

DRYUP COVENANT AND AFFIDAVIT
AMENDING AND SUPERSEDING
DRYUP COVENANT AND AFFIDAVIT
RECORDED ON APRIL 4, 2023 AT RECEPTION #1026002

THIS AMENDED DRYUP COVENANT AND AFFIDAVIT, made this 11TH day of April, 2023, between the Board of County Commissioners for Fremont County (herein “Seller”) whose address is 615 Macon Avenue, Canon City, Colorado, and the City of Florence, whose address is 600 West 3rd Street, Florence, Colorado, (herein “Municipality”);

WITNESSETH:

THAT on March 14, 2023, The Seller approved a Dry Up Covenant and Affidavit which provided for the sale of 1 share of stock in the Union Ditch and Water Company, and ceasing irrigation on .10 acres of hay on property known as Pathfinder Park;

THAT the Covenant and Affidavit was in anticipation of acquiring a 3/4” water tap from the City of Florence;

THAT the parties have subsequently determined that a 2” water tap will be required at the site and therefore the sale of additional Union Ditch water shares and dry up of property is necessarily;

THAT this Amended Dryup Covenant and Affidavit shall amend and supersede the March 14, 2023 Covenant and Affidavit (Recorded April 4, 2023 at Reception #1026002 Fremont County, Colorado) and shall solely govern the agreement between the parties;

THAT the Seller, for good and valuable consideration has sold to Municipality the water rights and other interests represented by 7 shares of stock in the Union Ditch and Water Company, a Colorado non-profit corporation.

WHEREFORE, in consideration of the purchase price or other consideration for the acquisition of said share by Municipality, receipt and sufficiency of which consideration is specifically acknowledged, Seller covenants and states as follows:

1. Seller acknowledges that the above-described water rights will be used by Municipality for municipal water supply purposes and that Municipality will have to establish that the said water rights will no longer be used to irrigate the historically irrigated area.

2. Seller is the owner of the following described real property upon which the said water rights have been historically used:

See Attached Exhibit “A”

3. Seller agrees and covenants that the property shall not be irrigated in the future by Union Ditch water except through the use of water purchased from and delivered through Municipality's municipal water system or pursuant to further water court proceedings. This restrictive Amended Dryup Covenant shall attach to and run with the Property and shall be binding, not only upon the Seller but also upon the Seller's successors, assigns, and any other persons or entities which require an ownership or leasehold interest in all or a portion of the Property in the future.

4. Seller has owned the property commonly known as Pathfinder Park, in the Florence, Colorado area since October 28, 2003, and has personal knowledge that the water represented by the said shares of stock in the Union Ditch and Water Company has been used historically to irrigate approximately 0.7 acres of hay and that the area so irrigated is the following land located in Fremont County, Colorado, to wit:

See Map on Attached Exhibit "B"
Legal Description on Attached Exhibit "C"

Signed, acknowledged and verified the date above written

Kevin J. Grantham, Chairman
Board of Commissioners for Fremont County

STATE OF COLORADO)
)ss.
COUNTY OF FREMONT)

The above instrument was acknowledged and verified under oath by Kevin J. Grantham, Chairman of the Fremont County Board of County Commissioners before me on this ____ day of _____, 2023.

WITNESS my hand and official seal:
My commission expires: _____.

Notary Public