

FIRST AMENDED CONTRACT FOR PURCHASE AND SALE OF WATER RIGHTS

This First Amended Contract for Purchase and Sale of Water Rights ("Amendment") is made this 9th of February, 2017 between **PV, LLC**, a Colorado limited liability company, ("**Seller**") whose address is 9033 E. Easter Place, Suite 112, Centennial, CO 80112, and the **TOWN OF CASTLE ROCK BY AND THROUGH THE TOWN OF CASTLE ROCK WATER ENTERPRISE** ("**Buyer**") whose address is 100 N. Wilcox Street, Castle Rock, CO 80104.

WHEREAS, Buyer and Seller entered into that certain Contract for Purchase and Sale of Water Rights dated October 14, 2016 ("Agreement") attached hereto as **EXHIBIT A**.

WHEREAS, Buyer and Seller desire to amend the Agreement.

NOW, THEREFORE, Buyer and Seller agree as follows:

1) Paragraph 8 of the Agreement shall be amended and restated as follows:

8. **Closing.** The closing of the transaction contemplated by this Agreement ("Closing") shall take place on a mutually acceptable date within thirty (30) days after the earlier of: 1) the Colorado Groundwater Commission's issuance of amended final permits to Seller for Well Permit Nos. 12123-FP, 12124-FP, 31526-FP, 31527-FP, 31643-FP, 14860-FP, and 31640-FP ("Amended Final Permits") each containing no limitation on the place of use of the groundwater once exported from the Lost Creek Designated Groundwater Basin or a place of use acceptable to Buyer; or 2) May 15, 2017, subject to paragraph 8.g below. Closing shall occur at the offices of the Title Company or at such other time and place as may be mutually agreed upon by the parties.

a) At closing, Buyer shall pay to Seller an amount equal to the Total Purchase Price minus the Earnest Money, and all interest earned thereon, by cash, certified funds or wire transfer.

b) At closing, Buyer shall tender to Seller at Closing a written certification acknowledging that either:

i). Buyer has closed the purchase of the water line capacity pursuant to that certain "Contract for Purchase and Sale of Water Line Capacity" between the Pioneer Metropolitan District No. 3 (the "District"), as seller, and the Buyer, as purchaser, dated as of October 14, 2016, as amended, (the "Pipeline Contract") as of the date of the Closing of the transaction contemplated in this Agreement; OR

ii). The Pipeline Contract has not been consummated on the Closing date of the transactions contemplated in this Agreement due solely to the failure of the District to comply with, and perform under the Pipeline Contract (a "District Default"). In the event of such District Default, the Buyer, at its sole option, may elect to either:

1) Proceed with the Closing of the transactions contemplated in this Agreement, in which event Seller and Buyer shall comply with their respective Closing obligations as set forth herein, or

2) Terminate this Agreement, in which event the Earnest Money shall be returned to Buyer and each party hereto shall be released from any further obligations hereunder,

OR

iii). The Pipeline Contract is scheduled to close concurrently with the Closing of the transactions contemplated in this Agreement, in which event the concurrent closing of the purchase of the Pipeline pursuant to the Pipeline Contract will be a condition to the Closing of the transactions contemplated by this Agreement, and the Closing of this Agreement shall be extended to the date needed for the parties thereto to close the purchase of the Pipeline pursuant to the Pipeline Contract, not to exceed the 90 days from the date Closing, as amended, under both this Agreement and the Pipeline Contract was to have taken place (unless otherwise extended in writing by Seller), unless the Closing under the Pipeline Contract fails to be consummated on such Closing date hereunder due to a District Default, in which event, on such date, the Seller and Buyer shall nonetheless consummate the Closing of this Agreement as scheduled on the Closing date. Provided further, if as of the date of the scheduled Closing of the transactions contemplated by this Agreement, the closing of the Pipeline Contract is scheduled to occur at a later date, then the Closing date of this Agreement shall be extended to such later date, not to exceed 90 days (unless otherwise extended by Seller in writing), at which time Buyer shall tender the required certification pursuant to this Section 8(b) to Buyer on the Closing date of this Agreement.

c) At closing, Seller shall execute and deliver to Buyer a Special Warranty Deed for the Water Rights included in the Identified Property, including all associated Decrees, and Easements free from all liens, encumbrances, or adverse claims (the "Warranty Deed").

d) At closing, Seller shall execute and deliver to Buyer an assignment of the Amended Final Permits and Covenants associated with the Identified Property free from all liens, encumbrances, or adverse claims (the "Assignment").

e) At closing, Seller shall execute and deliver to Buyer a Bill of Sale for all of the Appurtenances associated with the Identified Property free from all liens, encumbrances, or adverse claims (the "Bill of Sale").

f) At closing, Seller shall execute and deliver such affidavits, instruments, agreements or other documents as may be reasonably required to complete the transaction contemplated under this Agreement (these documents, together with the Warranty Deed, the Assignment and the Bill of Sale shall be referred to collectively as, the "Closing Documents").

g) Buyer's obligation to close on the Identified Property is specifically contingent on Seller obtaining Amended Final Permits from the Colorado Groundwater Commission each containing no limitation on the place of use of the groundwater once exported from the Lost Creek Designated Groundwater Basin or a place of use acceptable to Buyer. If the Commission fails to issue permits meeting such criteria by May 15, 2017, Buyer may terminate the Agreement.

2) All other terms and conditions of the Agreement shall remain in full force and effect, and the parties reserve their respective rights under the Agreement, as amended, including to retain, or obtain a refund of, the Earnest Money.

SELLER:

PV, LLC

By: Pioneer Holdco LLC,
its sole member

By:

[Signature]
Joel H. Farkas, Manager
Name Title

Date: 2/10/17

STATE OF COLORADO)

) ss.

COUNTY OF Arapahoe)

Subscribed and sworn to before me by Joel H. Farkas, the Manager of Pioneer Holdco LLC of PV, LLC, this 10th day of February, 2017.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires: 01-27-2021

BUYER:

THE TOWN OF CASTLE ROCK BY AND
THROUGH THE TOWN OF CASTLE ROCK
WATER ENTERPRISE

ATTEST:

By: 

David Corliss, Town Manager

Date: 2-9-17


By: 

Sally A. Misare, Town Clerk

Approved as to form:


Robert J. Slentz, Town Attorney

Approved as to content:


Mark W. Marlowe, Director of Castle
Rock Water