: Town of Keenesburg
Attn: Mayor
P. O. Box 312
Keenesburg, CO 80643
Facsimile: (303) 732-0599

Copy to: Paul G. Anderson
P. O. Box 50631
Colorado Springs, CO 80949

And copy to: Light, Kelly & Dawes, P.C.
1512 Larimer St., #300
Denver, CO 80202
Facsimile: (303) 298-1627

Section 8. Paragraph 14.b of the Agreement is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

14. Default. The failure of a party to this Agreement to perform or observe of any of the covenants, terms, or conditions of this Agreement shall be subject to the following terms and conditions. In addition to the foregoing, it shall also be an event of default hereunder subject to the terms and conditions below if any one of Pioneer Metropolitan Districts Nos. 2 through 5 exclude any property from its boundaries without the simultaneous inclusion of such property into one of the other Pioneer Metropolitan Districts Nos. 2 through 5, or if any one of Pioneer Metropolitan Districts Nos. 2 through 5 terminate the FFCO in whole or in part while the obligations to make payment under this Agreement are outstanding.

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Steve Moreno, Clerk and Recorder, Weld County, CO




- b. Upon the occurrence of an Event of Default, the non-defaulting party will have the right to enforce its rights under this Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this agreement; provided, however, if the Event of Default is the District's failure to make any payment of money, the Town shall have the additional remedy of terminating this Agreement and disconnecting or discontinuing the District's use of the Water Line by whatever means the Town finds necessary and appropriate, ~~until such time as the payment is made by the District.~~ Except as otherwise provided for herein, all rights and remedies of the parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy. Upon termination of this Agreement by the Town for nonpayment by the District, the District shall retain no rights in or to the Water Line.

Section 9. Pursuant to Paragraph 17 of the Agreement:

- a. **Assignment.** Pioneer Regional hereby sells, assigns, conveys, transfers and grants to Pioneer 3 all of Pioneer Regional's right, title and interest in, to and under the Agreement.
- b. **Assumption.** Pioneer 3 hereby accepts all of Pioneer Regional's right, title and interest in, to and under the Agreement as of the effective date of this assignment. Pioneer 3 hereby ratifies the Agreement, as amended hereby, agrees to be bound by the Agreement, and assumes all of the duties, obligations and liabilities of Pioneer Regional accruing from and after the date hereof under and with respect to the Agreement.
- c. **Release of Pioneer Regional.** Town hereby consents to the assignment, and upon full execution of this First Amendment to and Assignment of Agreement, Pioneer Regional shall be released from any further liability, and Pioneer 3 shall be considered "the District" as that term is used in the Agreement.

Section 10. Paragraph 20 of the Agreement is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

20. **Term** The term of this Agreement shall be perpetual, unless terminated by the Town pursuant to Section 14.b or otherwise by mutual agreement of the parties.

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Steve Moreno, Clerk and Recorder, Weld County, CO


Section 11. Pioneer Regional and Pioneer 3 (each a "Covenanting District") hereby make the following warranties and representations to the Town, on which warranties and representations the Town is relying in the execution of this First Amendment to and Assignment of Agreement (the "First Amendment"):

- a. There is no action, suit, inquiry, investigation, or proceeding to which the Covenanting District is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official that is pending or, to the best knowledge of the Covenanting District, threatened, in connection with any of the transactions contemplated by this First Amendment, the FFCO, or any other agreement related thereto that has been executed to finance or pay for, in whole or in part, operation or maintenance of the pipeline that is the subject of the Agreement, nor, to the best knowledge of the Covenanting District, is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have material adverse effect on the validity or enforceability of, or the authority or ability of the Covenanting District to perform its obligations under, the Agreement as amended by this First Amendment, or the FFCO.
- b. The Agreement, as amended by this First Assignment, constitutes a legal, valid, and binding obligation of the Covenanting District, enforceable against the District in accordance with its terms.
- c. Pioneer 3 will take all actions necessary under the FFCO and any other agreements with District Nos. 1-2 and 4-6 and Pioneer Regional to ensure payments will be made to the Town when due as contemplated in the Agreement, as amended by this First Amendment.

Section 12. Paragraph 16 of the Agreement is hereby amended to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

16. No Limitation on Sale or Agreements. By entering into this Agreement, neither the District nor the Town shall be limited or restricted from entering into other agreements or transactions for sale or lease of other water rights, including water line capacity. In addition, by entering into this Agreement, neither the District nor the Town shall be limited or restricted from entering into a sale (provided that it is not of all of the capacity granted to said party) or lease of capacity in the Water Line. No partial sale or lease of such party's capacity in the Water Line shall operate to relieve such party of any obligations hereunder and any such party utilizing capacity must be bound by all the terms and conditions of this Agreement. Further, any third party shall coordinate and deal solely with the party from whom it is acquiring capacity and shall not have any rights to deal with the other party to this Agreement directly. Any party selling or leasing capacity in the Water Line shall be solely responsible for all actions and inactions of the party to whom it is selling or leasing capacity and such party shall give

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05/14/2012 02:06 PM R Fee:\$55.00
Steve Moreno, Clerk and Recorder, Weld County, CO



prior written notice to the other party prior to the use of any capacity in the Water Line by a third-party.

IN WITNESS HEREOF, the parties execute this First Amendment to Agreement effective as of the date set forth above.

TOWN OF KEENESBURG, COLORADO, a Colorado municipal corporation,
acting by and through its Water Activity Enterprise

By Danny Kipp Date: 5/10/12
Danny Kipp, Mayor

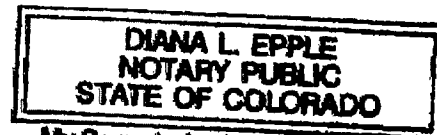
ATTEST:

Debra L. Chumley Date: 5/10/12
Debra L. Chumley, Town Clerk

STATE OF COLORADO)
COUNTY OF Weld)ss.

The foregoing instrument was acknowledged before me this 10 day of May, 2012, by Danny Kip as Mayor and by Debra L. Chumley as Town Clerk of the Town of Keenesburg, Colorado, a Colorado municipal corporation, acting by and through its Water Activity Enterprise.

WITNESS my hand and official seal.



My commission expires; 10/11/15 My Commission Expires 10/11/15

Diana L Epple
Notary Public

3845481 Pages: 9 of 10
05/14/2012 02:06 PM R Fee: \$56.00
Steve Moreno, Clerk and Recorder, Weld County, CO

PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a quasi-municipal corporation and political subdivision of the State of Colorado.

By: [Signature]

Date: May 1, 2012

Name: Joel H. Farkas

Title: President

Attest: [Signature]

Date: 5-1-12

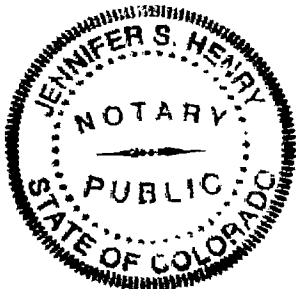
Title: Secretary

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 1st day of May, 2012, by Joel H. Farkas, as President and by Toni Serra, as Secretary of Pioneer Regional Metropolitan District Water Activity Enterprise, a quasi-municipal corporation and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

My commission expires: 8/22/2015



[Signature]

3845481 Pages: 10 of 10
05/14/2012 02:06 PM R Fee:\$58.00
Steve Moreno, Clerk and Recorder, Weld County, CO



PIONEER METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado.

By: [Signature]

Date: May 1, 2012

Name: Joel H. Farkas

Title: President

Attest: [Signature]

Date: 5/1/12

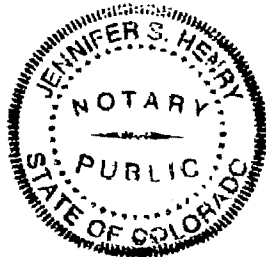
Title: Assistant Secretary

STATE OF COLORADO)
)ss.
COUNTY OF WELD)


The foregoing instrument was acknowledged before me this 1st day of May, 2012, by Joel H. Farkas, as President and by Jean Gold, as Assistant Secretary of Pioneer Metropolitan District No. 3, a quasi-municipal corporation and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

My commission expires: 8/22/2015



[Signature: Jennifer S. Henry]

4288585 Pages: 1 of 32
04/03/2017 10:48 AM R Fee:\$158.00
Carly Koppes, Clerk and Recorder, Weld County, CO


ASSIGNMENT AND ASSUMPTION OF AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF AGREEMENT (this “Assignment”) is made and entered into as of this 31st day of March, 2017 (the “Effective Date”), by and between **PIONEER METROPOLITAN DISTRICT NO. 3**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “Assignor”), and **THE TOWN OF CASTLE ROCK, COLORADO**, a Colorado municipal corporation (the “Assignee”) (each a “Party”, and collectively, the “Parties” hereto) and is consented to by the **TOWN OF KEENESBURG, COLORADO**, a Colorado municipal corporation, acting by and through its Water Activity Enterprise (“Keenesburg”).

RECITALS

A. Assignor and Assignee are parties to that certain Contract for Purchase and Sale of Water Line Capacity Agreement dated October 14, 2016 (the “Purchase Contract”).

B. Pursuant to the Purchase Contract, Assignee agreed to buy and Assignor agreed to sell all of Assignor’s right, title and interest in and to the rights of capacity in a water line created by that certain Agreement dated April 17, 2008 by and between Pioneer Regional Metropolitan District Water Activity Enterprise, a quasi-municipal corporation and political subdivision of the State of Colorado (“Pioneer Regional”) and Keenesburg, which agreement was recorded with the Weld County Clerk and Recorder on May 21, 2008 at Reception No. 3555655 (the “Original Agreement”).

C. The Agreement was subsequently assigned to Assignor pursuant to that certain First Amendment to and Assignment of Agreement by and among Assignor, Pioneer Regional and Keenesburg dated as of May 10, 2012 and recorded with the Weld County Clerk and Recorder on May 14, 2012 at Reception No. 3845481 (the “First Amendment” and together with the Original Agreement, the “Agreement”). A true and correct copy of the Agreement is attached hereto and incorporated herein as Exhibit A.

D. Paragraph 17 of the Agreement requires Assignor obtain Keenesburg’s consent to an assignment of the Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises, rights and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

AGREEMENT

1. Defined Terms. Capitalized terms used but not otherwise defined in this Assignment shall have the respective meanings ascribed to such terms by the Agreement.

2. Incorporation of Recitals. The recitals set forth above are incorporated into the terms of this Assignment.

3. Assignment; Assumption. Assignor hereby sells, conveys, transfers, assigns and sets over unto Assignee all of Assignor’s right, title and interest in, to and under the Agreement.

4290585 Pages: 2 of 32
04/03/2017 10:48 AM R Fee: \$168.00
Carly Koppes, Clerk and Recorder, Weld County, CO
[Barcode]

Assignee hereby accepts such right, title and interest and assumes and agrees to be bound by all of the terms, covenants and agreements of the Agreement, and to perform, from and after the date hereof, all of the duties and obligations of Assignor under the Agreement.

4. Release. Keenesburg and Assignee each release and discharge the Assignor from any and all obligations under the Agreement after the date of this Assignment and Assignor shall have no outstanding obligations or responsibilities thereunder from and after the date hereof.

5. Consent to Assignment and Estoppel. Keenesburg hereby approves and consents to the assignment of all of Assignor's interests, rights and obligations to Assignee, pursuant to the terms and conditions set forth herein. Keenesburg confirms that, as of the date of its signature on this Assignment and to the best of its knowledge, there are no defaults or breaches by Assignor. Keenesburg acknowledges that Assignee is relying on this confirmation in proceeding to acquire Assignor's interest in this Agreement.

6. Ratification. Except as expressly set forth in this Assignment, Keenesburg, Assignor and Assignee hereby ratify and reaffirm each of the terms, covenants and conditions of the Agreement.

7. Miscellaneous.

(a) Integration. This Assignment constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

(b) Severability. If any covenant, term, condition, or provision under this Assignment shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

(c) Governing Law and Jurisdiction. This Assignment shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Assignment shall be exclusive to the State District Court in and for the County of Weld, Colorado.

(d) Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via FedEx or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To Assignor:

Pioneer Metropolitan District No. 3
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: 303-538-4380
Email: mmcgeady@specialdistrictlaw.com
Attn: MaryAnn McGeady

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04/03/2017 10:40 AM R Fee:\$188.00
Carly Koppes, Clerk and Recorder, Weld County, CO

With a Copy To: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: (303) 592-4380
Email: mmcgeady@specialdistrictlaw.com
Attn: MaryAnn McGeady

To Assignee: Town of Castle Rock
c/o Mark Marlowe, Director of Castle Rock Water
175 Kellogg Court
Castle Rock, Colorado 80109
Email: mmarlowe@crgov.com

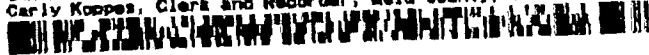
With a Copy To: Town of Castle Rock
c/o Bob Slentz, Town Attorney
100 Wilcox Street
Castle Rock, Colorado 80104
Phone: 303-830-2500
Email: bslantz@crgov.com

With a Copy To: Lyons Gaddis
c/o Madoline Wallace-Gross
363 Centennial Parkway, Suite 100
Louisville, Colorado 80027
Email: mwg@lyonsgaddis.com

To Keenesburg: Town of Keenesburg
P.O. Box 312
Keenesburg, Colorado 80543
Email: _____
Attn: Mayor Danny Kipp


With a Copy To: Paul G. Anderson, LLC
Attorney/Mediator
P.O. Box 50631
Colorado Springs, Colorado 80949-0631
719-510-9420
Email: pandllc@comcast.net

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service, upon electronic confirmation of email transmission, or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions

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04/03/2017 10:48 AM R Fee:\$168.00
Carly Koopes, Clerk and Recorder, Weld County, CO


(e) Non-Waiver. No waiver of any of the provisions of this Assignment shall be deemed to constitute a waiver of any other provision of this Assignment, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed to be a waiver of any subsequent default hereunder. Notwithstanding any provision to the contrary in this Assignment, no term or condition of this Assignment shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits or protection provided to Assignor under the Colorado Governmental Immunity Act.

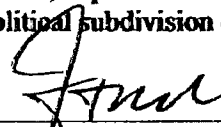
(f) Counterparts. This Assignment may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

4280585 Pages: 5 of 32
04/03/2017 10:48 AM R Fee:\$155.00
Carly Koppes, Clerk and Recorder, Weld County, CO


[SIGNATURE PAGE 1 OF 3]

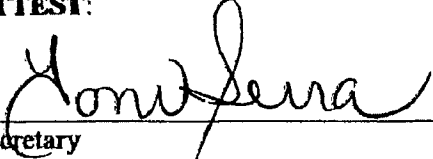
IN WITNESS WHEREOF, the Parties execute this Assignment on the date first set forth above.

**PIONEER METROPOLITAN DISTRICT
NO. 3**, a quasi-municipal corporation and
political subdivision of the State of Colorado

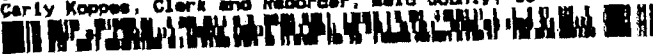


Joel Farkas, President

ATTEST:



Secretary

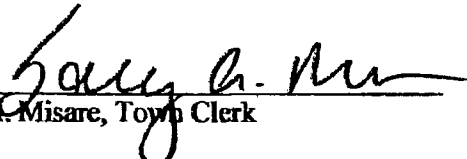
4290585 Pages: 6 of 32
04/03/2017 10:40 AM R Fee:\$188.00
Carly Koppes, Clerk and Recorder, Weld County, CO


[SIGNATURE PAGE 2 OF 3]

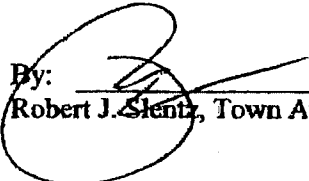
TOWN OF CASTLE ROCK, COLORADO, a
Colorado municipal corporation

By: 
Name: Jennifer Green, Mayor

ATTEST:

By: 
Sally A. Misare, Town Clerk

APPROVED AS TO FORM:

By: 
Robert J. Slentz, Town Attorney

4288585 Pages: 7 of 32
04/02/2017 10:40 AM R Fee: \$168.00
Carly Koppes, Clerk and Recorder, Weld County, CO
[Barcode]

[SIGNATURE PAGE 3 OF 3]



TOWN OF KEENESBURG, COLORADO, a
Colorado municipal corporation, acting by and
through its Water Activity Enterprise

By: *Danny Kipp*
Name: Danny Kipp, Mayor

ATTEST:

By: *Toni Pearl*
Toni Pearl, Town Clerk


4290585 Pages: 8 of 32
04/03/2017 10:45 AM R Fee:\$185.00
Carly Koppes, Clerk and Recorder, Weld County, CO


EXHIBIT A
AGREEMENT

4280385 Pages: 9 of 32
04/03/2017 10:48 AM R Fee: \$155.00
Carly Koppes, Clerk and Recorder, Weld County, CO
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3655655 06/21/2008 10:38A Weld County, CO
1 of 14 R 71.80 D 0.00 Steve Moroso Clerk & Recorder

AGREEMENT

THIS AGREEMENT is made and entered into as of the 17th day of April, 2008, by and between the TOWN OF KEENESBURG, COLORADO, acting by and through its Water Activity Enterprise, hereinafter called "Town," and PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a quasi-municipal corporation and political subdivision of the State of Colorado, hereinafter called "District."

RECITALS:

WHEREAS, on December 7, 2006 the Town and Resource Colorado Water and Sanitation Metropolitan District entered into a Letter of Agreement regarding the Keenesburg Well Water Transmission Line, described on the attached Exhibit A ("Water Line").

WHEREAS, Paragraph 4 of the December 7, 2006 Letter of Agreement outlined additional negotiations would occur as follows:

"4. The Town and the District further agree to enter into negotiations for compensation for benefits to the District and Town resulting from construction of the Keenesburg Well Water Transmission Line and the Access Point and the benefits to the District for use of line capacity water storage site and such easements as necessary to facilitate its use by the District."

WHEREAS, Resource Colorado Water and Sanitation Metropolitan District has assigned to the District all rights associated with Paragraph 4 of the December 7, 2006 Letter of Agreement.

WHEREAS, the District has established a Water Activity Enterprise in accordance with C.R.S. § 37-45.1-101 et seq. for the purpose of pursuing or continuing water activities.

WHEREAS, the Town and the District have agreed to terms and conditions for the Town and the District to share the use of the Water Line, and this Agreement specifies the terms and conditions.

THEREFORE, in consideration of the mutual promises and agreements specified in this Agreement, the parties agree as follows:

1. **Incorporation of Recitals.** The parties confirm and incorporate the foregoing recitals into this Agreement.
2. **Use of Water Line.** The Town has constructed the Water Line and the approximate route of the Water Line is depicted on the attached Exhibit A. The Water Line has an estimated design capacity of 1,200 gallons per minute ("gpm"). The Town shall have the sole and exclusive right to use up to 300 gpm of the Water Line capacity for transmission of water at any time. The District shall have the sole and exclusive perpetual right to use up to 900 gpm of the Water Line capacity for transmission of water at any time. In the event that at any time either the Town or the District is not using all or a portion of the

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04/03/2017 10:40 AM R Fee:\$155.00
Carly Koppes, Clerk and Recorder, Weld County, CO

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2 of 14 R 71.00 D 0.00 Steve Moreno Clerk & Recorder

capacity of the Water Line allocated to the party, the other party may use the portion of the capacity not currently being used by the other party. Each party shall pay all pumping costs and other power costs associated with the transmission of the party's water through the Water Line. The Town shall manage the Water Line to maximize, to the extent reasonably possible as determined appropriate in the Town's sole discretion, the utilization of the Water Line.

3. **Water Line Connection.** The District shall construct and maintain, at its sole cost, a pipeline to connect to the Water Line ("District Pipeline"). At such time as the District has determined the location that the District Pipeline will connect with the Water Line, the District shall provide proposed construction plans to the Town. Within twenty (20) days following the date the District provides the construction plans to the Town, the parties shall meet to review the construction plans and determine the dates that the construction of the connection between the District Pipeline and the Water Line will occur. The construction plans shall include a water meter designed to continuously record water flow at or near the point the District Pipeline connects to the Water Line. The parties shall cooperate in reviewing and approving the construction plan and determining the dates the construction will be completed.
4. **Interconnection.** The parties acknowledge and agree that the interconnection of the parties' water systems will facilitate the operation of each system. The District proposes to construct water storage facilities on property owned by the Town (as depicted on the attached Exhibit B), and the water delivered through the Water Line may be delivered to the water storage facilities. All water storage facilities constructed by the Town shall be the sole and separate property of the Town and shall be exclusively available for use by the Town, except as may be agreed to by a separate agreement. All water storage facilities constructed by the District shall be the sole and separate property of the District and shall be exclusively available for use by the District, except as may be agreed to by a separate agreement. The Town agrees to execute and deliver to the District the Easement Deed in the form of the attached Exhibit C.

5. Water Quality. The water delivered to and carried in the Water Line shall be untreated groundwater from the alluvium of the Lost Creek Designated Basin or from the Denver Basin Aquifers. At any time when both parties are using the Water Line for delivery of water, the concentration of any chemical or physical constituent in the water delivered by either party into the Water Line shall be from an approved water supply well and the water delivered shall not exceed the state or federal primary drinking water standards, as measured at the point of connection, as such regulations may be amended from time-to-time.

With regard to "secondary" state federal drinking water regulations, and in consideration of payments by the District to the Town, and in consideration that the District may not have the same blending sources available to the Town, the District may elect to replace water supplied by Town well 31652FP with water from a (CDPHE) approved well as long as the "secondary" chemical or physical constituents do not exceed those in Town well 31652FP. The District shall give annual notice to the Town of the District's desire and intent to replace water from the Town well 31652FP in the form of an annual operational agreement that addresses proposed routine and non-routine operations.

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Carly Koppes, Clerk and Recorder, Weld County, CO
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3 of 14 R 71.00 D 0.00 Steve Norans Clerk & Recorder

At any time when only one party is using the Water Line for delivery of water for a period in excess of 30-days, or as agreed to in writing, the water carried in the Water Line may exceed the limitations specified in the preceding paragraph(s), but the party using the Water Line shall provide notice to the other party of the extent the conditions specified in the immediately preceding paragraph(s) are exceeded.

6.Payments. On or before May 25, 2008, and each 25th of May for the following 29 years, the District shall pay to the Town an amount equal to \$50,478.86. The final payment for the Water Line capacity shall be made by the District on May 25, 2037. To the extent either party uses capacity of the Water Line in excess of the capacity allocated to the party in compliance with the terms of this Agreement, no additional compensation shall be paid to the other party.

7.Repair and Maintenance. The Water Line will require repair and maintenance over time, and the Town shall (i) conduct periodic inspection of the Water Line to assess repair and maintenance requirements, and (ii) inspect, maintain and repair the Water Line in accordance with standard utility practices for water providers in Colorado. In the event of a break or leak in the Water Line that requires an immediate repair, the Town shall repair the break or leak in the Water Line. With respect to all other repair and maintenance of the Water Line, including, but not limited to, all underground and surface facilities related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains and conduits, valves, and vaults, and including any necessary replacement of the Water Line or any portion of the Water Line, the parties shall meet at least annually to agree on a written repair and maintenance schedule. In the event the parties cannot agree on a repair and maintenance schedule, the Town shall undertake such repairs and maintenance as it deems necessary for the proper and efficient operation of the Water Line, and the District shall nonetheless be obligated to pay its Seventy-five Percent (75%) share as outlined below. Unless the parties agree otherwise in writing, the Town shall be primarily responsible for the completion of the repairs and maintenance of the Water Line agreed to by the parties. The Town shall contract for all repairs and maintenance, and upon receipt of invoices shall forward copies of the same to the District. Within thirty (30) days after receipt of each invoice from the Town, the District shall pay Seventy-five Percent (75%) of the amount of the invoice or shall provide written objections to any charges in the invoice.

8.Water Trades and Sales. From time-to-time either the District or the Town may have water available and useable by the other party, and the District or the Town may, in their sole discretion, determine to make the water available to the other party. In the event either party determines that the party has water available to trade or sell, the party may provide notice to the other party. If the parties mutually agree to the trade or sale, the parties shall have a separate confirmation of the terms of the trade or sale.

9.No Additional Encumbrances. Neither party shall place any encumbrances on the Water Line or allow any liens, or encumbrances to be placed on the Water Line, except for the lien of the Colorado Water Conservation Board. In the event a lien or other encumbrance is placed on the Water Line, the party responsible for the lien or other encumbrance shall immediately remove the lien or other encumbrance.

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04/03/2017 10:40 AM R Fee: \$168.00
Carly Koppes, Clerk and Recorder, Weld County, CO
3656665 05/21/2008 10:09A Weld County, CO
4 of 14 R 71.00 D 0.00 Steve Moreno Clerk & Recorder

3656665 05/21/2008 10:09A Weld County, CO
4 of 14 R 71.00 D 0.00 Steve Moreno Clerk & Recorder

10. Duplicate Counterparts; Authority. This Agreement may be executed in counterparts, each of which shall be deemed an original but which collectively shall be considered one Agreement. Each party represents that each has the right and authority to enter into this Agreement, and that any necessary board or council resolutions have been adopted.

11. Notices. Whenever any notice, demand, or request is required or provided for under this Agreement, such notice, demand, or request shall be provided in writing or by facsimile to the following addresses or such other addresses as may be designated by a party by notice. Notice shall be deemed received when: (1) personally delivered; or (2) when transmitted by facsimile; or (3) three (3) days after having been deposited in a U. S. Postal Service depository to be sent by registered or certified mail, return receipt requested, with all required postage prepaid; or (4) one (1) business day after having been sent by overnight courier:

To District: Pioneer Regional Metropolitan District
141 Union Bld. #150
Lakewood, Colorado 80228

Copy to: Christopher Paulson, President
4643 S. Ulster St., Suite 1300
Denver, Colorado 80237
Facsimile: (303) 740-8657

And copy to: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Facsimile: (303) 592-4385

To Keenesburg: Town of Keenesburg
Attn: Mayor
P. O. Box 312
Keenesburg, CO 80643
Facsimile: (303) 732-0599

Copy to: Paul G. Anderson
P. O. Box 50631
Colorado Springs, CO 80949

And copy to: Light, Harrington & Dawes, P.C.
1512 Larimer St., #300
Denver, CO 80202
Facsimile: (303) 298-1627

12. Time is of the Essence. Time is of the essence with respect to each and every aspect of this Agreement, and strict compliance with all time requirements is at the heart of this Agreement and shall be strictly enforced.

4280585 Pages: 13 of 32
04/03/2017 10:40 AM R Fee:\$188.00
Carly Koppes, Clerk and Recorder, Weld County, CO

3655555 05/21/2008 10:00A Weld County, CO
5 of 14 R 71.00 D 0.00 Steve Morano Clerk & Recorder:

13.No Third-Party Beneficiary. This Agreement is entered into between the parties for the purposes set forth herein. No other person or entity is a beneficiary of this Agreement, nor shall any other person or entity be considered as a beneficiary, third party or otherwise, of this Agreement.

14.Default. The failure of a party to this Agreement to perform or observe of any of the covenants, terms, or conditions of this Agreement shall be subject to the following terms and conditions.

- a. Any default that creates, or may create, a threat to public health, safety, or welfare shall be addressed immediately by the defaulting party with appropriate corrective measures. As to any other default, a party who claims that another party has failed to perform as required by this Agreement shall provide written notice to the other party setting forth the specific failure complained of and shall provide that party a minimum of thirty (30) days within which to cure or within which to agree with the complaining party on a plan to cure the default. If the defaulting party does not cure within the time allowed, it shall be deemed to constitute an Event of Default.
- b. Upon the occurrence of an Event of Default, the non-defaulting party will have the right to enforce its rights under this Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this agreement; provided, however, if the Event of Default is the District's failure to make any payment of money, the Town shall have the additional remedy of terminating the District's use of the Water Line by whatever means the Town finds necessary and appropriate, until such time as the payment is made by the District. Except as otherwise provided for herein, all rights and remedies of the parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy.
- c. The failure of a party to insist, on one or more occasions, upon the strict observation of any of the terms of this Agreement shall not be construed as a waiver or relinquishment in any future occasion of any of the terms of this Agreement.
- d. In the event of litigation arising out of this Agreement, the prevailing party shall be entitled to all reasonable costs and expenses regarding such litigation, including, but not limited to, attorney fees.

15.Entire Agreement; Modifications. The making, execution and delivery of this Agreement by the Parties has not been induced by any representations, statements, warranties or agreements other than those expressed in this Agreement. This Agreement constitutes the

4290585 Pages: 14 of 32
04/03/2017 10:40 AM R Fee:\$188.00
Carly Koppes, Clerk and Recorder, Weld County, CO

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8 of 14 R 71.00 D 0.00 Steve Marcia Clark & Recorder

entire understanding between the Parties, and all prior negotiations, agreements and understandings, written or oral, concerning the subject matter of this Agreement are considered superseded and merged herein. Modification of this Agreement by the Parties may be made only by a writing signed by the Party or Parties to be bound by the modification.

16.No Limitation on Sale or Agreements. By entering into this Agreement, neither the District nor the Town shall be limited or restricted from entering into other agreements or transactions for sale or lease of other water rights.

17.Assignment and Delegation. District may assign all rights and obligations under the terms of this Agreement to a Water Activity Enterprise operated by Resource and notice of such assignment shall be provided to the Town; provided, however, that any purported assignment by District before such time as Resource has established a Water Activity Enterprise shall be void. Upon a valid assignment of all rights and obligations under this Agreement from District to a Water Activity Enterprise operated by Resource, District shall be relieved of all obligations and shall have no rights pursuant to this Agreement and shall no longer be considered a party hereto. All other assignments of this Agreement and the rights and obligations pursuant to this Agreement shall be subject to notice to other parties and consent of the other parties, which consent shall not be unreasonably withheld.

18.Controlling Law and Venue. This Agreement shall be governed under and controlled pursuant to the laws of the State of Colorado, and the venue for any disputes hereunder shall be in the District Court, Weld County, State of Colorado.

19.Effective Date of Agreement. This Agreement shall be effective on the last date it is signed by all the parties.

20.Recording. This Agreement shall be recorded at the office of the Weld County Clerk and Recorder.

20.Term The term of this Agreement shall be perpetual, unless terminated by mutual agreement of the parties.

IN WITNESS HEREOF, the parties execute this Agreement effective as of the date set forth above.

TOWN OF KEENESBURG, COLORADO, a Colorado municipal corporation,
acting by and through its Water Activity Enterprise

By Mark D. Gray Date: 4-17-08
Mark D. Gray, Mayor

ATTEST:

Debra L. Chumley Date: 4-17-08
Debra L. Chumley, Town Clerk

4290585 Pages: 15 of 32
04/03/2017 10:49 AM R Fee:\$185.00
Carly Koppes, Clerk and Recorder, Weld County, CO
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7 of 14 R 71.00 D 0.00 Steve Merand Clerk & Recorder

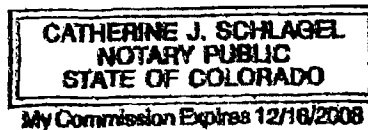
STATE OF COLORADO)
)ss.
COUNTY OF Weld)

The foregoing instrument was acknowledged before me this 17 day of April, 2008, by Mark D. Gray, as Mayor and by Debra L. Chumley, as Town Clerk of the Town of Keenesburg, Colorado, a Colorado municipal corporation, acting by and through its Water Activity Enterprise.

WITNESS my hand and official seal.

My commission expires: 12-16-2008

Catherine J. Schlager
Notary Public



4290585 Pages: 15 of 32
04/03/2017 10:49 AM R Fee: \$165.00
Carly Koppes, Clerk and Recorder, Weld County, CO
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355655 05/21/2008 18:09A Weld County, CO
8 of 14 R 71.00 D 0.00 Steve Moreno Clerk & Recorder

PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a
quasi-municipal corporation and political subdivision of the State of Colorado.

By: [Signature]

Date: 4-17-08

Name: CHRIS PAULSON

Title: President

Attest: [Signature]

Date: 4-17-08

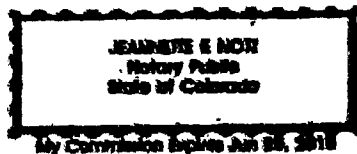
Title: Assistant Secretary

STATE OF COLORADO)
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 17th day of April,
2008, by Chris Paulson, as President and by Joni Serra, as Assistant
Secretary of Pioneer Regional Metropolitan District Water Activity Enterprise, a quasi-municipal
corporation and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

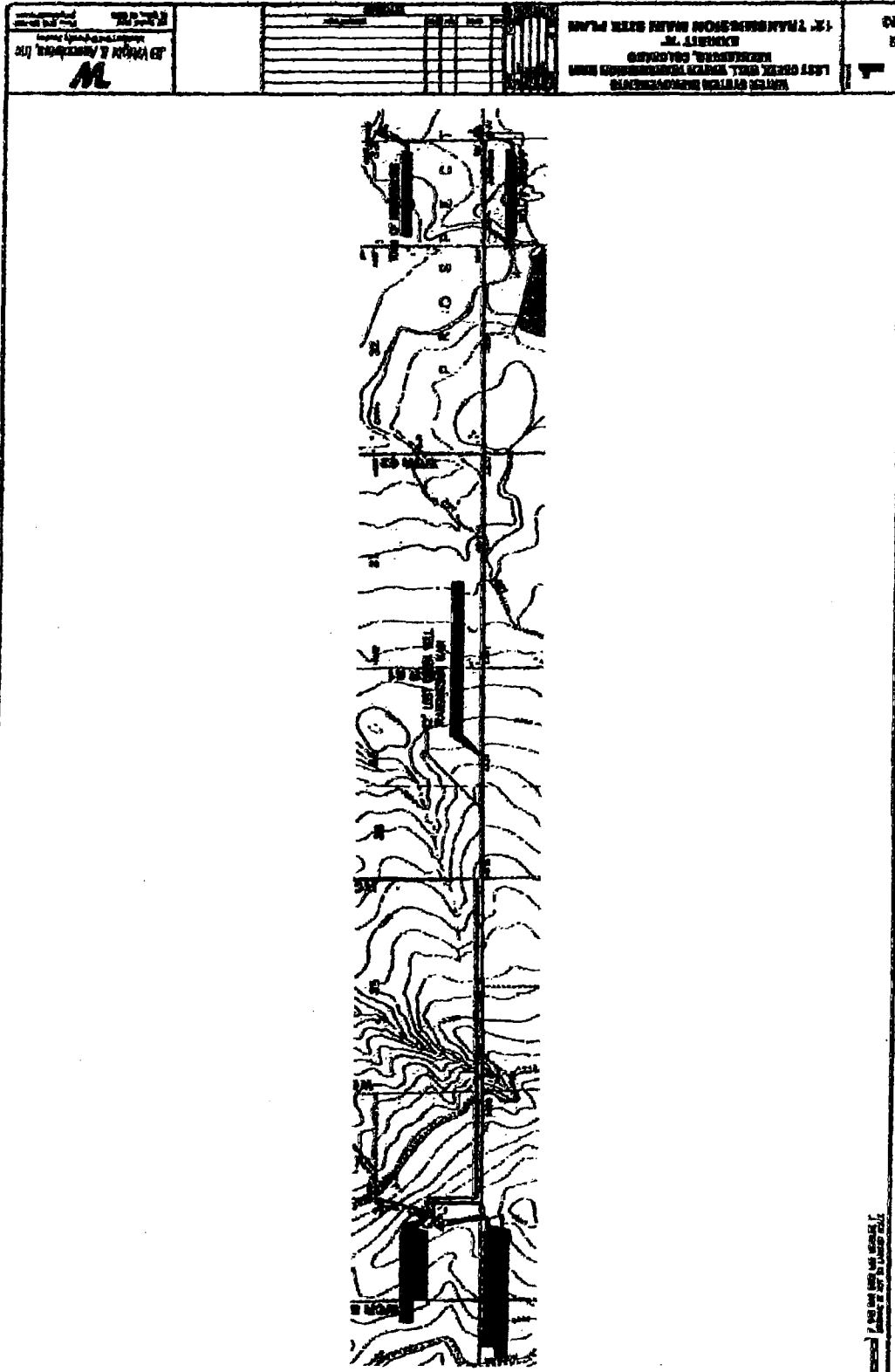
My commission expires: June 25, 2010



[Signature]

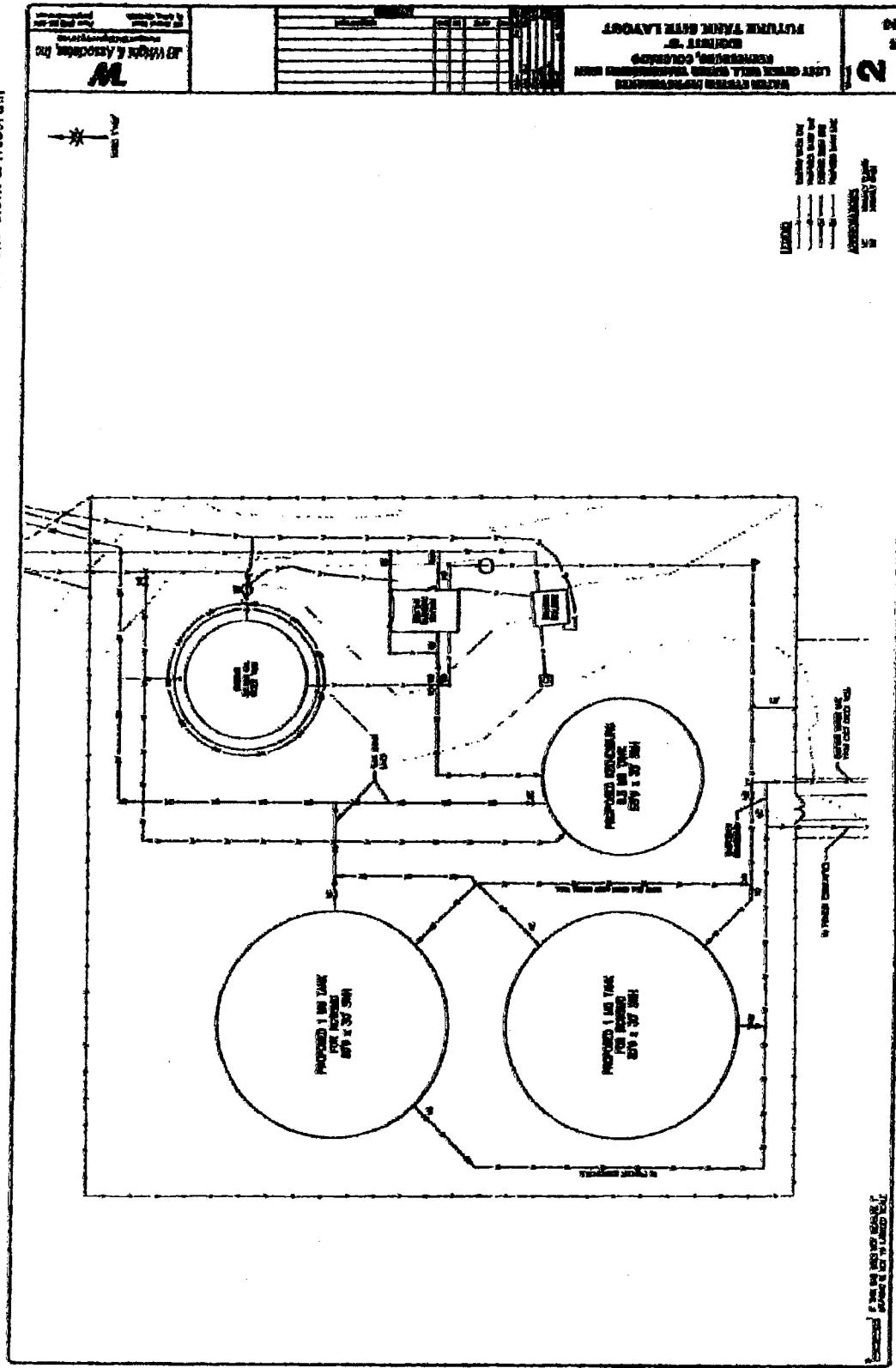
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4298585 Pages: 19 of 32
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Carly Koppas, Clerk and Recorder, Weld County, CO
[REDACTED]

Apr 17 08 04:06p Town Of Keer .rg

EXHIBIT C

EASEMENT DEED

(Tank Site)

THIS BASEMENT DEED is made and entered into as of the 17th day of April, 2008, by and between the TOWN OF KEENESBURG, COLORADO, acting by and through its Water Activity Enterprise, hereinafter called "Grantor," and PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a quasi-municipal corporation and political subdivision of the State of Colorado, hereinafter called "Grantee," whose address is 141 Union Blvd. #150, Lakewood, CO 80228.

WITNESSETH:

For good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, an easement for the non-exclusive and permanent right to enter, re-enter, occupy and use the hereinafter described Property to construct, maintain, repair, replace, remove, enlarge and operate water storage facilities, tanks, water pipelines and all underground and surface appurtenances related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains and conduits, valves, vaults, well housings ("Facilities"), access to, ingress and egress from the property with vehicles of any type or description and the like in, through, over and across the following described parcel of land situated, lying and being in the County of Weld and State of Colorado, to wit:

Property described in Exhibit A, attached hereto and made a part hereof as if fully set forth herein.

IT IS HEREBY MUTUALLY covenanted and agreed by and between the parties hereto as follows:

With respect to easements on the Property described in Exhibit A that are used for access, ingress and egress, the Grantee shall have and exercise the right of access, ingress and egress in, to, over, through and across the Property described in Exhibit A for the full use of the easement provided for herein.

With respect to easements on the Property described in Exhibit A that are used to construct, maintain, repair, replace, remove, enlarge and operate water storage tanks and facilities, Grantee may construct permanent water storage tanks on the surface of the easement, and may fence the easement and the Grantee shall have the exclusive use of the portion of the easement comprising the permanent water storage tanks and facilities, and fenced area.

With respect to easements on the Property described in Exhibit A, that are used for water pipelines and all underground and surface facilities related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains

[REDACTED]

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and conduits, valves, Grantee shall bury such structures at a depth of not less than four and one-half (4.5) feet (where practicable and allowed by the applicable utility provider) and shall not fence that portion of the easement that includes the pipeline.

Grantee shall have and exercise the right of subjacent and lateral support for the full and complete use of the easement. It is specifically agreed between the parties that the Grantor shall not knowingly take any action which would impair the earth cover over, or the lateral or subjacent support for, any water line or related Facilities within the easement, provided, however that upon obtaining the specific written permission of Grantee, the earth cover over any pipeline or lines may be modified; except that permission normally will not be granted for modification involving cover of less than four and one-half (4.5) feet, nor greater than ten (10) feet measured vertically from the top of any lines or Facilities.

After construction, repair, replacement or enlargement of any lines or Facilities within the easement, the general surface of the ground shall be restored as nearly as reasonably can be done given the existence of these lines or Facilities to the grade and condition it was in immediately prior to construction. Topsoil shall be replaced in cultivated and agricultural areas, and any excess earth resulting from installation by Grantee shall be removed from the easement at the expense of Grantee. Grantee agrees that for a period of one year following construction that involves disturbance of the surface of the ground, Grantee shall maintain the surface elevation by correcting any settling or subsiding that may occur as a result of the work done by Grantee within the easement.

Grantor retains the right to the use and occupancy of the Property insofar as such use and occupancy is consistent with and does not unreasonably impair Grantee's use of the easement. Grantor agrees, however, that no such use or occupancy (whether for the installation of Grantor's facilities or otherwise) shall have the effect of unreasonably limiting Grantee's use of the Property for its constructed or proposed water storage tanks, facilities or related Facilities.

It is mutually agreed by and between the parties hereto that Grantee may commence the exercise of its rights to the use of the easement forthwith, or it may postpone the exercise of all or some part of its rights hereunder to some future time.

Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, successors and assigns of the parties hereto. In the event any party hereto or its successor or assign seeks to enforce its rights hereunder through litigation, arbitration or other administrative proceeding, the non-prevailing party shall be required to pay to the prevailing party as part of any judgment, order, or award reasonable attorney fees and costs.

To the extent not limited herein, the Grantor reserves the right to grant further easement interests in the Property to other utilities and grantees provided that such further easement interests shall not unreasonably interfere with or impair the easement granted herein.

Unless special provisions are attached hereto, the above and foregoing constitute the whole agreement between the parties and no additional or different oral representation; promise

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Carly Koppas, Clerk and Recorder, Weld County, CO

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or agreement shall be binding on any of the parties hereto, with respect to the subject matter of this Agreement.

Grantor warrants the title to the easements against all persons claiming under the Grantor.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

TOWN OF KEENESBURG, COLORADO,
acting by and through its Water Activity
Enterprise

By:

Mark D. Gray
Mark/D. Gray, Mayor

ATTEST:

Debra L. Chumley
Debra L. Chumley, Town Clerk

STATE OF COLORADO

COUNTY OF WELD

)
) ss.
)

The foregoing instrument was acknowledged before me this 17 day of April, 2008, by Mark D. Gray as Mayor and by Debra L. Chumley as Town Clerk, of the TOWN OF KEENESBURG, acting by and through its Water Activity Enterprise.

Witness my hand and official seal.

My commission expires: 12-16-2008

Catherine J. Schlagel
Notary Public

CATHERINE J. SCHLAGEL
NOTARY PUBLIC
STATE OF COLORADO

My Commission Expires 12/16/2008

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Carly Koppes, Clerk and Recorder, Weld County, CO

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EXHIBIT A

Tanks Site Legal Description Reception No. 1783436 as recorded in Book 861

That portion of the Southwest Quarter of Section 34, Township 2 North, Range 64 West of the 6th Principal Meridian, County of Weld, State of Colorado being more particularly described as follows:

Considering the North line of the Northeast Quarter of said Section 34 as bearing North 89° 39' 55" East and with all bearings contained herein relative thereto. Beginning at the North One Quarter corner of said Section 34; thence along the North - South centerline of said Section 34 South 00° 31' 37" East 2616.78 feet to the center of said Section 34;

thence South 13° 35' 06" West 1441.12 feet to the True Point of Beginning;
thence South 00° 27' 15" East 250 feet;
thence South 89° 32' 45" West 250 feet;
thence North 00° 27' 15" West 250 feet;
thence North 89° 32' 45" East 250 feet to the True Point of Beginning;

The above described parcel contains 1.43 Acres more or less.

3945481 Pages: 1 of 10
05/14/2012 02:06 PM R Fee: \$55.00
Steve Moreno, Clerk and Recorder, Weld County, CO
WELD COUNTY CLERK AND RECORDER

FIRST AMENDMENT TO AND ASSIGNMENT OF AGREEMENT

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into as of the 1st day of May, 2012, by and between the TOWN OF KEENESBURG, COLORADO, acting by and through its Water Activity Enterprise, hereinafter called "Town," PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a quasi-municipal corporation and political subdivision of the State of Colorado, hereinafter called "Assignor" or "Pioneer Regional," and PIONEER METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado ("Assignee" and/or "Pioneer 3").

RECITALS:

WHEREAS, the Town and Pioneer Regional entered into an Agreement dated April 17, 2008 for the purpose of sharing the use of a Water Line constructed by the Town, which Agreement was recorded with the Weld County Clerk and Recorder on May 21, 2008 at Reception No. 3555656; and

WHEREAS, market conditions have caused the development anticipated by Pioneer Regional to be delayed, and Pioneer Regional's anticipated funding for its obligations under the Agreement has not materialized; and

WHEREAS, Pioneer Regional has requested the Town temporarily suspend its payment obligations under the Agreement, in order to procure alternate funding; and

WHEREAS, the Town and Pioneer Regional additionally desire to revise the use of the Water Line, including their respective share of the capacity, as set forth herein; and

WHEREAS, Pioneer 3 has entered into a Facilities Funding, Construction, and Operations Agreement ("FFCO") with Pioneer Metropolitan District Nos. 2, 4 and 5 for the purpose of funding the construction, operations and maintenance of improvements, including the pipeline that is the subject of the Agreement; and

WHEREAS, Pioneer Regional desires to assign to Pioneer 3 all of Pioneer Regional's rights and obligations in and to the Agreement, as amended hereby; and

WHEREAS, Paragraph 17 of the Agreement requires Pioneer Regional to obtain the Town's consent to such an assignment; and

WHEREAS, the Town hereby grants its consent to such assignment by Pioneer Regional to Pioneer 3, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and agreements specified in this Agreement, the parties agree as follows:

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Carly Keene, Clerk and Recorder, Weld County, CO
WELD COUNTY CLERK AND RECORDER

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05/14/2012 02:06 PM R Fee: \$56.00
Steve Moreno, Clerk and Recorder, Weld County, CO

Section 1. The parties confirm and incorporate the foregoing recitals into this Agreement.

Section 2. Paragraph 2 of the Agreement between the Town of Keenesburg, Colorado and the Pioneer Regional Metropolitan District Water Activity Enterprise dated April 17, 2008 (the "Agreement") is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

2. **Use of Water Line.** The Town has constructed the Water Line and the approximate route of the Water Line is depicted on the attached Exhibit A. The Water Line has an estimated design capacity of 1,200 gallons per minute ("gpm"). The Town shall have the sole and exclusive right to use up to ~~300~~ 400 gpm of the Water Line capacity for transmission of water at any time. The District shall have the sole and exclusive perpetual right to use up to ~~900~~ 800 gpm of the Water Line capacity for transmission of water at any time. In the event that at any time either the Town or the District is not using all or a portion of the capacity of the Water Line allocated to the party, the other party may use the portion of the capacity not currently being used by the other party. Each party shall pay all pumping costs and other power costs associated with the transmission of the party's water through the Water Line. The Town shall manage the Water Line to maximize, to the extent reasonably possible as determined appropriate in the Town's sole discretion, the utilization of the Water Line.

Section 3. Paragraph 5 of the Agreement is hereby deleted in its entirety and replaced as follows:

5. **Water Quality.** The water delivered to and carried in the Water Line may be treated groundwater from the alluvium of the Lost Creek Designated Basin or from Denver Basin Aquifers, or from any other water supply well approved by the parties in writing. The water delivered shall not exceed the state or federal primary drinking water standards, as such regulations may be amended from time to time, as measured at the point of connection.

With regard to "secondary" state federal drinking water regulations, and in consideration of payments by the District to the Town, and in consideration that the District may not have the same blending sources available to the Town, the District may elect to replace water supplied by Town well 31652FP with water from a (CDPHE) approved well as long as the "secondary" chemical or physical constituents do not exceed those in Town well 31652FP. The District shall give annual notice to the Town of the District's desire and intent to replace water from the Town well 31652FP in the form of an annual operational agreement that address proposed routine and non-routine operations.

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Carly Kopas, Clerk and Recorder, Weld County, CO

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Steve Norano, Clerk and Recorder, Weld County, CO

At any time when only one party is using the Water Line for delivery of water for a period in excess of 30-days, or as agreed to in writing, the water carried in the Water Line may exceed the limitations specified in the preceding paragraph(s), but the party using the Water Line shall provide notice to the other party of the extent the conditions specified in the immediately preceding paragraph(s) are exceeded.

At such time as the District desires to connect to the Water Line, and as a condition to the District's connection to the Water Line, the District, at its sole cost and expense, shall install a functioning chlorination mechanism for use by the Town (the "Chlorination Mechanism"). The Chlorination Mechanism shall be located off the main water line and at a location mutually agreeable to the parties (the "Chlorination Location"). The Town agrees that it shall provide access to the District to the Chlorination Location through an easement or license agreement. The Chlorination Mechanism shall be constructed in accordance with plans and specifications acceptable to the parties.

Section 4. Paragraph 6 of the Agreement is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

6. **Payments.** On or before May 25, 2008, and each 25th of May for the following ~~29~~ years, the District shall pay to the Town an amount equal to \$63,098.58 ~~\$50,478.86~~:

2008-2010 (paid)
2013-2032

No payment shall be due from the District in years 2011 or 2012, and the~~The~~ final payment for the Water Line capacity shall be made by the District on May 25, ~~2037~~ 2032. To the extent either party uses capacity of the Water Line in excess of the capacity allocated to the party in compliance with the terms of this Agreement, no additional compensation shall be paid to the other party.

Section 5. The Agreement is hereby amended by the addition of a new Paragraph 6.5 to read as follows:

- 6.5 District Budgeting for Payments.** The District shall provide copies to the Town of the preliminary budget documents submitted to it pursuant to Section 8.1 of the FFCO within fifteen (15) days after receiving the same from District Nos. 2, 4 and 5, and in no event later than September 30th of each year. If the Final Budget adopted by Pioneer 3 and District Nos. 2, 4 and 5 pursuant to Section 8.2 of the FFCO do not contain payment to the Town of the full amount due in the upcoming budget year, the District shall notify the Town

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05/14/2012 02:06 PM R Fee:\$55.00
Steve Moreno, Clerk and Recorder, Weld County, CO

immediately, and in no event later than November 15th of that Planning Year
(as that term is used in the FFCO).

Section 6. Paragraph 7 of the Agreement is hereby revised to read as follows (text to
be added underlined; text to be deleted ~~stricken~~):

7. **Repair and Maintenance.** The Water Line will require repair and maintenance over time, and the Town shall (i) conduct periodic inspection of the Water Line to assess repair and maintenance requirements, and (ii) inspect, maintain and repair the Water Line in accordance with standard utility practices for water providers in Colorado. In the event of a break or leak in the Water Line that requires an immediate repair, the Town shall repair the break or leak in the Water Line. With respect to all other repair and maintenance of the Water Line, including, but not limited to, all underground and surface facilities related thereto, including by example, but not by way of limitation, the following: electric or other control systems, underground cables, wires, equipment used in the delivery of water, connections, mains and conduits, valves, and vaults, and including any necessary replacement of the Water Line or any portion of the Water Line, the parties shall meet at least annually to agree on a written repair and maintenance schedule. In the event the parties cannot agree on a repair and maintenance schedule, the Town shall undertake such repairs and maintenance as it deems necessary for the proper and efficient operation of the Water Line, and the District shall nonetheless be obligated to pay its ~~Seventy-five Percent (75%)~~ Sixty-seven Percent (67%) share as outlined below. Unless the parties agree otherwise in writing, the Town shall be primarily responsible for the completion of the repairs and maintenance of the Water Line agreed to by the parties. The Town shall contract for all repairs and maintenance, and upon receipt of invoices shall forward copies of the same to the District. Within thirty (30) days after receipt of each invoice from the Town, the District shall pay ~~Seventy-five Percent (75%)~~ Sixty-seven Percent (67%) of the amount of the invoice or shall provide written objections to any charges in the invoice.

Section 7. The addresses for notice set forth in Paragraph 11 of the Agreement are hereby designated as follows:

To Pioneer Regional: Pioneer Regional Metropolitan District
141 Union Bld. #150
Lakewood, Colorado 80228

Copy to: Pioneer Regional Metropolitan District
Joel H. Farkas, President
9033 E. Easter Place, Suite 112
Centennial, Colorado 80112
Facsimile: (303) 987-2032

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04/03/2017 10:40 AM R Fee:\$100.00
Garly Koppas, Clerk and Recorder, Weld County, CO

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Steve Moreno, Clerk and Recorder, Weld County, CO
[Barcode]

And copy to: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Facsimile: (303) 592-4385

To Pioneer 3: Pioneer Metropolitan District No. 3
141 Union Boulevard, Suite 150
Lakewood, CO 80228
Facsimile: (303) 987-2032

Copy to: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Facsimile: (303) 592-4385

To Town: Town of Keenesburg
Attn: Mayor
P. O. Box 312
Keenesburg, CO 80643
Facsimile: (303) 732-0599

Copy to: Paul G. Anderson
P. O. Box 50631
Colorado Springs, CO 80949

And copy to: Light, Kelly & Dawes, P.C.
1512 Larimer St., #300
Denver, CO 80202
Facsimile: (303) 298-1627

Section 8. Paragraph 14.b of the Agreement is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

14. Default. The failure of a party to this Agreement to perform or observe of any of the covenants, terms, or conditions of this Agreement shall be subject to the following terms and conditions. In addition to the foregoing, it shall also be an event of default hereunder subject to the terms and conditions below if any one of Pioneer Metropolitan Districts Nos. 2 through 5 exclude any property from its boundaries without the simultaneous inclusion of such property into one of the other Pioneer Metropolitan Districts Nos. 2 through 5, or if any one of Pioneer Metropolitan Districts Nos. 2 through 5 terminate the FFCO in whole or in part while the obligations to make payment under this Agreement are outstanding.

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05/14/2012 02:06 PM R Fee: \$58.00
Steve Morano, Clerk and Recorder, Weld County, CO

- b. Upon the occurrence of an Event of Default, the non-defaulting party will have the right to enforce its rights under this Agreement and any applicable law by such suit, action, or special proceedings as the party deems appropriate including, without limitation, specific performance of any covenant in this agreement; provided, however, if the Event of Default is the District's failure to make any payment of money, the Town shall have the additional remedy of terminating this Agreement and disconnecting or discontinuing the District's use of the Water Line by whatever means the Town finds necessary and appropriate, until such time as the payment is made by the District. Except as otherwise provided for herein, all rights and remedies of the parties may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other rights or remedy. Upon termination of this Agreement by the Town for nonpayment by the District, the District shall retain no rights in or to the Water Line.

Section 9. Pursuant to Paragraph 17 of the Agreement:

- a. **Assignment.** Pioneer Regional hereby sells, assigns, conveys, transfers and grants to Pioneer 3 all of Pioneer Regional's right, title and interest in, to and under the Agreement.
- b. **Assumption.** Pioneer 3 hereby accepts all of Pioneer Regional's right, title and interest in, to and under the Agreement as of the effective date of this assignment. Pioneer 3 hereby ratifies the Agreement, as amended hereby, agrees to be bound by the Agreement, and assumes all of the duties, obligations and liabilities of Pioneer Regional accruing from and after the date hereof under and with respect to the Agreement.
- c. **Release of Pioneer Regional.** Town hereby consents to the assignment, and upon full execution of this First Amendment to and Assignment of Agreement, Pioneer Regional shall be released from any further liability, and Pioneer 3 shall be considered "the District" as that term is used in the Agreement.

Section 10. Paragraph 20 of the Agreement is hereby revised to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

20. **Term** The term of this Agreement shall be perpetual, unless terminated by the Town pursuant to Section 14.b or otherwise by mutual agreement of the parties.

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05/14/2012 02:05 PM R Fee: \$56.00
Steve Moreno, Clerk and Recorder, Weld County, CO

Section 11. Pioneer Regional and Pioneer 3 (each a "Covenanting District") hereby make the following warranties and representations to the Town, on which warranties and representations the Town is relying in the execution of this First Amendment to and Assignment of Agreement (the "First Amendment"):

- a. There is no action, suit, inquiry, investigation, or proceeding to which the Covenanting District is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official that is pending or, to the best knowledge of the Covenanting District, threatened, in connection with any of the transactions contemplated by this First Amendment, the FFCO, or any other agreement related thereto that has been executed to finance or pay for, in whole or in part, operation or maintenance of the pipeline that is the subject of the Agreement, nor, to the best knowledge of the Covenanting District, is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have material adverse effect on the validity or enforceability of, or the authority or ability of the Covenanting District to perform its obligations under, the Agreement as amended by this First Amendment, or the FFCO.
- b. The Agreement, as amended by this First Assignment, constitutes a legal, valid, and binding obligation of the Covenanting District, enforceable against the District in accordance with its terms.
- c. Pioneer 3 will take all actions necessary under the FFCO and any other agreements with District Nos. 1-2 and 4-6 and Pioneer Regional to ensure payments will be made to the Town when due as contemplated in the Agreement, as amended by this First Amendment.

Section 12. Paragraph 16 of the Agreement is hereby amended to read as follows (text to be added underlined; text to be deleted ~~stricken~~):

16. No Limitation on Sale or Agreements. By entering into this Agreement, neither the District nor the Town shall be limited or restricted from entering into other agreements or transactions for sale or lease of other water rights, including water line capacity. In addition, by entering into this Agreement, neither the District nor the Town shall be limited or restricted from entering into a sale (provided that it is not of all of the capacity granted to said party) or lease of capacity in the Water Line. No partial sale or lease of such party's capacity in the Water Line shall operate to relieve such party of any obligations hereunder and any such party utilizing capacity must be bound by all the terms and conditions of this Agreement. Further, any third party shall coordinate and deal solely with the party from whom it is acquiring capacity and shall not have any rights to deal with the other party to this Agreement directly. Any party selling or leasing capacity in the Water Line shall be solely responsible for all actions and inactions of the party to whom it is selling or leasing capacity and such party shall give

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05/14/2012 02:06 PM R Fee: \$56.00
Steve Moreno, Clerk and Recorder, Weld County, CO

prior written notice to the other party prior to the use of any capacity in the Water Line by a third-party.

IN WITNESS HEREOF, the parties execute this First Amendment to Agreement effective as of the date set forth above.

TOWN OF KEENESBURG, COLORADO, a Colorado municipal corporation,
acting by and through its Water Activity Enterprise

By Danny Kipp
Danny Kipp, Mayor

Date: 5/10/12

ATTEST:

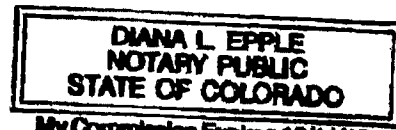
Debra L. Chumley
Debra L. Chumley, Town Clerk

Date: 5/10/12

STATE OF COLORADO)
COUNTY OF Weld)ss.

The foregoing instrument was acknowledged before me this 10 day of May, 2012, by Danny Kip as Mayor and by Debra L. Chumley as Town Clerk of the Town of Keenesburg, Colorado, a Colorado municipal corporation, acting by and through its Water Activity Enterprise.

WITNESS my hand and official seal.



My commission expires; 10/11/15

Diana L. Epple
Notary Public

3845481 Pages: 9 of 18
05/14/2012 02:06 PM R Fee:\$56.00
Steve Moreno, Clerk and Recorder, Weld County, CO

PIONEER REGIONAL METROPOLITAN DISTRICT WATER ACTIVITY ENTERPRISE, a
quasi-municipal corporation and political subdivision of the State of Colorado.

By: [Signature]

Date: May 1, 2012

Name: Joel H. Farkas

Title: President

Attest: [Signature]

Date: 5-1-12

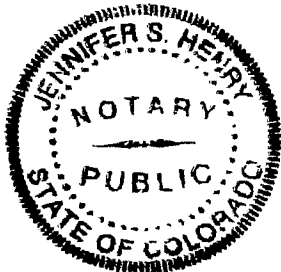
Title: Secretary

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 1st day of May,
2012, by Joel H. Farkas, as President and by Toni Serra, as Secretary of Pioneer Regional
Metropolitan District Water Activity Enterprise, a quasi-municipal corporation and political
subdivision of the State of Colorado.

WITNESS my hand and official seal.

My commission expires; 8/22/2015



[Signature]

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05/14/2012 02:06 PM R Fee:\$56.00
Steve Norano, Clerk and Recorder, Weld County, CO

PIONEER METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado.

By: [Signature]

Date: May 1, 2012

Name: Joel H. Farkas

Title: President

Attest: [Signature]

Date: 5/1/12

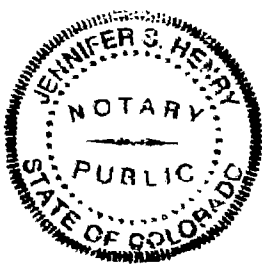
Title: Assistant Secretary

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 1st day of May, 2012, by Joel H. Farkas, as President and by Jean Gold, as Assistant Secretary of Pioneer Metropolitan District No. 3, a quasi-municipal corporation and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

My commission expires: 8/22/2015



[Signature: Jennifer S. Henry]

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04/03/2017 10:40 AM R Fee:\$108.00
Carly Kopas, Clerk and Recorder, Weld County, CO