

## SECOND AMENDED CONTRACT FOR PURCHASE AND SALE OF WATER RIGHTS

This Second Amended Contract for Purchase and Sale of Water Rights ("Amendment") is made this \_\_\_ of March, 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 and that certain First Amended Contract for Purchase and Sale of Water Rights dated February 9, 2017 attached hereto as **EXHIBIT A** (collectively "Agreement"), and;

WHEREAS, the Colorado Ground Water Commission ("GWC") issued Amended Permit Nos. 12123-FP, 12124-FP, 31526-FP, 31527-FP, 31643-FP, 14860-FP, and 31640-FP ("Permits") on February 23, 2017, each containing no limitation on the place of use of groundwater once exported from the Lost Creek Designated Ground Water Basin, and;

WHEREAS, issuance of the Permits may be subject to appeal for a period of 35 days after the date of issuance, and, if so, such appeal period ("Period") will expire March 30, 2017, and;

WHEREAS, the Amendment does not determine whether issuance of the Permits constitutes issuance of "Amended Final Permits," before the Period has expired.

WHEREAS, Buyer and Seller desire to amend the Agreement.

NOW, THEREFORE, Buyer and Seller agree as follows:

- 1) The first sentence of paragraph 8 of the Agreement shall be amended as follows:

8. **Closing.** The closing of the transaction contemplated by this Agreement ("Closing") shall take place: 1) on March 31, 2017, if no appeal to issuance of the Permits is filed; or 2) if any person or entity files an appeal of the GWC's issuance of the Permits, within 10 days after the dismissal or the resolution of the appeal in a manner acceptable to Buyer, but in no event later than May 15, 2017, as the same may be mutually extended by the Parties. If the appeal is resolved in a manner unacceptable to Buyer or if it is not resolved by May 15, 2017, either Party may terminate this Agreement by written notice to the other Party.

- 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: \_\_\_\_\_

\_\_\_\_\_,  
Name Title

Date: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me by \_\_\_\_\_, the \_\_\_\_\_ of PV,  
LLC, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Witness my hand and official seal.

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

My commission expires: \_\_\_\_\_

**BUYER:**

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

**ATTEST:**

By: \_\_\_\_\_  
David Corliss, City Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Sally A. Misare, Town Clerk

**Approved as to form:**

**Approved as to content:**

\_\_\_\_\_  
Robert J. Slentz, Town Attorney

\_\_\_\_\_  
Mark W. Marlowe, Director of Castle Rock Water

**RESOLUTION NO. 2016-079**

**A RESOLUTION APPROVING THE CONTRACT  
FOR PURCHASE AND SALE OF PV, LLC WATER RIGHTS**

**WHEREAS**, PV, LLC and the Town of Castle Rock by and through the Town of Castle Rock Water Enterprise have agreed on the terms of a Purchase and Sale Agreement for approximately 1,000 acre-feet of water rights ("PV LLC Water Rights");

**WHEREAS**, the acquisition of the PV LLC Water Rights is a key part of a preferred project for development of a renewable water supply, and accordingly the Town has analyzed the feasibility of the project and otherwise undertaken due diligence of the project and its various assets;

**WHEREAS**, an integral part of the Stillwater/Box Elder project is the identification and purchase of at least 2,500 acre-feet of renewable water rights; and

**WHEREAS**, based on due diligence, the Town believes the PV LLC Water Rights will provide approximately 1,000 acre-feet of renewable water rights that can be used with the Box Elder project; and

**WHEREAS**, the price of the PV LLC Water Rights and the expected yield are consistent with the Town's long term water and financial plans.

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK AS FOLLOWS:**

**Section 1. Approval.** The Contract for Purchase and Sale of Water Rights between the Town of Castle Rock and PV, LLC in the form attached as *Exhibit 1* is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the Contract by and on behalf of the Town of Castle Rock Water Enterprise. The purchase of the water rights by the Castle Rock Water Enterprise in accordance with the terms of the Contract is approved and the administrative staff is authorized to take all action necessary to close the transaction.

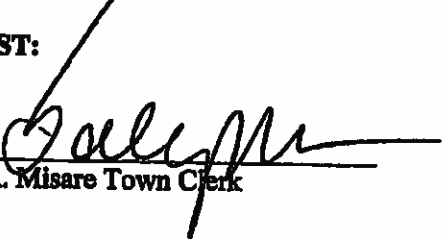
**Section 2. Encumbrance and Authorization for Payment.** In order to meet the Town's financial obligation under the Contract, the Town Council authorizes the expenditure and payment from the 2016 appropriation account 211-4375-443.77-30 (WRPVWR) in an amount not to exceed \$220,000 in earnest money. Assuming staff is satisfied with the results of due diligence and proceeds to closing, the Town Council authorizes the expenditure and payment from the 2016 appropriation account 211-4375-443.77-30 (WRPVWR) in an amount not to exceed \$11,261,250, as identified below:

PV, LLC (up to)	\$10,725,000
Stillwater Resources (up to five percent brokerage fee)	\$ 536,250
TOTAL (up to)	\$11,261,250

**PASSED, APPROVED AND ADOPTED** this 16th day of August, 2016, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading by a vote of 6 for and 0 against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

  
Sally A. Misare Town Clerk

  
Paul Donahue, Mayor

**Approved as to form:**

**Approved as to content:**

  
Robert J. Slentz, Town Attorney

  
Mark Marlowe, Utilities Director

## CONTRACT FOR PURCHASE AND SALE OF WATER RIGHTS

This Contract for Purchase and Sale of Water Rights ("Agreement") is made this 14<sup>th</sup> of October 2016 (the "Effective Date") between PV, LLC, a Colorado limited liability company, ("Seller") whose address is 9039 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, Seller owns the property described in section 1 below (the "Property").

WHEREAS, Buyer and Seller have agreed on the terms of a purchase and sale of the Property, pursuant to the terms described below.

Now, therefore, Buyer and Seller agree as follows:

1) **Description of Property.** Seller is the sole owner of the Property, which consists of the following rights and interests:

a) Well permits and ground water rights described in **EXHIBIT A** hereto ("Water Rights"), with the historical depletions quantified and changed for municipal use and decreed for export from the Lost Creek Designated Ground Water Basin ("Basin") in Case Nos. 98CV1727 and 99CV97, District Court, Adams County;

b) A proportionate interest in the decrees entered in in Case Nos. 98CV1727 and 99CV97, District Court, Adams County ("Decrees");

c) All wells, pivots, pipelines, ditches, improvements, equipment, appurtenances and associated rights related to the Water Rights being conveyed in Section 1 a) above, as more particularly described on **EXHIBIT B** hereto ("Appurtenances");

d) Rights and interests in any dry up covenants associated with the Water Rights ("Covenants"); and

e) All easements and licenses associated with the Water Rights and more particularly described on **EXHIBIT C** hereto, which are used to operate, maintain, repair and replace the Appurtenances; and for ingress and egress to the Appurtenances ("Easements").

2) **Purchase Price.** The purchase price for the Property shall be calculated based on nine thousand seven hundred and fifty dollars (\$9,750.00) per one (1) acre foot of average annual historical depletions ("Annual Historical Depletions") as such is defined on pages 22-23 of the decree in Case No. 99CV97 sold hereunder, assuming a purchase of Property yielding an average Annual Historical Depletions of not less than 1,000 acre feet nor more than 1,100 acre feet (the "Purchase Price"). The total Purchase Price shall be computed by multiplying the number of acre feet of Annual Historical Depletions associated with the Water Rights being sold hereunder as identified by Buyer on **Exhibit A** hereto pursuant to the

## CONTRACT FOR PURCHASE AND SALE OF WATER RIGHTS

This Contract for Purchase and Sale of Water Rights ("Agreement") is made this 28th of September 2016 (the "Effective Date") 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, Seller owns the property described in section 1 below (the "Property").

WHEREAS, Buyer and Seller have agreed on the terms of a purchase and sale of the Property, pursuant to the terms described below.

Now, therefore, Buyer and Seller agree as follows:

1) Description of Property. Seller is the sole owner of the Property, which consists of the following rights and interests:

a) Well permits and ground water rights described in EXHIBIT A hereto ("Water Rights"), with the historical depletions quantified and changed for municipal use and decreed for export from the Lost Creek Designated Ground Water Basin ("Basin") in Case Nos. 98CV1727 and 99CV97, District Court, Adams County;

b) A proportionate interest in the decrees entered in In Case Nos. 98CV1727 and 99CV97, District Court, Adams County ("Decrees");

c) All wells, pivots, pipelines, ditches, improvements, equipment, appurtenances and associated rights related to the Water Rights being conveyed in Section 1 a) above, as more particularly described on EXHIBIT B hereto ("Appurtenances");

d) Rights and interests in any dry up covenants associated with the Water Rights ("Covenants"); and

e) All easements and licenses associated with the Water Rights and more particularly described on EXHIBIT C hereto, which are used to operate, maintain, repair and replace the Appurtenances; and for ingress and egress to the Appurtenances ("Easements").

2) Purchase Price. The purchase price for the Property shall be calculated based on nine-thousand seven hundred and fifty dollars (\$9,750.00) per one (1) acre foot of average annual historical depletions ("Annual Historical Depletions") as such is defined on pages 22-23 of the decree in Case No. 99CV97 sold hereunder, assuming a purchase of Property yielding an average Annual Historical Depletions of not less than 1,000 acre feet nor more than 1,100 acre feet (the "Purchase Price"). The total Purchase Price shall be computed by multiplying the number of acre feet of Annual Historical Depletions associated with the Water Rights being sold hereunder as identified by Buyer on Exhibit A hereto pursuant to the

notice described in section 8 ("Total Purchase Price") by the amount of \$9,750.00 per acre foot.

3) **Earnest Money.** Within five (5) calendar days after the Effective Date, Buyer shall deposit two hundred and twenty thousand dollars (\$220,000) in earnest money ("Earnest Money") into escrow in a federally-insured account with Land Title Guarantee Company ("Title Company") pursuant to a mutually acceptable escrow agreement. The Effective Date, as identified above, shall be the date when this Agreement and the escrow agreement with the Title Company have both been fully executed by the parties. The Earnest Money shall be applied to the Total Purchase Price at Closing, unless this Agreement is terminated prior to the end of the Inspection Period as defined in section 5 of this Agreement, or a result of an uncured default by Seller under section 12.

4) **Documents from Seller.**

a) Within five (5) calendar days of the Effective Date ("Document Production Period"), Seller shall furnish to Buyer all information in Seller's possession or control related to the Property ("Property Information"). Such Property Information shall include, but shall not be limited to:

- i) The well permits files for the Water Rights;
- ii) Any orders of the Colorado Ground Water Commission and Lost Creek Basin Management District ("Orders") regarding the Water Rights;
- iii) The decrees changing the Water Rights for municipal purposes and for export from the Basin;
- iv) Any deed or other instrument conveying the Water Rights to Seller or Seller's predecessor(s)-in-interest;
- v) Any deed or other instrument conveying the Easements to Seller or Seller's predecessor(s)-in-interest;
- vi) Any bill of sale or other instrument conveying the Appurtenances to Seller or Seller's predecessor(s)-in-interest;
- vii) Any encumbrance documents;
- viii) Any maps or surveys showing the wells, Appurtenances or Easements;



- ix) Any water quality data for the Water Rights;
- x) Any reports evaluating the Water Rights, Appurtenances or Easements including technical reports;
- xi) Any construction drawings, as-built drawings, estimates or Invoices regarding the Appurtenances or Easements;
- xii) Any title commitments or title insurance policies for the lands historically irrigated by the Water Rights; and
- xiii) Any Covenants for the lands historically irrigated by the Water Rights.

b) Seller consents to and shall reasonably assist Buyer in obtaining information relating to mortgages, deeds of trust, encumbrances, liens, taxes, or adverse claims related to the Property, and Seller shall authorize any holder of such mortgages, deeds of trust, encumbrances, liens or adverse claims to release such information to Buyer.

c) All Property Information provided by Seller to Buyer shall remain confidential and shall be returned to Seller, if the Closing does not occur.

5) **Inspection Period.** Buyer shall have ninety (90) calendar days from the Effective Date ("Inspection Period") to conduct any and all due diligence investigations and inspections Buyer desires regarding the Property, at Buyer's sole expense. Such investigations and inspections may include, but are not be limited to: confirming Seller's ownership of the Property; confirming that Seller's title to the Property is unencumbered; confirming the Decrees, Orders and well permits remain valid; confirming that the Water Rights have adequate water quality; confirming that Seller owns the Easements unencumbered and can convey the Easements; confirming that Seller owns the Appurtenances; inspecting the Appurtenances; and determining, in Buyer's sole discretion, that the Property is sufficient for Buyer's intended purposes. Buyer may terminate this Agreement by giving written notice of termination to Seller prior to the end of the Inspection Period if the Property is deemed, in Buyer's sole discretion, unsatisfactory for any reason or for no reason.

a) If the notice of termination is given on or before the sixtieth (60) calendar day after the Effective Date, then the Earnest Money and all interest earned thereon shall be returned to Buyer, and the parties shall have no further rights or obligations under this Agreement.

b) If the notice of termination is given sixty-one (61) calendar days to ninety (90) calendar days after the Effective Date, then: i) Seller shall have the right to retain fifty thousand dollars (\$50,000) of the Earnest Money, unless Seller has defaulted in one or more of its obligations under this Agreement; ii) the remaining one hundred and seventy thousand dollars (\$170,000) of the Earnest Money and all interest earned thereon shall be returned to Buyer; and iii) the parties shall have no further rights or obligations under this Agreement.

c) If Buyer does not provide notice of termination within the Inspection Period, but Buyer does not complete Closing for any reason, other than a default in one or more of Seller's obligations under this Agreement, then Seller shall have the right to retain the Earnest Money and all interest earned thereon, and the parties shall have no further rights or obligations under this Agreement.

6) **Determination of Water Rights and Well Permits.** No later than sixty (60) calendar days from the Effective Date, Buyer shall provide Seller with written notice of the Water Rights from EXHIBIT A that Buyer intends to purchase at Closing. The Water Rights, wells, decrees, personal property, easements including all of the Property associated with or used in conjunction with the Water Rights identified by Buyer shall hereinafter be referred to as the "Identified Property." Buyer and Seller acknowledge that Buyer desires to purchase Water Rights that historically yield at least one thousand (1,000) acre feet of Annual Historical Depletions and, in Buyer's sole discretion after reviewing relevant data, shall not exceed the standards set forth in the state or federal primary drinking water standards, as such regulations may be amended from time to time. Upon such written notice, the Total Purchase Price shall be computed as described in Section 2.

7) **Easement Title Commitment and Policy.**

a) **Easement Title Commitment.** No later than ten (10) days after Buyer provides Seller with the notice described in section 6, Seller shall provide Buyer with a Title Insurance Commitment for all recorded Easements associated with the Identified Property issued by a nationally recognized title insurance company. Buyer shall have a period of ten (10) days following receipt of the Title Insurance Commitment ("Title Objection Deadline") to object to any title exceptions appearing in the Title Insurance Commitment. In the event that Buyer shall fail to object in writing to Seller as to any matters appearing in the Title Insurance Commitment on or before the Title Objection Deadline, all title exceptions appearing therein, other than the standard preprinted title exceptions, shall be deemed "Permitted Exceptions" and title to the Easements shall be conveyed, subject to such Permitted Exceptions. If Buyer shall object to any matters ("Defects") appearing in the Title Insurance Commitment on or before the

Title Objection Deadline, Seller shall have the right, but not the obligation, to cure any Defects to which Buyer has objected. If such matters objected to by Buyer are not cured on or before the Closing Date, Buyer may elect to either: 1) waive such Defect, in which case the Defect shall become a "Permitted Exception;" or 2) terminate this Agreement, and each party shall thereupon be released from all further obligations under this Agreement. Under this provision, Buyer shall obtain a full refund of the Earnest money unless the Defects objected to be disclosed by Seller pursuant to section 4.

b) Easement Title Policy. Promptly following the Closing, Seller, at its sole cost and expense, shall cause to be delivered to Buyer an Owner's Easement Title Insurance Policy insuring Buyers' title to the Easements. Said Easement Title Policy shall be in the minimum permissible insurable amount.

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 end of the Inspection Period at the offices of the Title Company or at such other time and place as may be mutually agreed upon by the parties. The following shall occur at the Closing:

a) 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) 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 \_\_\_\_\_ 2016 (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 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) 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) Seller shall execute and deliver to Buyer an assignment of the Well Permits and Covenants associated with the Identified Property free from all liens, encumbrances, or adverse claims (the "Assignment").

e) 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) 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").

**9) Representations and Warranties.**

**a) Seller's Representations and Warranties.** Seller represents and warrants the following, as of the Effective Date and as of closing:

i) Seller has full right, power and authority to enter into this Agreement and perform all of Seller's obligations hereunder, without violating any other agreement or contract;

ii) Seller's undersigned representative is duly authorized to enter into this Agreement on behalf of Seller and to bind Seller to the terms of this Agreement;

iii) Seller is now and will remain, until the conclusion of Closing, the lawful owner of the Property;

iv) The Identified Property is free of any liens, encumbrances and third-party claims;

v) There are no pending actions or claims which might give rise to any court proceedings or contingent claims affecting ownership or use of the Property;

vi) None of the Water Rights or Decrees associated with the Identified Property have been abandoned and all of those Water Rights and Decrees are valid and in full force; and

vii) No other person has any legal or equitable right to use the Identified Property.

Seller makes no warranty or representation, and expressly disclaims any such warranty or representation, regarding the physical quantity, quality, cost of production or other attributes of the Water Rights associated with the Identified Property, or that those Water Rights are fit for Buyer's intended use.

**b) Buyer's Representations and Warranties.** Buyer represents and warrants the following, as of the Effective Date and as of closing:

I) Buyer is a governmental entity duly formed and validly existing in the State of Colorado;

II) Buyer has full right, power and authority to enter into this Agreement and perform all of Buyer's obligations hereunder; and

III) Buyer's undersigned representative is duly authorized to enter into this Agreement on behalf of Buyer and to bind Buyer to the terms of this Agreement.

**10) Title.** Seller owns the Identified Property subject to disclosures set forth in Section 9(a) above, the terms of the Closing Documents and Permitted Exceptions. Seller agrees to convey to Buyer title to the Identified Property subject to the terms of this Agreement, the Closing Documents and the Permitted Exceptions, free and clear of all liens, encumbrances, assessments and taxes for the year of closing and for prior years other than the permitted encumbrances disclosed to, and accepted by Buyer in the title commitment specified in Section 7 ("Good Title"). Buyer's obligations under this Agreement are specifically contingent on Seller having Good Title to the Identified Property. If Seller does not have Good Title in the Identified Property as of the date of Closing as reasonably determined by Buyer in good faith, Buyer may, pursuant to Section 12, terminate this Agreement and receive a return of its Earnest Money Deposit, in complete satisfaction of this Agreement, and this Agreement shall thereafter be null and void.

**11) "As Is" Sale.**

BUYER AND SELLER UNDERSTAND, ACKNOWLEDGE AND AGREE THAT EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR IN THE CLOSING DOCUMENTS (AS DEFINED BELOW), BUYER'S PURCHASE OF THE IDENTIFIED PROPERTY AND ANY OTHER RIGHTS AND INTERESTS TO BE CONVEYED, SOLD, TRANSFERRED AND/OR ASSIGNED PURSUANT TO THIS AGREEMENT SHALL BE ON AN "AS IS" "WHERE IS" BASIS. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR IN THE CLOSING DOCUMENTS, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR COVENANTS OF ANY KIND OR CHARACTER WHATSOEVER.

**12) Remedies.** The parties shall have the following remedies in the event of a breach of this Agreement, including the breach of those provisions set forth in Section 13 which survive the Closing and the delivery and recording of the Closing Documents. However, before a party is deemed in default of this Agreement, the other party must provide written notice of the alleged violation to the defaulting party, and the defaulting party shall have ten (10) calendar days thereafter to cure such violation.

a) If Seller is in default under this Agreement, then: i) Buyer may elect to terminate this Agreement upon written notice to Seller, in which event the Earnest Money and all interest earned thereon shall be returned to Buyer; ii) Buyer may treat this Agreement as being in full force and effect, and Buyer shall have a right of specific performance; or iii) if a breach occurs after Closing, Buyer may sue for damages subject to the terms of the last paragraph of this section 12 below.

b) If Buyer is in default under this Agreement, Seller's sole remedy shall be to terminate this Agreement by written notice to Buyer, to have the Earnest Money released to Seller as liquidated damages and to have the documents produced pursuant to section 4 returned to Buyer.

c) In any litigation brought by either party relating to this Agreement, the substantially prevailing party shall be entitled to the award of its reasonable attorney fees. By this provision, the parties have agreed to an award of reasonable attorney fees to the substantially prevailing party, but have not waived any immunity from an award of costs in any litigation nor have the parties waived any other immunity or protection afforded them by law.

Notwithstanding anything in this Agreement or in any other Closing Document to the contrary, in no event shall either party hereto have any liability under any Closing Document and this Agreement (including under this Section 12) for any consequential, special, incidental, indirect or punitive damages, lost profits or similar items; provided that such limitation with respect to lost profits shall not limit either party's right to recover contract damages in connection with any such party's default under this Agreement.

**13) Survival of Closing.** The representations, warranties, covenants, and the mutual agreements described in sections 7, 9, 10 and 11 shall survive Closing and the delivery and recording of the Closing Documents, and shall be subject to the remedies of the parties hereto set forth in Section 12 above.

**14) Miscellaneous.**

a) **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, assigns, and legal representatives of the parties hereto. Seller may not assign its rights or delegate its duties hereunder without the prior written consent of Buyer, which Buyer may withhold in its sole discretion. Buyer shall be entitled to assign its rights and obligations under this Agreement with notice to, but not consent of, Seller.

b) **Notice.** Any notice shall be effective when received by the party or parties. All notices shall be by either: a) certified mail return receipt requested; b) personal delivery; or c) electronic mail to the parties and the parties' representatives at the following addresses or at such other address as the parties may provide in writing:

**To Seller:**

PV, LLC  
c/o Joel Farkas  
9033 E. Easter Place, Suite 112  
Centennial, CO 80112  
JFarkas@gmail.com

**With a copy to:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(email)

**To Buyer:**

Town of Castle Rock  
c/o Mark Marlowe, Utilities Director  
175 Kellogg Court  
Castle Rock, CO 80109  
mmarlowe@orgov.com

**With copies to:**

Town of Castle Rock  
c/o Bob Slentz, Town Attorney  
100 Wilcox  
Castle Rock, CO 80104  
bslentz@crgov.com

**and:**

Lyons Gaddis  
c/o Madoline Wallace-Gross  
363 Centennial Parkway, Suite 110  
Louisville, CO 80027  
mwg@lyonsgaddis.com

c) **Holidays.** If the date that any notice or action required or permitted under this Agreement falls on a weekend or Federal holiday, the required or permitted date shall be extended to the next day that is neither a Federal holiday nor a weekend day.

d) **Counterparts.** The parties may transmit this Agreement by electronic mail. Digital and scanned signatures shall be adequate, binding and valid as original signatures on this Agreement. This Agreement may be executed in several counterpart copies and all such counterparts taken together shall be deemed the Agreement.



e) Brokers and Commissions. Buyer and Seller are solely responsible for payment of any commission or other compensation due to their respective agents as a result of this transaction.

f) Entire Agreement. This Agreement embodies the entire understanding and agreement between Buyer and Seller regarding the Property and supersedes any and all prior negotiations, understandings or agreements regarding the subject matter hereof.

g) Amendments. This Agreement may be modified, amended, changed or terminated in whole or in part only by written agreement duly authorized and executed by each of the parties with the same formality as this Agreement.

h) Colorado Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

i) Section Headings. The section headings are inserted for convenience of reference only and do not define, limit or prescribe the scope of this Agreement.

*The remainder of this page intentionally left blank.*

SELLER:

PV, LLC

By:

[Signature]  
Joel H. Farkas Manager  
Name Title

Date: 9-16-16

STATE OF COLORADO )

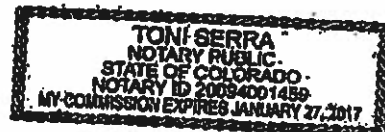
COUNTY OF Arapahoe ) ss.

Subscribed and sworn to before me by Joel H. Farkas, the Manager of PV, LLC, this 16<sup>th</sup> day of September, 2016.

Witness my hand and official seal.

[Signature]  
Notary Public

My commission expires: 01-27-2017



**BUYER:**

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

**ATTEST:**

By: Paul Donahue  
Paul Donahue, Mayor

Date: 9/28/16


By: Sally A. Misare  
Sally A. Misare, Town Clerk

**Approved as to form:**

Robert J. Slentz  
Robert J. Slentz, Town Attorney

**Approved as to content:**

Mark W. Markowe  
Mark W. Markowe, Utilities Director

DATE	BY	PROJECT VALLEY	W-242	17-3000	10	10/2/92	10/1/92	 <b>J.R. ENGINEERING</b> 1 location - Glendale 5000 Sunset Blvd., Suite 200, Glendale, CA 91205 818-240-6333 ext. 223-25-265 fax 818-240-6333	PREPARED FOR <b>PV WATER HOLDINGS LTD.</b> 9145 E. HENTON AVENUE, SUITE 200 EVERGREEN, COLORADO 80037	THIS DRAWING IS THE PROPERTY OF J.R. ENGINEERING AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF J.R. ENGINEERING
			W-242	17-3000	10	10/2/92	10/1/92			
		ALTA SURVEY COMPOSITE MAP	DATE	4/23/94	1	COMPOSITE FROM ALTA	DATE 4/23/94			
			REVIEWED BY							
			DESIGNED BY	DB						
			DRAWN BY							

# PV, LLC WELLS

24 Wells

PARCEL	Sec	Twp	Range	WELL	IDS
A-2	29	1N	63W	8534	1400
				8533	801
				8535	1020
D	27	1N	63W	12123	1580
				12124	1420
F	22	1N	63W	31527	1760
				31526	1800
G	9	1N	63W	31595	2670
H	35	2N	63W	1771	1580
				1772	2140
				1773	2120
				1774	2600
I-2C	33	2N	63W	31612	1550
				31653	1370
				31654	2270
I-3	4	1N	63W	31536	2470
I-4	4	1N	63W	1730	2510
				1731	2540
I-1B	22	1N	63W	31542	1590
I-2	34	1N	63W	31643	350
				14860	450
M	34	1N	63W	31640	372
N-2A	10	1S	63W	6419	271
				9175	306

Parcel No.	Well Permit Nos.	Permitted Appropriation (acre-feet)	Average Annual Historical Depletions (acre-feet)
A-2	8533-FP	280	84.0
	8534-FP	200	81.5
	8535-FP	320	96.9
D	12123-FP	415	163.1
	12124-FP	385	106.4
F	31526-FP	350	144.4
	31527-FP	350	139.1
G	31595-FP	400	163.5
H	1771-FP	200	83.2
	1772-FP	200	126.3
	1773-FP	200	79.9
	1774-FP	200	27.8
I-1	31612-FP	300	85.4
I-2			
	31653-FP	266	98.0
	31654-FP	267	116.8
I-3	31336-FP	200	84.6

Parcel No.	Well Permit Nos.	Permitted Appropriation (acre-feet)	Average Annual Historical Depletions (acre-feet)
I-4	1730-FP	200	92.0
	1731-FP	200	87.2
L-1	31542-FP	558	193.3
L-2	14860-FP	200	74.3
	31643-FP	200	111.3
M	31640-FP	400	297.2
N-2	6419-FP	800	347.2
	9175-FP	800	301.4

The spreadsheets attached hereto as Exhibit B represent acceptable procedures and methodology as provided for by the *Ground Water Management Act, 37-90-101, et seq., C.R.S., Rules and Regulations for the Management and Control of Designated Ground Water, 2CCR 410-1*, hereinafter referred to as the "Designated Basin Rules," and Commission policy to prevent material injury to the vested water rights of other appropriators in the Lost Creek Designated Ground Water Basin.

**EXHIBIT B**  
**TO**  
**CONTRACT FOR PURCHASE & SALE OF WATER RIGHTS**

All wells, pivots, pipelines, ditches, improvements, equipment and appurtenances and associated rights related to the Water Rights.

Parcel	Legal	Permit No.
A-2	29 1N 63W	8534, 8535, 8539
D	27 1N 63W	12123, 12124
F	23 1N 63W	31527, 31526
G	9 1N 63W	31595
H	35 2N 63W	1771, 1772, 1773, 1774
I-2-C	33 2N 63W	31612, 31653, 31654
I-3	4 1N 63W	31536
I-4	N 63W	1730, 1731
L-1B	23 1N 63W	31542
L-2	34 1N 63W	31643, 14860
M	34 1N 63W	31640
N-2A	10 1S 63W	9175, 6419



**EXHIBIT C  
TO  
CONTRACT FOR PURCHASE AND SALE OF WATER RIGHTS**

All easements and licenses associated with the Water Rights and more particularly described in the following recorded documents:

Special Warranty Deed (existing easements), dated November 1, 2007, Recp. 3514962, Weld County

Special Warranty Deed (existing easements), dated November 1, 2007, Recp. 3514966, Weld County

Easement Agreement, dated November 1, 2007, Recp. 3514965, Weld County

Easement Deed, dated March 14, 2008, Recp. 3541694, Weld County

Easement Deed, dated February 25, 2008, Recp. 3537349, Weld County

Easement Deed, dated December 11, 2008, Recp. 3594482, Weld County

Easement Deed, dated April 16, 2010, Recp. 3687443, Weld County

Bargain and Sale Deed (existing easements), dated May 21, 2010, Recp. 3694678, Weld County