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 Fauquier County, VA  
 Gail H Barb Clerk of Circuit Court  
 File# 2017-00004520

BK **1546** PG **1271-1302**

Prepared by and return to: Henry Cleaves Day, Esquire  
 VSB #21978  
 P. O. Box 1096  
 Warrenton, Virginia 20188

Title Insurance: Stewart Title Guaranty Company

PIN No.: 6060-73-6972-000  
 6070-00-4571-000  
 6070-12-6300-000  
 6060-82-7084-000  
 6060-80-5441-000

Value 0.2503A \$7500.00

Consideration: None

Exempt: Section 58.1-811 A.3 and C.4

**DEED OF SUBDIVISION,  
 DEED OF EXCHANGE,  
 DEED OF RESTRICTIVE COVENANT,  
 DEED OF UTILITY EASEMENTS,  
 DEED OF INGRESS/EGRESS EASEMENTS,  
 DEED OF VACATION OF EASEMENTS, and  
 DEED OF CONFIRMATION**

THIS DEED of Subdivision, Deed of Exchange, Deed of Restrictive Covenant, Deed of Utility Easements, Deed of Ingress/Egress Easements, Deed of Vacation of Easements, and Deed of Confirmation ("this Deed"), is made this 19th day of May, 2017, by and between FAUQUIER COUNTY WATER AND SANITATION AUTHORITY, a body corporate and politic, herein referred to as "FCWSA", Grantor and Grantee; PIPER ENTERPRISES, LTD., a Virginia corporation, herein referred to as "Piper", Grantor and Grantee; the VIRGINIA OUTDOORS FOUNDATION, an agency of the Commonwealth of Virginia, herein referred to as "VOF", and THE PIEDMONT ENVIRONMENTAL COUNCIL, herein referred to as "PEC".

**RECITALS.**

R-1. Piper is the owner in fee simple of certain real property containing approximately 448.8751 acres and situated near Marshall, Virginia, on John Marshall Highway, Virginia Route 55, in the Scott Magisterial District of Fauquier County, Virginia, more thoroughly described

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 Cardinal Abstract Co  
**EXAMINED &  
 RETURNED**

by Deed recorded in Deed Book 808, at page 383, among the land records of Fauquier County, Virginia, herein the "Piper Property", portions of which are described on the plat entitled "Plat Showing Utility Lot #3 and #4 and Vacation and Creation of Various Easements" on the Property of Piper Enterprises, Ltd., Deed Book 808, page 383 and Deed Book 808, page 407, Marshall District, Fauquier County Virginia", prepared by Stanley D. Heiser, L.S., dated April 2, 2015, last revised May 12, 2017, herein the "Plat", which is attached hereto as Exhibit "A" and incorporated herein.

- R-2. FCWSA is the owner in fee simple of certain real property adjacent to the Piper Property containing approximately .2503 acre, as more thoroughly described by Deed recorded in Deed Book 1247, at page 1198, among the land records of Fauquier County, Virginia (PIN 6060-82-7084), and shown on the Plat, together with an approved drinking water well and associated pumps and equipment, herein collectively referred to as the "FCWSA Property".
- R-3. By Deed of Gift of Easement dated November 29, 2003, and recorded in Deed Book 1383, at page 998 among the land records of Fauquier County, Virginia, as the same was recently amended by deed recorded prior hereto, Piper conveyed to the VOF, an agency of the Commonwealth of Virginia, pursuant to the Virginia Open-Space Land Act, Chapter 17, of Title 10.1, herein the "Open Space Act", an Open-Space Easement, for the public purposes identified therein, over the Piper Property, herein the "VOF Easement".
- R-4. The VOF Easement also contains a conveyance to PEC, a Virginia non-stock corporation, pursuant to the Virginia Conservation Easement Act, Chapter 10.1, of Title 10.1, herein the "Conservation Easement Act", of a Conservation Easement, for the public purposes identified therein, over the Piper Property, also as the same was recently amended by deed recorded prior hereto, herein the "PEC Easement".
- R-5. Piper and FCWSA desire to make the following exchange: the FCWSA Property will be exchanged for (i) a portion of the Piper Property, containing approximately 10,000 square feet, and labeled as "Utility Lot #3" on the Plat, herein "Well Lot #3"; and, (ii) a portion of the Piper Property, containing approximately 10,000 square feet labeled "Utility Lot #4" on the Plat, herein "Well Lot #4". The exchange of properties is referred to herein as the "Exchange".
- R-6. To accomplish the Exchange as further provided herein, Piper desires and intends to subdivide a portion of the Piper Property into two well lots, Well Lot #3 and Well Lot #4, as more thoroughly described herein and on the Plat. VOF and PEC desire and intend to approve the subdivision of the well lots and confirm that the VOF Easement and the PEC Easement permit such subdivisions.
- R-7. Both Well Lot #3 and Well Lot #4 contain developed drinking water wells which were drilled in the 1980's. All references herein to Well Lot #3 and Well Lot #4 shall include the fee simple title to the real property, together with the drilled wells and any and all associated equipment or operation for the wells.

- R-8. FCWSA acquired the Marshall Water System from Marshall Water Works, Inc. in December of 2006, of which Well Lot #4 was an integral part of the supply of water to the Town of Marshall, and the well on Well Lot #4 is currently operated by FCWSA under a certain license agreement recorded in Deed Book 625, at page 1509, the “Well #4 License Agreement”, among the aforesaid county land records.
- R-9. Since acquiring the Marshall Water System, FCWSA has sustained the loss of three important drinking water wells serving the Marshall Water System, which has created a production shortfall in water capacity. The shortfall affects existing customers of the Marshall Water System.
- R-10. FCWSA has expended extensive time, effort and funds to search for replacement wells to solve the Marshall Water System shortfall. To date, FCWSA has been unable to locate additional wells with sufficient capacity to address the current needs of the Marshall Water System.
- R-11. FCWSA desires to replace the shortfall in the Marshall Water System capacity with the wells on Well Lot #3 and Well Lot #4 by exchanging the FCWSA Property for Well Lot #3 and complete title to Well Lot #4, both subject to the VOF Easement and the PEC Easement, together with all necessary waterline and access easements further described herein to connect Well Lot #3 and Well Lot #4 to the Marshall Water System permanently.
- R-12. Piper anticipated the possible need to exchange wells and well lots when granting the VOF Easement and the PEC Easement and included in both Easements the right of Piper to exchange wells and well lots with the former owner of the Marshall Water System, Marshall Water Works, Inc., and its successor, FCWSA.
- R-13. Piper has recently amended the VOF and PEC Easements to facilitate the creation of Well Lots for Well Lot #3 and Well Lot #4 by an amendment recorded prior hereto.
- R-14. VOF has reviewed the proposed subdivision of well lots, the exchange of the FCWSA Property for Well #3 and Well #4 and the conveyance of certain easements herein and desires to confirm that these conveyances are permitted under the VOF Easement.
- R-15. PEC has reviewed the proposed subdivision of well lots, the exchange of the FCWSA Property for title to Well #3 and Well #4 and the conveyance of certain easements herein and desires to confirm that these conveyances are permitted under the PEC Easement.
- R-16. VOF and PEC desire to consent to the subdivision of the Piper Property, the exchange of properties and the granting of the easements herein and to confirm that the VOF Easement and the PEC Easement, as amended prior hereto: (i) encumber the Piper Property, as well as Well Lot #3 and Well Lot #4; (ii) allow the construction, development, operation, maintenance and repair of Well Lot #3 and Well Lot #4 for public water supplies for the

Marshall community as permissible uses under their respective Easements; and (iii) permit FCWSA to operate Well Lot #3 and Well Lot #4 to supply the Marshall community with public water.

**SUBDIVISION.**

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Piper does hereby subdivide the Piper Property to create Well Lot #3, labelled "Utility Lot # 3" on the Plat, containing approximately 10,000 square feet (0.22957 acre), and Well Lot #4, labelled "Utility Lot # 4" on the Plat, containing approximately 10,000 square feet (0.22957 acre), all in accordance with the Plat attached hereto as Exhibit A and by reference made a part of this Deed. The subdivision of the land shown on the Plat and accomplished herein is with the free consent and in accordance with the desires of the undersigned owners, proprietors and trustees.

**EXCHANGE OF WELLS.**

**Piper to FCWSA**

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and in exchange for the parcel of land conveyed in the paragraph below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Piper does hereby grant, bargain, sell and convey unto FCWSA, with SPECIAL WARRANTY OF TITLE, by exchange, those certain tracts and parcels of land, to wit: (i) Well Lot #3, labeled "Utility Lot #3", containing 10,000 square feet or 0.22957 acres of land; and (ii) Well Lot #4, labeled "Utility Lot #4", containing 10,000 square feet or 0.22957 acres of land; both such parcels of land being as more thoroughly described on the Plat.

**FCWSA to Piper**

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and in exchange for Well Lot #3 and Well Lot #4 conveyed in the previous paragraphs herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FCWSA does hereby grant, bargain, sell and convey unto Piper, with SPECIAL WARRANTY OF TITLE, by exchange, fee simple title to the FCWSA Property containing approximately 0.2503 acres owned by FCWSA by virtue of a deed recorded in Deed Book 1247, at page 1198 and as more thoroughly described on the Plat.

THESE CONVEYANCES, by way of exchange, the "Exchange", are made expressly subject to the restrictions, conditions, rights of way and easements, if any, including, specifically, the VOF and PEC Easements, contained in the instruments constituting the chains of title to each of the properties conveyed herein, and to matters visible upon inspection.

### **RESTRICTIVE COVENANT.**

FURTHER, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and in exchange for Well Lot #3 and Well Lot #4 conveyed in the previous paragraphs herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FCWSA and Piper covenant and agree that all buildings and structures which may be constructed on Well Lot #3 or Well Lot # 4 shall: (i) meet the applicable standards of Virginia Department of Health for well buildings; (ii) be constructed to minimize their visibility from Piper's remaining property; (iii) be substantially similar in appearance to the well building described in Exhibit "B", attached hereto and made a part hereof, and constructed with materials and colors reasonably acceptable to Piper; and (iv) not exceed a height limit of twenty-five (25) feet measured from the ground to the peak of the roof line. FCWSA agrees to provide to Piper any building plans for a well building once the same are approved by the Virginia Department of Health. Piper shall have ten (10) days from the date of delivery of such plans to review and comment. This is a private covenant between FCWSA and Piper and will not be enforced by VOF or PEC.

### **UTILITY EASEMENTS.**

FURTHER, THEREFORE, in consideration of the sum of Five Dollars (\$5.00), cash in hand paid, and as part of the Exchange of properties herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Piper hereby grants and conveys unto FCWSA, its successors and assigns in perpetuity: (i) a twenty (20) foot wide utility easement from Virginia State Route #55 to Well Lot #3, labeled "20' Utility Easement Hereby Conveyed to the FCWSA", and more thoroughly described and shown on the Plat; and (ii) a twenty-five (25) foot utility easement from Virginia State Route #710 to Well Lot #4, labeled "25' Ingress/Egress and Utility Easement Hereby Conveyed to the FCWSA", as more thoroughly described and shown on the Plat, both herein collectively referred to as the "Utility Easements", for the purpose of constructing, operating, maintaining (including replacement and repair), adding to, and/or altering water mains, fire hydrants, valves, meters and other appurtenances to a water distribution system, including underground electric transmission and communications services to serve the wells, and for the transmission of water through and across the Piper Property, as part of the "Water Distribution System", as shown on and described on the Plat, and (iii) the fee simple title to all water mains, fire hydrants, valves, meters and other facilities appurtenant to the Water Distribution System now or hereafter installed in the Utility Easements.

FURTHER, THEREFORE, in consideration of the granting of the Utility Easements, FCWSA, Piper, VOF and PEC agree as follows:

1. FCWSA and its officials, employees and agents shall have full and free use of the Utility Easements for the purposes stated and shall have all rights and privileges reasonably necessary to the convenient exercise of such activities, including the right of access to and from the Utility Easements and the temporary right to use land abutting and/or adjacent to the Utility Easements where and when such is reasonably necessary for the convenient and efficient exercise of construction,

inspection, alteration, repair and/or other maintenance activities relating to the Water Distribution System. In addition, FCWSA shall have the right to assign any portion of the Utility Easements, in whole or in part, to any one or more Virginia public service companies for the underground installation and maintenance of electrical or communications services to any of its wells.

2. FCWSA shall have the right to trim, cut and/or remove trees and shrubbery and to remove fences, structures and other obstructions or facilities on the property subject to the Utility Easements, or any obstructions on the property adjacent to the Utility Easements, which are deemed by FCWSA to interfere with the proper and efficient construction, operation, alteration, repair and/or other maintenance of the Water Distribution System, or any portion thereof.

3. FCWSA, at its own expense, shall restore to its original condition, as nearly as practicable, any portion of the Piper Property disturbed by FCWSA in connection with the construction, repair and replacement of the Water Distribution System, but such restoration shall include only the reseeded or sodding of lawns, the reseeded of pasture areas, the replacement or repair of any authorized pavement which has been disturbed, any appropriate backfilling of trenches, the reinstallation of any fence removed and the planting of young shrubs in replacement of shrubs removed or destroyed by FCWSA. Moreover, with respect to Piper's property abutting and/or adjacent to the property subject to the Utility Easements, (a) FCWSA shall plant young trees in replacement of trees removed or destroyed by FCWSA, and (b) other structures and facilities removed by FCWSA shall either be replaced by FCWSA or, at FCWSA's option, Piper shall be reasonably compensated by FCWSA for the value of any structure or facility removed, considering the condition of same. The foregoing provisions of this Paragraph numbered 3 notwithstanding, FCWSA need not replace any trees or shrubs or other structures, obstructions, or facilities planted, installed or constructed in violation of the provisions of Paragraph 5 below.

4. Piper reserves the right to install and maintain pavement over the property subject to the Utility Easements in the event Piper otherwise has lawful authority to do so and such is in compliance with a FCWSA-approved site plan or subdivision plat or plan, and to make any use of the property subject to the Utility Easements, which is not inconsistent with the rights of FCWSA and does not interfere with FCWSA's use thereof, except as otherwise provided in Paragraph 5 below.

5. Piper shall not erect any building or other structure, excepting a fence, plant any tree, change the existing ground elevation, or permit any such thing to be done within the property subject to the Utility Easements without obtaining the prior written approval of FCWSA.

6. In the event FCWSA performs work of any nature and/or expends any funds to correct any unauthorized grading and/or to remove any unauthorized trees, buildings, structures, facilities or obstructions in, abutting, or immediately adjacent to the property subject to the Utility Easements, and/or in the event Piper or any of Piper's agents causes or allows any damage to be done to any portion of the Water Distribution System located on the property subject to the Utility Easements, Piper shall reimburse FCWSA, within ten (10) days of receipt of notice of demand, all reasonable costs incurred by FCWSA.

7. The provisions and covenants of the Utility Easements shall run with the land and shall remain binding upon Piper and its successors in interest and shall be subject to the terms and conditions of the VOF Easement and PEC Easement. All references in this Deed to FCWSA shall refer to FCWSA and likewise to its successors and assigns, and all references to the officials, employees and agents of FCWSA shall likewise refer to the officials, employees and agents of FCWSA's successors and assigns.

8. FCWSA's execution of this Deed shall attest to and signify FCWSA's acceptance of the Utility Easements in accordance with the terms of this Deed and FCWSA's acceptance of the fee simple title to the water mains, fire hydrants, valves, meters and other appurtenances to any Water Distribution System now or hereafter installed therein upon FCWSA's approval of same as installed/constructed.

### **ACCESS EASEMENTS.**

FURTHER, THEREFORE, in consideration of Five Dollars (\$5.00), cash in hand paid, and as part of the exchange of properties herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Piper hereby grants and conveys unto FCWSA, its successors and assigns in perpetuity: (i) a fifteen (15) foot wide ingress/egress easement for access from Virginia State Route #55 to Well Lot #3, labeled "15' Ingress/Egress Easement Hereby Conveyed to the FCWSA", and more thoroughly described and located on the Plat, herein the "Well Lot #3 Access Easement"; and (ii) a twenty-five (25) foot wide ingress/egress easement for access from Virginia State Route #710 to Well Lot #4, labeled "25' Ingress/Egress and Utility Easement Hereby Conveyed to the FCWSA", and more thoroughly described and located on the Plat, herein the "Well Lot #4 Access Easement"; and (iii) a temporary ingress/egress easement for access, fifteen (15) feet in width, from Virginia Route #710 to Well Lot #4 labeled "15' Temporary Ingress/Egress Easement Hereby Granted to FCWSA", which is terminable by Piper upon 180 days prior written notice, and more thoroughly described and located on the Plat, herein the "Temporary Well Lot #4 Access Easement", collectively the "Access Easements".

FURTHER, THEREFORE, in consideration of the granting of the Access Easements, FCWSA, Piper, VOF and PEC agree as follows:

1. The Access Easements shall be nonexclusive and shall be for the purpose of providing FCWSA vehicular and pedestrian access to and from both Well Lot #3 and Well Lot #4 conveyed herein; and, shall be for the benefit of FCWSA, its employees, agents, contractors, regulators and its successors and assigns, as owner of Well Lot #3 and Well Lot #4; and shall be binding upon Piper and Piper's successors in interest in ownership of any portion of the Piper Property; and shall run with the land.

2. Piper hereby reserves the right to relocate the Well Lot #3 Access Easement and the Temporary Well Lot #4 Access Easement to locations in the general vicinity of those easements as shown on the Plat; provided, however, that such relocation shall be at the expense of Piper and shall not interrupt FCWSA's access to Well Lot #3 and Well Lot #4.

