

**RESOLUTION NO. 1337**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
GOLDEN AUTHORIZING THE EXECUTION OF A WATER  
SERVICE AGREEMENT FOR THREE RESIDENTIAL  
PROPERTIES NORTH OF THE CITY LIMITS ON HIGHWAY 93**

WHEREAS, the location and condition of the City's municipal water infrastructure has been such that the City has, as a matter of convenience to property owners, provided municipal water services to three residential properties located north of the City boundaries on Highway 93 since the 1940's; and

WHEREAS, the condition of the water main servicing said residential properties has deteriorated to the extent that the costs of servicing such properties greatly exceed the revenues generated; and

WHEREAS, those residential property owners have requested that the City continue to provide municipal water service to the respective properties for the residential purposes that have historically been associated with said properties; and


WHEREAS, the City and the property owners have reached an agreement regarding the repair and maintenance of the water main required to provide such services; and

WHEREAS, the City and the property owners have reached an agreement regarding other aspects of the provision of such municipal water services to those properties.


THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN,  
COLORADO:

The "Water Service Agreement" in the form substantially as accompanying this resolution and pertaining to the provision of municipal water services for residential properties at 5399 Hwy 93, 5079 Hwy 93 and 20413 W. 56<sup>th</sup> Ave. is approved and authorized. The City Manager is authorized to sign said agreement on behalf of the City.

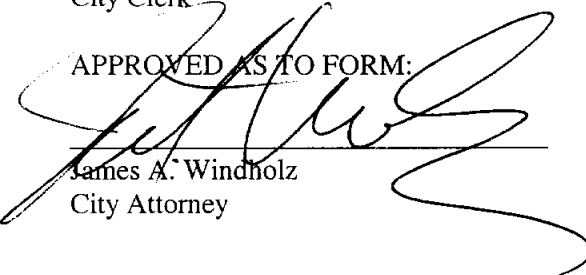
Adopted this 3<sup>rd</sup> day of October, 2002.

  
\_\_\_\_\_  
Charles J. Baroch  
Mayor

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, MMC  
City Clerk

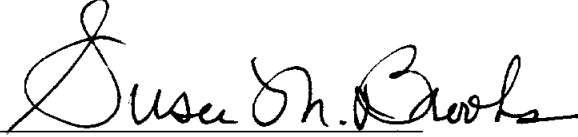
APPROVED AS TO FORM:

  
\_\_\_\_\_  
James A. Windholz  
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular meeting thereof held on the 3rd day of October, 2002.

(SEAL)

ATTEST:

A handwritten signature in cursive script that reads "Susan M. Brooks". The signature is written in black ink and is positioned above a horizontal line.

Susan M. Brooks, City Clerk of  
the City of Golden, Colorado

## WATER SERVICE AGREEMENT

THIS WATER SERVICE AGREEMENT ("Agreement") dated this \_\_\_\_ day of \_\_\_\_\_, 2002 (the "Effective Date"), is between the CITY OF GOLDEN, a Colorado home rule corporation ("Golden"), JENNIFER M. RAMSTETTER and ERIC D. RAMSTETTER (collectively "Ramstetter"), JOHN A. TUTHILL ("Tuthill"), and the BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY (the "County").

### RECITALS

WHEREAS, in the early 1940s, Golden designed and built a water pipeline extending over two miles north of Golden's municipal boundary to Long Lake (the "Pipeline") for the purpose of transporting untreated water south to Golden's water treatment plant.

WHEREAS, Golden executed the following easement agreements for the Pipeline with four property owners north of Golden's municipal boundary:

- (i) Easement for Pipe Line with Paul V. Pattridge, dated June 21, 1939, ("Pattridge Easement"), and Water Contract with Paul V. Pattridge, dated August 17, 1944, (the "Patridge Contract");
- (ii) Easement for Pipe Line with Elizabeth M. Hanson, dated March 6, 1942, (the "Hanson Easement");
- (iii) Easement for Pipe Line with E.A. Ramstetter, dated March 13, 1942, (the "Ramstetter Easement");
- (iv) Easement for Pipe Line with Golden Fire Brick Co., dated June 2, 1959.

These documents are collectively referred to as the "Pipeline Easements" and attached hereto as Exhibit A.

WHEREAS, the Pipeline Easements explicitly limited Golden's obligation to provide water services over time.

WHEREAS, Golden stopped transporting water from Long Lake through the Pipeline in the 1960s. Instead of terminating water service at that time, Golden severed and capped the Pipeline about 11,000 feet north of the city limits, and reversed the flow of water in the Pipeline to carry treated water north from Golden's water treatment plant to the water users north of

Golden's municipal boundary.

WHEREAS, by 2000, Golden continued to utilize the Pipeline to provide water service to three properties with single family residential units at the following addresses (collectively the "Residential Properties"):

- (i) Ramstetter -- 5399 Highway 93, more particularly described in the attached Exhibit B;
- (ii) Tuthill -- 20413 West 56th Avenue, more particularly described in the attached Exhibit C;
- (iii) Ronald L. Bennetts (c/o Tonya C. McCormick) -- 5079 Highway 93, more particularly described in the attached Exhibit D.

WHEREAS, prior to this Agreement, Golden asserts it had no obligation to continue water service to any of the Residential Properties.

WHEREAS, the County purchased the Bennetts residence in early 2000. As the successor in interest to Bennetts and Hanson, the County does not have a water service contract with Golden for the residence located at 5079 Highway 93.

WHEREAS, Ramstetter, Tuthill and the County are successors in interest to the Pipeline Easements and property owners of the Residential Properties. The owners of the Residential Properties are water users of the Pipeline (collectively the "Water Users").

WHEREAS, the Water Users desire to continue to receive water service from Golden at their existing Service Connections for the benefit of their respective Residential Properties. The Water Users and Golden wish to document the terms under which water service will be provided to the Residential Properties.

WHEREAS, Golden faces substantial technical problems and expenses in providing water service to the Residential Properties because of the distance of the Pipeline, the limited number of users relative to the distance, the pumping capacity required to deliver such water, and the age of the Pipeline itself.

WHEREAS, Golden has in the past provided water service to the Residential Properties despite incurring water losses from leaks estimated to be 18,396,000 gallons per year.

WHEREAS, Golden has reviewed the problem of persistent leaks and investigated the design and cost to repair Pipeline leaks, and has determined that it would incur significant costs

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to operate and maintain the Pipeline in order to provide water service to the Residential Properties.

WHEREAS, Golden has reviewed and concurs with the conceptual design and cost estimate to repair the Pipeline presented in the April 18, 2000 report from McLaughlin Water Engineers, a copy of which is attached as Exhibit E. The McLaughlin report recommended the installation of a new water line inside of the existing 10" steel pipe from the northern end of the replacement line installed by Golden in 1999 ("Point A" on Figure A of the McLaughlin report) to the Tuthills' Service Connection. The approximate length of this portion of the line is 3500 feet. The premise of the McLaughlin report is that this is the only section of the water line that has significant leaks.

WHEREAS, Golden does not purport to be an exclusive supplier of water for property outside Golden's boundaries, including the Residential Properties, and to the contrary, Golden's first concern is to provide an adequate, dependable and affordable water supply to citizens within its municipal boundary. Golden believes that it has an adequate supply of water to provide water service to the people of Golden and the Water Users under the terms of this Agreement.

WHEREAS, the Golden city council may, in its sole discretion, approve applications for extraterritorial water service with limitations pursuant to Section 13.04.003 of the Golden Municipal Code, and may limit extraterritorial water service to ensure it does not burden or impair Golden's ability to provide a water service to its citizens.

WHEREAS, Golden's agreement to grant the application to provide extraterritorial water service to the Residential Properties is expressly limited to quantities of water consistent with historical uses of water on those properties as described in this Agreement, to ensure that this water service does not burden the Golden municipal water supply.

WHEREAS, any expansion or additional uses of water service for the Residential Properties shall be conditioned upon annexation by Golden and subject to the appropriate review and approvals of Golden's planning process.

WHEREAS, Ramstetter and Tuthill agree to petition to annex to Golden upon its demand and agree to fully cooperate in efforts to make such annexation possible.

WHEREAS, the owners of the Residential Properties enter into this agreement for water service to meet the historical demand for water on the three properties with the full understanding that Golden is not obligated or intending to expand the number of taps or amount of water to their respective Residential Properties provided by this Agreement and that the limitations contained herein are, in part, consideration for receiving the requested water service.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements hereinafter set forth, it is contractually agreed by and between Golden, Ramstetter, Tuthill, and the County (the "Parties") as follows:

1. **Definitions.** For the purpose of this Agreement, the following terms shall have the meanings defined below:
  - a. **Pipeline.** The existing water supply pipeline, including any repairs and replacements of it, that runs from Golden's 6170 Pump Station approximately 11,000 feet north of Golden's municipal boundary to each Service Connection.
  - b. **Master Meter.** The water meter located at Golden's 6170 Pump Station, which measures the volume of water flowing from the 6170 Pump Station into the Pipeline.
  - c. **Service Connection.** With respect to each of the Residential Properties, the existing connection water tap and service water line to the Pipeline. The existing tap sizes are as follows:
    - Ramstetter -- 3/4 inch
    - Tuthill -- 3/4 inch
    - County -- 1 inch
  - d. **Service Meter.** An existing water meter at the location of each Service Connection which meters the volume of water flowing from the Pipeline into the Service Connection to provide water to the Residential Properties.
  - e. **Water Users.** The owners of the Residential Properties.
2. **Term.** The term of this Agreement shall be as follows:
  - a. With respect to the County as the owner of the Bennetts property and any successor of the County in title to that property who does not elect the term described in paragraph 2(b), this Agreement shall terminate on the 30<sup>th</sup> anniversary of the Effective Date, subject to negotiation for renewal, unless otherwise terminated according to the terms of this Agreement.
  - a. With respect to Ramstetter and Tuthill and any successor of the County in title to the Bennetts property who elects the term described in this paragraph 2(b), this Agreement shall remain in effect as to each such Residential Property for a 30-year term from the Effective Date or until annexation of all or any portion of that Residential Property, unless otherwise terminated according to the terms of this

Agreement. Upon annexation of all or a portion of any Residential Property, this Agreement shall terminate with respect to the annexed portion of that Residential Property, subject to the survival of certain provisions as set forth in paragraph 17(d). If annexation of the Ramstetter, Tuthill, or Bennetts properties has not occurred within the 30-year term of this Agreement for reasons beyond the control of the property owners, the Agreement as to those properties shall automatically continue for another 30-year term.

3. Supply of Water to the Water Users. Golden shall deliver water into the Pipeline to enable the Water Users to withdraw water at their respective Service Connections in accordance with this Agreement, provided that the Water Users satisfy their payment obligations as provided in the Agreement.

4. Water Pressure. Golden shall deliver water into the Pipeline so as to maintain water pressure so as to supply the uses defined in paragraph 15 below.

5. Water Quality. Subject to the provisions of paragraph 8 below, Golden shall take reasonable steps to ensure that treated water delivered at the Pump Station meets state and federal water quality standards. Golden makes no agreement or warranty as to water quality at the point of use. If the water quality at the point of use for the Water Users does not satisfy state and/or federal water quality standards, the Water Users shall elect to: (a) design, construct, operate, maintain and repair, at their sole expense, any necessary additional water treatment facilities on or near the Residential Properties in order to satisfy said standards; or (b) terminate this Agreement pursuant to paragraph 17. If the Water Users elect (a) above, they shall obtain Golden's and the Colorado Department of Public Health and the Environment's approval of the plans and specifications for the construction, operation, maintenance and repair of the additional facilities as a prerequisite to initiating work, and Golden's approval shall not be unreasonably withheld. If the parties mutually agree, Golden may construct, operate, maintain and/or repair the additional water treatment facilities on behalf of the Water Users, subject to reimbursement by the Water Users for all costs associated therewith, as provided in paragraph 6, below.

6. Water Service Charges. The Water Users agree to pay monthly water service charges based on the following four components:

- a. Water delivery charge to Service Connection as measured by the Service Meter and billed at the customary rate schedule applied to residential customers served by Golden outside its municipal boundary pursuant to Section 13.08.020(d) of Golden Municipal Code. The customary rate schedule may be amended from time to time.
- b. An individual Water User's financed portion of the cost of the Designated Repairs

of the Pipeline as described in paragraph 8 below.

- c. Exfiltration Loss charges as described in paragraph 9 below.
- d. Charge for design, construction, operation, maintenance, repair, and replacement of any point-of-use water treatment devices necessary to comply with state and federal water quality standards if such work is performed by Golden pursuant to paragraph 5, above.

7. **Interim Service.** Pending completion and acceptance of the Designated Repairs as described in paragraph 8 below, water service shall continue to be provided and billed based solely on metered deliveries at the Service Meters. Following acceptance of the Designated Repairs, water service shall be billed in the manner provided in paragraph 6 above.

8. **Designated Pipeline Repairs.**

- a. **Definition.** The continued use of the Pipeline requires the following repairs and improvements to be completed and operable (the "Designated Repairs"):
  - (i) The installation of a new water line inside the existing 10 inch steel pipe as more particularly detailed in the report from the McLaughlin Water Engineers dated April 18, 2000 (Exhibit E).
- b. **Responsibilities.** The Water Users will be responsible for the design and funding of the construction of the Designated Repairs pursuant to Section 13.04.110 of the Golden Municipal Code. The Water Users shall provide to Golden plans for the Designated Repairs that are adequate for bidding no later than September 1, 2002. Golden will be responsible for bidding and implementing the Designated Repairs.
- c. **Bidding.** As soon as practicable after the Effective Date, Golden will solicit bids from qualified contractors for the Designated Repairs based on plans and specifications provided by McLaughlin Water Engineers or another engineer selected by the Water Users that is acceptable to Golden. Within 30 days after opening the bids, Golden will select a conditional winning bid subject to Water User ratification and in accordance with design standards and Golden's bidding procedures which designates the lowest responsive and responsible bidder. The selection of the conditional winning bid shall constitute a conditional acceptance of the bid subject to approval by the Water Users. Golden shall provide written notice of conditional acceptance of the bid to the Water Users.
- d. **Repair Notice.** Within 30 days after notice to the Water Users of the conditional winning bid, the Water Users shall determine whether to proceed with the



Designated Repairs and provide Golden with written notice of their decision (the "Repair Notice"). The Repair Notice may be provided by one or more of the Water Users and shall identify the percentage of the total cost of the Designated Repairs to be paid by each participating Water User. If any Water Users elect to proceed with the Designated Repairs, the Repair Notice must specify a combined percentage of participating Water Users that sums to 100%. Golden will have no further obligation to provide water service to those Water Users who do not affirmatively elect to participate in the Designated Repairs after 60 days following the Repair Notice. If any Water User elects to proceed and finance the Designated Repairs, Golden shall then formally accept the winning bid.

- e. Supervision. Golden shall act as the contracting party and shall manage and supervise the construction and installation of the Designated Repairs in a workman like manner. Water Users may hire at their own cost and expense an independent agent to oversee and advise Golden with respect to the construction of the Designated Repairs. Water Users shall compensate Golden for management and supervision services in an amount equal to 7% of the bid total cost of the Designated Repairs. Golden shall inspect and approve the completion of work for the Designated Repairs. Golden shall have no liability for faulty completion of the Designated Repairs. Any warranty provided by the contractors, however, shall be specifically extended by the contractors for the benefit of the Water Users.
- f. Cost of Designated Repairs. The Water Users who affirmatively elect to participate in the Designated Repairs shall pay all the actual costs of the Designated Repairs. Any participating Water User may pay its obligation either in cash, or Golden will finance the amount due over a period of 20 years at an interest rate equal to 2.0% over the City's average annual yield on investments. If a participating Water User elects the financing payment option, Golden will incorporate the principal and interest payments into the regular water charge to that Water User as described in paragraph 6. In the event a Water User terminates this Agreement, then such Water User shall remain liable for that Water User's unpaid share of the cost of the Designated Repairs.

9. Exfiltration Loss. Golden and the Water Users acknowledge that the amount of water metered at the Master Meter may not equal the amount of water metered at the Service Connections of the Water Users. The Parties agree to apportion losses in the following manner:

- a. "Exfiltration Loss" defines the amount of water metered at the Master Meter during each billing period less the total amount of water metered at the three Service Meters of the Water Users during each billing period.

- b. "Exfiltration Rate" defines the percentage of Exfiltration Loss relative to the amount of water metered at the Master Meter during each billing period.
- c. Golden will be accountable for Exfiltration Loss associated with an Exfiltration Rate of up to 7%.
- d. The Water Users as a group will be accountable for Exfiltration Loss associated with any Exfiltration Rate that is greater than 7%, subject to the provisions of paragraph 11.
- e. Each Water User will be accountable for a proportional share of any Exfiltration Loss corresponding to the Exfiltration Rate that is greater than 7%. Each Water User's share of the Exfiltration Loss shall be based on the relative water usage by that Water User as measured at their Service Meters. By way of example only, if metered usage at the Ramstetter Service Meter during a particular billing period is twice the metered usage at each of the Tuthill and County Service Meters, Ramstetter will be billed for 50%, and each of Tuthill and the County shall be billed for 25%, of the Exfiltration Loss.

10. Facilities. Golden shall own the Pipeline and all associated facilities up to and including the Service Meter at each Water User's Service Connection. Except for the Water Users' cost of Designated Repairs described in paragraph 8 above, Golden shall be solely responsible and shall pay for construction, operation, maintenance, repair and replacement of the Pipeline, Master Meter and Service Meters, in a manner consistent with Golden's maintenance, operation and repair of other water transmission facilities owned by Golden. Golden shall own, operate, maintain, repair and replace the point-of-entry treatment devices should Golden construct such facilities pursuant to paragraph 5, subject to reimbursement as provided in paragraph 6. Participating Water Users shall be responsible for their respective pipeline from the Service Connection to outlets on the Residential Property.

11. Future Repairs. Golden shall allow the Water Users access to the Master Meter and the Service Meter at reasonable times. If the Water Users reasonably determine that the Exfiltration Rate is greater than 15%, the Water Users may provide written notice to Golden requesting repair of the Pipeline. Upon receipt of such notice, Golden will take reasonable steps to locate, identify, and repair leaks as technically and economically feasible. Should a leak occur through the Service Connection of a Water User and not the Pipeline, that individual Water User shall be responsible to repair the Service Connection leak. Any future financial obligations on Golden for operation and maintenance activities must be made subject to annual appropriations. In no event shall the Water Users be billed for any portion of the Exfiltration Loss greater than 8% (the 15% threshold for the notice less the 7% for which Golden is accountable under

paragraph 9(c) above) from the date of receipt of such notice until adequate repairs have been completed.

12. Compliance. Water Users will comply with all provisions of Sections 13.04 and 13.08 of the Golden Municipal Code pertaining to water regulations, water rates and water charges. The Residential Properties will be subject to a lien for all charges arising from Golden's water service as provided by Section 13.08.100 in the Golden Municipal Code. Moreover, each Water User agrees that its own obligation to pay the portion of the cost of the Designated Repairs as specified in the Repair Notice shall be secured by a continuing lien upon that Water User's Residential Property under the provisions set forth in Section 13.08.100 of the Golden Municipal Code.

13. Liability Among Water Users. Each Water User shall be liable and responsible to Golden for its own water service charges as described in paragraphs 6, 7, 8, and 9 above. There shall be no joint and several liability among the Water Users. If one Water User becomes delinquent and Golden terminates water service subject to the terms of this Agreement, or if a Water User terminates water service as provided in paragraph 17 below, then the remaining Water Users will assume their proportionate share of Exfiltration Loss described in paragraph 9; provided, however, that a Water User shall remain liable for any water service charges incurred before any such termination, including that Water User's proportionate share of Designated Repair costs in the Repair Notice.

14. Reservation of Future Taps and Amounts. The Water Users are currently the only customers served by the Service Pipeline. Golden reserves the right to authorize or install additional water taps in any location and any amount from the Pipeline, so long as such additional taps do not impair the quantity, quality, or pressure of water delivered to the Water Users. Golden also reserves the right to limit the quantity of water to existing taps at historic levels consistent with the Residential Properties as set forth in paragraph 15.

a. In the event that additional taps are authorized or installed into the Pipeline, Golden shall adjust the proportionate share of water service charges as described in paragraphs 6, 8 and 9.

b. In the event that additional taps are authorized or installed into the Pipeline after completion of the Designated Repairs and within 10 years of the date of this Agreement, Golden shall as a condition of such authorization require the connecting party to reimburse each Water User for a proportionate share of the cost of the Designated Repairs, based on the portion of Pipeline capacity that is made available to another party, less accumulated depreciation calculated over a straight-line 45 year life.

15. Limitations on Use of Water. The water supplied to the Water Users under the Agreement shall only be usable by the Water Users for the following uses:

- a. Domestic in-house use for one existing single-family house, and renovation or enlargement of said existing unit provided it is restricted to a single family residence. For purposes of this Agreement, an "enlargement" shall not exceed 70% of the existing structure;
- b. As to Ramstetter only, one accessory dwelling unit;
- c. Irrigation for lawns and agricultural lands, not to exceed one acre;
- d. Historic livestock and other animal uses, not to exceed 20 horses on the Ramstetter property;
- e. The Water Users may not increase the size of their respective taps located at each Service Connection. The existing tap sizes are as follows: Ramstetter -- 3/4 inch; Tuthill -- 3/4 inch; and the County -- 1 inch.
- f. If severe drought conditions create an unanticipated water shortage, Golden will not ration water service to the Water Users any more restrictive than to citizens within Golden's municipal boundary.

These specified limits on use are deemed necessary and desirable by Golden for utility-related purposes and to protect its water supply for existing and future municipal uses. Such limitations are consistent with the conditions that may be imposed on extraterritorial water users pursuant Section 13.04.003 of the Golden Municipal Code and Golden's authority to limit use pursuant to Section 13.04.190 of the Golden Municipal Code.

16. Annexation.

- a. Except as provided in paragraphs 2 and 16b., annexation within the municipal boundaries of Golden shall not be a condition of continued water service to the Residential Properties of the Water Users. However, any expansion or additional uses of water service beyond that described in paragraph 15 above shall be conditional upon annexation by Golden and subject to the appropriate review and approvals of Golden's planning process. Such a condition for water service is consistent with Section 13.04.003 of the Golden Municipal Code.
- b. Ramstetter and Tuthill and any successor of the County in title to the Bennetts property who elects the term described in paragraph 2(b) agree to annex

to Golden upon the following conditions:

(i) Golden, by written notice to one or more of such Residential Property owners, may at any time demand annexation of all or a portion of such Residential Property(ies). Within 30 days of such notice, such Residential Property owner(s) shall petition to annex all or the designated portion of their respective properties to the City of Golden and shall diligently pursue and cooperate with Golden to accomplish such annexation.

(ii) The failure of any such Residential Property owner to so petition or to consent to an annexation proposal that is consistent with the terms of paragraph 16(c), shall constitute a default under this paragraph 16(b) and if such failure shall continue for 30 days after notice of such default has been given to such Residential Property owner by the City, then this Agreement shall terminate as to that Residential Property and Golden shall have no further obligation to provide water service to such Residential Property. However, the fact that annexation may not occur for any reason outside of the control of the respective Residential Property owner, including without limitation the ineligibility of that Residential Property for annexation under applicable law or the failure of City Council, in the exercise of its police power, to adopt an annexation ordinance, shall not constitute a default under this paragraph 16(b) and shall not be grounds for termination of this Agreement.

c. The annexation of any of the Residential Properties under this Agreement shall be in accordance with the following terms:

(i) The existing land uses described in paragraphs 15 (a) through (d) shall be allowed to continue and shall not be limited as a result of such annexation.

(ii) Upon annexation, the zoning shall be consistent with the County zoning applicable to such property as of the Effective Date.

(i) No costs beyond those specified in this Agreement shall be imposed on the annexed Residential Property for utilities, roads, and other improvements or infrastructure unless and until that Property is developed in manner other than described in paragraphs 15 (a) through (d).

d. In the event that any of the Residential Properties is annexed, in whole or in part, into Golden, then water shall be supplied to the annexed portion of such Residential Properties in accordance with the customary rates and terms

applicable to same or similar class customers located within the boundaries of Golden or any applicable annexation agreement. The obligation of Golden to reimburse the Water Users in the event that additional taps are authorized or installed into the Pipeline under the terms of paragraph 14(b) shall not be altered by such annexation.

17. **Termination.**

a. Golden shall have the right to terminate water service to a Water User in the event a Water User is delinquent in the payment of its share of the water service charges pursuant to Sections 13.08.070(c) and 13.08.080 of Golden Municipal Code.

b. In the event that any Water User no longer desires the delivery of water under the terms of this Agreement, that Water User shall have the right to terminate this Agreement as to that Water User only upon thirty (30) days advance written notice to Golden.

c. Any Water User that terminates delivery of water service or whose service is terminated due to payment delinquencies before the term of this Agreement, shall still be responsible for all water service charges incurred before the date of termination, including without limitation payment on the outstanding balance of that Water User's proportionate share of outstanding Designated Repair costs that may have been financed pursuant to paragraph 8(f).

d. The following paragraphs of this Agreement shall survive termination: 13, 14(b), 16(c), 16(d), and 17(c).

18. **Sanctions.** If the Water Users violate the terms limiting the type of water uses and amount of water use as described in paragraphs 14 and 15, Golden shall have the sole discretion pursuant to Section 13.04.210 of the Golden Municipal Code to give notice of such violation and terminate water service in 30 days. Once Golden gives notice of a violation to a Water User, the Water User shall have the right to cure the violation for 30 days prior to termination of water service by Golden.

19. **Easement Created.** Contemporaneously with the execution of this Agreement, the County and Ramstetter shall grant non-exclusive perpetual easements for the benefit of Golden for the purpose of locating and maintaining the Pipeline on their respective Residential Properties. The instruments creating such easements shall be substantially in the form of the attached Exhibit F.

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20. Notices. All notices and other communications under this Agreement shall be in writing. All such notices and communications and all payments shall be deemed to have been duly given on the date of service, if delivered and served personally, or served via facsimile on the person to whom notice is given, or on the third day after mailing, if mailed to the party to whom payment and notice is to be given by first class mail, postage prepaid, and properly addressed as follows:

City of Golden: City Manager  
City of Golden  
911 Tenth Street  
Golden, CO 80401  
(303) 384-8000  
(303) 384-8001 (Fax)

with copy to: James A. Windholz, Esq.  
City Attorney  
Windholz & Associates  
1650 38th Street, Suite 103 West  
Boulder, CO 80301  
(303) 443-3100  
(303) 443-7835 (Fax)

Ramstetter: Jennifer Ramstetter  
634 Lower Dover Road  
Brattleboro, VT 05301  
(802) 464-6144  
(802) 257-4154 (Fax)

with copy to: Charles B. White, Esq.  
Petros & White, LLC  
730 17th Street, Suite 820  
Denver, CO 80202-3518  
(303) 825-1980  
(303) 825-1983 (Fax)

Tuthill: John A. Tuthill  
20413 W. 56th Avenue  
Golden, CO 80403  
(303) 279-8039

County: Lee Suttie

July 18, 2002

Director of Facilities  
700 Jefferson County Parkway, Suite 300  
Golden, CO 80401

21. Interpretation. It is the mutual understanding of the parties that this Agreement shall not be construed or interpreted in any way as obligating Golden to ever increase any tap size, expand water service beyond the uses described in paragraphs 15 and 16, permit additional uses, or modify its existing open space designation for the Residential Properties as set forth in the Golden Comprehensive Plan.

22. Contract. The Parties enter this Agreement as a voluntary contract with valid consideration that binds the Parties to the terms therein.

23. No Vested Property Rights. This Agreement does not create a vested property right on behalf of the Water Users in the water rights of Golden.

24. Waiver. Pursuant to the purpose and intent of this Agreement, and as part of the consideration bargained for in this contract, the Water Users waive any future right or claim that Golden is obligated to provide water service as a public utility, or that Golden is obligated to expand water service beyond the limits imposed in paragraphs 14, 15 and 16.

25. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all other prior and contemporaneous agreements, representations, and understandings of the parties regarding the subject matter of this Agreement, including without limitation the Pipeline Easements. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the Parties. No representations or warranties whatever are made by any party to this Agreement except as specifically set forth in this Agreement or in an instrument delivered pursuant to this Agreement.

26. Section Headings. The headings of this sections of this Agreement are inserted solely for the convenience of reference and are not part of and are not intended to govern, limit, or aid in the construction of any term or provision herein.

27. Full Authority. The undersigned represent that they have full authority to enter this Agreement on behalf of the respective Parties. The Parties have taken all actions required and secured the necessary approvals to enter this Agreement. Golden further represents that this Agreement is in compliance with all municipal ordinances and that all appropriate resolutions concerning this Agreement have been duly enacted by the Golden City Council.

28. Further Assurances. Golden and the Water Users agree and consent to execute such additional documents that may be required by them and cooperate and give such further



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assurances as may be reasonably necessary to further the intent and purpose of this Agreement, including the documents to verify that this Agreement is or is not of continuing force and effect.

29. Counterparts. This Agreement is executed in four duplicate counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same instrument.

30. No Partnership. It is the intent of the Parties that this instrument establish an agreement for the delivery of water and that this instrument shall not establish any agency relationship between the Parties nor shall this instrument create a joint venture or partnership between any of the Parties.

31. Colorado Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado. This Agreement may be enforced in an action for specific performance, injunctive relief, or damages in the District Court for the First Judicial District of the State of Colorado.

32. Agreement to Run with the Land. This Agreement is a binding covenant intended to run with the land owned by each Water User and shall inure to the benefit of any and all future owners of the Residential Properties.

33. Succession. This Agreement shall be binding upon the successors and assigns of the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF GOLDEN

ATTEST:

By:  
City Manager

APPROVED AS TO FORM:

City Attorney

July 18, 2002

**Jennifer M. Ramstetter**

**Eric D. Ramstetter**

**John A. Tuthill**

**BOARD OF COUNTY COMMISSIONERS OF  
JEFFERSON COUNTY**

**Chairman, Board of County Commissioners**