

**WATER USE, OWNERSHIP, GRANT OF EASEMENT
AND WELL SHARING AGREEMENT**

This Water Use, Ownership, Grant of Easement, and Well Sharing Agreement (“Agreement”), is made and entered into as of the latest date of execution written below, by and between _____ whose address is _____, (“_____” [short name for Party A]), and _____ whose address is _____ (“_____” [short name for Party B]).

RECITALS

WHEREAS, _____ [party A] owns property with the legal description shown on **Exhibit A** attached hereto (the “_____ Property”); and

WHEREAS, _____ [Party A] owns a well, permitted under Division of Water Resources Well Permit No. _____, (the “_____ Well” [well name]), which serves the _____ Property. A copy of the permit is attached as **Exhibit B**. By this permit, the _____ Well may be used to serve up to a total of ___ single-family residences, irrigate ___ acres, for fire protection, and to water domestic animals; and

WHEREAS, _____ [Party B] owns property with the legal description shown in **Exhibit C** attached hereto (the “_____ Property”); and

WHEREAS, the “_____ Property” [Party B’s Property] is included in the property that may be served by the _____ Well; and

WHEREAS, _____ [Party A] and _____ [Party B] have agreed that _____ [Party B] may connect to the _____ Well; and

WHEREAS, the parties desire to set forth in writing their agreement concerning well ownership and use, along with _____’s [Party B’s] connection to the _____ Well, and concerning the operation, maintenance, repair and replacement of said well and related improvements, and the rights and obligations of the parties concerning said well and the use of water therefrom.

THEREFORE, for and in consideration of the mutual promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

1. **Well Ownership.** By execution below, _____ [Party A] agrees to convey and assign 50 % of their interest in the _____ Well and Well Permit # _____ by quitclaim deed and assignment, in the form attached as **Exhibit E**, so the _____ Well may serve the two parcels identified in **Exhibits A and C**.
 - a. The intent of the foregoing conveyance is that _____ [Party A] shall own ½ (one-half) and _____ [Party B] shall own ½ (one-half) of the _____ Well, including the rights to the water produced thereby for the uses described herein subject to the terms of this Agreement. The use of water

from the _____ Well shall be limited on the _____ Property [Party A property] to use in ____ single-family residence(s), irrigation of __ acres, and watering ____ domestic animals. The use of water from the ____ Well shall be limited on the _____ Property [Party B property], to use in ____ single-family residence(s), irrigation of __ acres, and watering ____ domestic animals. Both parties share the rights to provide fire protection. The uses allowed for each property and fire protection use are collectively referred to herein as the Allowed Uses.

2. Connection Costs. _____ [Party B] agrees that they bear sole responsibility to design, engineer, permit, construct and connect an individual water line from the _____ Well to the _____ Property [Party B's property] at their sole cost and expense, so that _____ [Party B] may connect to such and serve all of the uses allowed for the ____ Property [Party B Property]. Such line shall be referred to as the "Connection Line."
3. Easement. _____ [Party A] hereby grants, bargains, sells and conveys to _____ [Party B], a non-exclusive easement associated with the _____ Well, including all portions of the Connection Line and any water storage infrastructure, and any other distribution lines or other infrastructure necessary to serve the _____ Property [Party B property]. Specifically, the easement is for ingress/egress to the _____ Well, Connection Line and any other structure necessary for water delivery to the _____ Property [Party B Property], from the point of the _____ Well to the point at which the Connection Line crosses the boundary between the _____ Property [Party A Property] and the _____ Property [Party B Property]. The width of the easement shall be that width required for reasonably necessary access to the Well, Connection Line and other structures necessary for water service to the ____ Property [Party B Property] with such space as is reasonably necessary to operate, maintain, repair and replace all such structures. The approximate location of such easement is shown on the diagram attached as **Exhibit F**.
 - a. Regarding the easement described herein, in the event either party desires to clarify and confirm the legal description of the easement conveyed herein by survey and reduce said conveyance and legal description to writing, said party may, at his or her sole option, have a legal description of said easement prepared by a registered surveyor and amend this easement grant by appropriate instrument upon approval of the other party which shall not be unreasonably withheld. The costs of such shall be borne by the party desiring the description.
 - b. To the extent possible all infrastructure in addition to the Connection Line that is necessary for providing water to the _____ Property [Party B Property] shall be located on the _____ Property [Party B Property]. Only in the event that it is impossible to so place such infrastructure on the ____ Property [Party B Property], shall such infrastructure be placed on the ____ Property [Party A Property].
 - c. By accepting the conveyance of the _____ Well, well permit, and easement described herein, _____ [Party B] relinquishes all right to seek an easement for

access to the _____ Well by any other method.

4. Change to Permitted Status. The connection described herein is not expected to change the permitted status of the _____ Well for the Allotted Uses. However, if the parties are required by the Division of Water Resources or other governmental agency to amend or change the well permit in the future in order to serve the Allotted Uses, the parties agree to share any costs associated with such future required permitting and any other required court or administrative action to achieve such permit change equally, with 50% paid by _____ [party A], and 50% paid by _____ [Party B]. If either party desires to change the permit to add uses in excess of the Allotted Uses, the party desiring said change shall only be permitted to do so upon receiving the consent and authorization of the other party to amend this Agreement which consent may be withheld in the other party's sole discretion.

5. Regular Operations, Maintenance, Repairs and Replacement. _____ [Party A] and _____ [Party B] agree that _____ [party A] has primary responsibility to conduct all required operation, maintenance, repair and replacement ("OMR&R") associated with the construction and use of the _____ Well and associated infrastructure necessary to provide water to both properties. The costs of such normal and required OMR&R shall be shared equally by both parties (50% to each). All costs will be billed in writing with copies of invoices and receipts. _____ [party A] shall provide ten (10) days advance notice to _____ [Party B] of any OMR&R that can be reasonably foreseen, and will provide any estimates for any OMR&R to _____ [Party B] upon receipt of the same. _____ [Party A] shall assess any OMR&R costs to _____ [Party B] as incurred, and _____ [Party B] agrees to remit their payment within 30 days of notice of the same. _____ [party B] shall be responsible to conduct all operation, maintenance, repair and replacement of the Connection Line and any and all other structures necessary to provide water to the _____ Property [Party B Property] at _____ [Party B's] sole cost and expense.

6. Emergency Repairs. Notwithstanding the above, in the event of an "emergency" situation involving a shared component of the well system, including but not limited to, a break or leak or a failure in water production or an event contaminating the quality of the water supply, either party shall have the right to take immediate, reasonable corrective action to eliminate the emergency and restore the water quantity and quality. Thereafter, such party taking the corrective action shall submit to the other party an accounting of the costs incurred and each party shall be responsible for its 50% share of the costs. Each party shall always have the right to remedy any "emergency" situations involving individual water lines or components not shared in common at its own cost. However, in the event there is an emergency situation involving only the Connection Line or other structure necessary only for supplying water to the _____ Property [Party B's Property] such that damage to the _____ Property [Party A's property] will occur, _____ [party A] may take that action reasonable necessary to correct the emergency and _____ [Party B] shall be responsible for all of the costs upon being presented an accounting of the costs incurred.

7. Water Allotment Contract. In the event the well water supply contemplated in this Agreement for the Allotted Uses is supported by a water allotment contract, decreed water rights, or water court approved augmentation plan, or if such well water supply requires the parties to obtain a water allotment contract, water rights, and/or augmentation plan now or in the future, the parties shall share the costs of such equally. Provided, however, under the circumstances described in paragraph 4 above where one party desires to expand the permitted uses of the ___ Well beyond the Allotted Uses, the party desiring the expansion of uses shall be responsible for all costs of obtaining any water allotment contract, water rights, and/or augmentation plan necessary for such expansion.
8. Failure to Pay. In the event any party fails to timely pay costs properly incurred under this Agreement and for which payment is required by this Agreement, the non-defaulting party, upon notice and a thirty-day period to cure such failure to pay, may pay the obligation of the defaulting party, and the defaulting party shall then owe the non-defaulting party the amount of the obligation, together with interest on said amount at the rate of eighteen percent (18%) per annum; provided further that the non-defaulting party shall have the right to secure and receive payment of any sums so advanced, with interest, by a lien on the defaulting party's parcel and, in the event of foreclosure of the lien, or any other collection proceeding, the right to reasonable attorney fees and costs.
9. Assignment or Transfer of Parcels; Binding Effect. This Agreement and all of its terms and conditions shall inure to the benefit of and be binding upon the heirs, successors, transferees and assigns of all parties hereto, and shall not be transferred separate and apart from either parcel.
10. Water Quality. Both parties agree to share the responsibility to ensure that the _____ Well shall remain in compliance with all state and federal laws concerning domestic water quality for individual wells with any costs of such to be shared equally by the parties.
11. Water Treatment System. It is understood and agreed that each party may have its own water treatment system on its respective property and that the costs of constructing, repairing and maintaining any such water treatment system shall be borne entirely by the party desiring to have such system, and there shall be no contribution from the other party.
12. Recording. This Agreement and the exhibits attached hereto shall be recorded in the official records of _____ County, Colorado, and from and after such recording, the provisions of this Agreement shall be considered covenants which run with the affected land.
13. Execution in Counterparts and/or Electronic Copies. This Agreement may be executed in multiple counterparts as originals or by electronic copies of executed originals; provided however, if executed and evidence of execution is made by electronic copy, such electronic copy shall be treated as an original. When all of the parties to this Agreement have signed at least one copy, such copies together will constitute a fully executed and binding contract.

14. Notices. All notices required under this Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, or by e-mail with delivery confirmation to the addresses of the parties set forth below. All notices so given shall be considered effective three days after deposit in the U.S. Mail to the addresses below. Either party by notice so given may change the address to which future notices shall be sent.

15. Attorney Fees. In the event that litigation to enforce any term or condition of this Agreement is initiated, the substantially prevailing party in any such litigation, including appeals, shall be awarded reasonable attorney fees and costs incurred and any reasonable attorney fees and costs to obtain and execute a judgment for collection.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as follows.

[PARTY A]:

By:_____

[PARTY B]

By:_____

STATE OF _____)
) SS.
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____ 201_, by
_____.

Witness my hand and official seal.
My Commission expires: _____.

Notary Public

STATE OF _____)
) ss
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____ 201_, by
_____.

Witness my hand and official seal.
My Commission expires: _____.

Notary Public