

WATER & SEWER BOARD AGENDA

Wednesday, January 19, 2022 at 2:00 p.m.
Greeley City Council Chambers at
City Center South, 1001 11th Ave, Greeley, CO 80631

1. Roll Call: _____ Chairman Harold Evans _____ Vice Chairman Mick Todd
 _____ Ms. Cheri Witt-Brown _____ Mr. Fred Otis
 _____ Mr. Joe Murphy _____ Mr. Tony Miller
 _____ Mr. Manuel Sisneros _____ Mayor John Gates
 _____ Mr. Raymond Lee _____ Mr. John Karner
2. Approval of Minutes
3. Approval of and/or Additions to Agenda

Consent Agenda

The Consent Agenda is a meeting management tool to allow the Board to handle several routine items with one action.

The Board or staff may request an item to be “pulled” off the Consent Agenda and considered separately under the next agenda item in the order they were listed.

4. Approve the Second Reimbursement Agreement for Wildfire Mitigation and Rehabilitation with CPRW
5. Approve the Reimbursement Agreement Big Thompson Watershed for the Purpose of Wildfire Recovery
6. Approve and Recommend to City Council the Wildfire Research Agreement with Colorado State University

End of Consent Agenda

7. Welcome New Employees and Promotions
8. Election of Officers
9. 4th Quarter Water Court Update
10. Legal Report
11. Executive Session
 - Acquisition and Trade Agreement



If, to effectively and fully participate in this meeting, you require an auxiliary aid or other assistance related to a disability, please contact Ettie Arnold at 970-350-9818.

12. Approve and Recommend to City Council Water Rights Trade Agreement with Longs Peak Dairy
13. Adopt Resolution Approving the Water Court Application for Change of Use for the City's Water Supply and Storage Company Shares
14. Director's Report
 - Update on Windy Gap Chimney Hollow Reservoir Construction Tour
 - Update to Water & Sewer Design Criteria, Standards and Construction Specifications
15. Such Other Business That May Be Brought Before the Board and Added to This Agenda by Motion of the Board



If, to effectively and fully participate in this meeting, you require an auxiliary aid or other assistance related to a disability, please contact Ettie Arnold at 970-350-9818.

**City of Greeley
Water and Sewer Board
Minutes of December 15, 2021
Regular Board Meeting**

Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:01 p.m. on Wednesday, December 15, 2021.

1. Roll Call

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Joe Murphy, Cheri Witt-Brown, City Manager Raymond Lee, and Finance Director John Karner

Water and Sewer Department staff:

Director Sean Chambers, Utility Finance Manager Erik Dial, Deputy Director Operations Nina Cudahy, Chief Engineer Adam Prior, Water Resources Manager Jen Petrzalka, Budget Analyst Kalen Myers, Communication & Engagement Representative Sharon Dunn, Civil Engineer Peter Champion, Water Resources Admin Alex Tennant, Water Resources Admin Leah Hubbard, Communication and Engagement Rep Sharon Dunn, and Office Manager Ettie Arnold

Legal Counsel:

Counsel to Water & Sewer Board Attorney Carolyn Burr, Senior Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer

Guests:

Emeritus Board Member Robert Ruyle

2. Approval of Minutes

Mr. Murphy made a motion, seconded by Mr. Otis, to approve the November 17, 2021 Water and Sewer Board meeting minutes. The motion carried 5-0.

3. Approval of and/or Additions to Agenda

There were no changes to the agenda.

Consent Agenda

4. Approval Amendment No. 1 to Five Rivers Cattle Water Lease Agreement

Recommended action: Approve First Amendment to Five Rivers Cattle Water Lease Agreement.

Mr. Murphy made a motion, seconded by Ms. Witt-Brown, to approve the proposed recommended actions on the Consent Agenda. The motion carried 5-0.

End of Consent Agenda

5. Pulled Consent Agenda Items

There were no items removed from the Consent Agenda.

6. Recognition of Justice Greg Hobbs

Chairman Evans, Carolyn Burr and Bob Ruyle spoke in remembrance of Justice Hobbs and his dedication to the preservation of Greeley's water history and future.

7. Welcome New Employees and Promotions

Mr. Chambers provided an introduction of new Water and Sewer Department employees starting this month.

8. Review 2022 Board Meeting Dates

Water and Sewer Board approved 2022 meeting dates. December's meeting will be held the second Wednesday instead of the third Wednesday.

9. Adopt Resolution Concerning Rates, Fees, and Charges for Water and sewer Services in 2022

Ms. Myers proposed 2022 water and sewer rates and fees for Board to adopt.

Vice Chairman Todd made a motion, seconded by Mr. Murphy, to adopt the presented resolution concerning water and sewer rates, fees, and charges for 2022. The motion carried 5-0.

10. Water Supply Update

Ms. Petrzelka provided an overview of the Greeley's 2021 water supplies and an update on Greeley's current storage levels.

Raymond Lee left the meeting at 2:46 p.m.
Paul Fetherston joined the meeting at 2:46 p.m.
Jen Petrzelka left the meeting at 2:50 p.m.

11. Adopt Resolution Concerning the Acquisition of Real Property Interests Associated with the Terry Ranch Project

Mr. Champion provided updates to the Terry Ranch Project and the necessary acquisition of interest in real property for pipelines and other infrastructure to deliver treated water from the future water treatment plant to the city of Greeley.

Vice Chairman Todd made a motion, seconded by Mr. Otis, to Adopt the Resolution Concerning the Acquisition of Real Property Interests Associated with the Terry Ranch Project presented. The motion carried 5-0.

12. Legal Report

Carolyn Burr of Welborn, Sullivan, Meck & Tooley recommended the Board file statements of opposition in the following cases:

- a. Case Number: **21CW3185**: Application of the Town of Castle Rock for a conditional storage water right in Prewitt Reservoir and Freemont Butte Reservoir. These are the same structures claimed in Parker's application in Case No. 19CW3253, in which Greeley is a party. The project includes significant new claims for diversions from the South Platte River downstream of the confluence with the Cache la Poudre River into Prewitt Reservoir. The project could impact South Platte River basin administration, including on the Cache la Poudre River.
- b. Case Number: **21CW3199**: Application of North Weld County Water District ("North Weld") for change of five shares of Water Supply and Storage Company (WSSC) water rights, appropriation of alternate points of diversion and alternate places of storage and appropriation of exchanges.

Vice Chairman Todd made a motion, seconded by Ms. Witt-Brown, to authorize the filing of statements of opposition in Case Nos. 21CW3185 and 21CW3199 and for staff and legal counsel to seek resolution of issues raised by this case consistent with Water and Sewer Board Resolution No. 3-15. The motion carried 5-0.

13. Executive Session

No executive session held.

Bob Ruyle left the meeting at 3:15 p.m.

Vice Chairman Todd left the meeting at 3:23 p.m.

14. Director's Report

- Windy Gap Firing Construction Update and Site Tour Opportunity
- Low income household water assistance program (LIHWAP) grant

15. Such Other Business That May be Brought before the Board and Added to This Agenda by Motion of the Board

There were no additional items brought before the Board and added to the agenda.

Chairman Evans adjourned the meeting at 3:25 p.m.

Harold Evans, Chairman

Raymond Lee, Board Secretary

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X

NO ENCLOSURE

ITEM NUMBER: 4

TITLE: APPROVE SECOND REIMBURSEMENT
 AGREEMENT FOR WILDFIRE MITIGATION
 AND REHAB WITH CPRW

RECOMMENDATION: APPROVE SECOND REIMBURSEMENT
 AGREEMENT FOR WILDFIRE MITIGATION
 AND REHAB WITH CPRW

ADDITIONAL INFORMATION:

Greeley and the Coalition for the Poudre River Watershed Coalition (CPRW) have a strong common interest in the protection of the Poudre River Watershed, and desire to coordinate on recovery measures and mitigation efforts being employed in response to the Cameron Peak Fire. Greeley has received funding from the Colorado Water Conservation Board, which is owed to CPRW for post-fire recovery and mitigation efforts. The work covered under the agreement is not being funded by the City of Greeley; it is a pass-through agreement. This agreement details the process for Greeley to reimburse CPRW for this fire recovery work.

Second Reimbursement Agreement for Wildfire Mitigation and Rehabilitation Services with the Poudre River Watershed Coalition



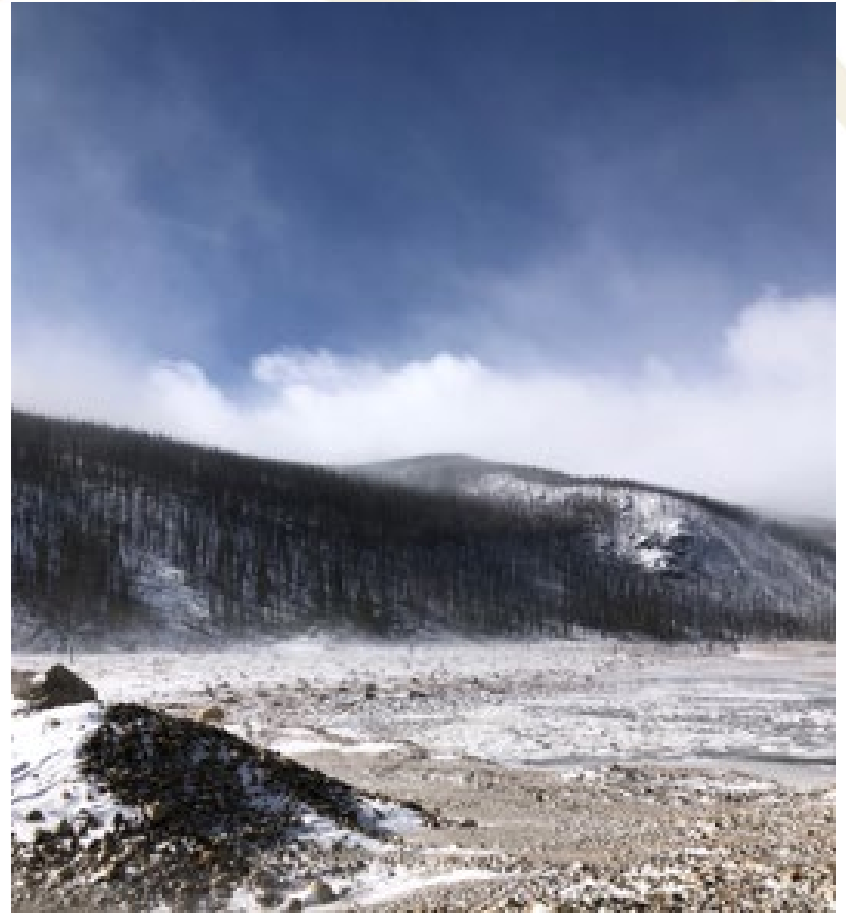
Background

- The Poudre River Watershed experienced a large % of medium to high burn severity from the Cameron Peak Fire
- Greeley has received funding from the Colorado Water Conservation Board for post-fire recovery work
- Greeley desires to provide CPRW funding for recovery work
- Greeley is not funding this work



Terms of Agreement

- Greeley will reimburse CPRW for agreed upon mitigation work
- 1 year with option to renew annually
- Currently, \$1,813,230 available, with the potential to receive additional



Questions?





COLORADO
**Colorado Water
Conservation Board**
Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

CMS#170786

Encumbrance # CTGG1 PDAA 2022*2122

City of Greeley

1000 10th St

Greeley, CO 80631

Dear Jennifer Petrzelka, City of Greeley:

We are pleased to inform you that the Department of Natural Resources (DNR), Colorado Water Conservation Board (CWCB) has approved your application for funding pursuant to the Colorado Watershed Restoration Wild Fire Mitigation Grant ("Program") in the amount of \$3,000,000.00, (\$3,058,498.30.00 Local Match) for a total project cost of \$6,058,498.30. This letter authorizes you to proceed with the Cameron Peak Fire Area ("Project") in accordance with the terms of this Grant Award Letter.

Attached to this letter are the terms and conditions of your Grant. Please review these terms and conditions as they are requirements of this Grant to which you Grantee agree by accepting the Grant Funds.

If you have questions regarding this Grant, please contact: Chris Sturm at chris.sturm@state.co.us.

GRANT AWARD LETTER
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

State Agency Colorado Department of Natural Resources (DNR) Colorado Water Conservation Board (CWCB) 1313 Sherman St #718 Denver CO 80203	Contract Number CMS Number: 170786 Encumbrance Number: CTGG1 PDAA 2022*2122		
Grantee City of Greeley	Grant Amount \$3,000,000.00		
Grant Issuance Date Upon the Signature of the State Controller, or his delegate			
Grant Expiration Date July 31, 2025	Local Match Amount \$3,058,498.30		
Grant Authority The CRS for this grant is 37-60-101 th 37-60-133. The Budget has been approved in SB21-240.			
Grant Purpose This grant is to conduct a Watershed assessment of the Upper Culebra Basin.			
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: - Exhibit A, Statement of Work and Budget. In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: - The provisions of the main body of this Grant. - Exhibit A, Statement of Work and Budget.			
Principal Representatives <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us </td> <td style="width: 50%;"> For Contractor: Jennifer Petrzela City of Greeley 1001 11th Ave Greeley, CO 80631 </td> </tr> </table>		For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us	For Contractor: Jennifer Petrzela City of Greeley 1001 11 th Ave Greeley, CO 80631
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CMS Number: 170786

Encumbrance Number: CTGG1 PDAA 2022*2122

SIGNATURE PAGE

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

STATE OF COLORADO Jared S. Polis, Governor Department of Natural Resources Dan Gibbs Colorado Water Conservation Board DocuSigned by: <i>Anna Mauss, P.E.</i> 020B050C0000407... By: Anna Mauss, P.E. Chief Operating Officer Date: August 5, 2021 10:57 AM PDT	In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD DocuSigned by: <i>Ion Cotsapas</i> 70E3DF1B09EE4E8... By: Ion Cotsapas DNR Procurement Director Effective Date: August 5, 2021 3:58 PM MDT
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1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the "State") hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the "Grantee") an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties' respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter by providing Grantee with an updated Grant Award Letter showing the new Grant Expiration Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in Exhibit A.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Award Letter that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Grant Award Letter that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Grant Award Letter by the State for breach by Grantee.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Budget"** means the budget for the Work described in Exhibit A.
- B. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- C. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

- D. **“Grant Award Letter”** means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- E. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- F. **“Grant Expiration Date”** means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- G. **“Grant Issuance Date”** means the Grant Issuance Date shown on the first page of this Grant Award Letter.
- H. **“Exhibits”** exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- J. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- L. **“Initial Term”** means the time period between the Grant Issuance Date and the Grant Expiration Date.
- M. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.
- N. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- O. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally
- P. **“Services”** means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by

a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- R. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- S. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- T. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- U. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of
- V. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- W. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter.

5. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date.

B. Matching Funds.

Grantee shall provide the Local Match Amount shown on the first page of this Grant Award Letter and described in Exhibit A (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Award Letter each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Grant Award Letter irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Award Letter is not intended to create a multiple-fiscal year debt of

Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

C. Reimbursement of Grantee Costs

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall only reimburse allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

D. Close-Out.

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.D, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations. The State may impose any penalties for noncompliance which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration.

10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

11. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Award Letter at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

13. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Award Letter shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

15. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

16. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Award Letter.

B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Grant Award Letter represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Grant Award Letter.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Grant Award Letter, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of

the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Grant Award Letter to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Grant Award Letter shall not affect the validity or enforceability of any other provision of this Grant Award Letter, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Grant Award Letter Terms

Any provision of this Grant Award Letter that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Award Letter does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Grant Award Letter, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Exhibit A

Scope of Work

GRANTEE and FISCAL AGENT (if different): City of Greeley Water and Sewer Department

PRIMARY CONTACT: Jennifer Petrzelka

ADDRESS: 1001 11th Avenue, Second Floor,
Greeley, CO, 80631

PHONE: 970-350-9859

PROJECT NAME: Landscape scale post-fire mitigation for the Cameron Peak Fire to protect critical watershed values- Phase 2

GRANT AMOUNT: \$3,000,000.00

INTRODUCTION AND BACKGROUND

The Cameron Peak Fire (CPF) is the state's largest wildfire on record. It burned for over 100 days eventually surrounding ~ 16 mountain communities and 6 high elevation water storage reservoirs. According to the Burned Area Emergency Response (BAER) report, 36% of the CPF burn perimeter is high to moderate severity burn. The BAER report determined that it was 'nearly certain (90% - 100%)' that water quality would be impacted by post fire debris flows, run-off, ash flows, sedimentation and nutrient loading within 1-3 years following the fire. Additionally, modelling done by the Colorado Forest Restoration Institute predicted that if the full fire perimeter was left untreated, hillslope erosion could increase by 1,267,301 Mg.

The purpose of this proposed project is to mitigate the negative consequences of the Cameron Peak Fire to high priority watershed values including water quality & supply, river ecosystem function & health, and to protect communities. We are proposing to implement aerial mulching at a large enough landscape scale to reduce hillslope erosion in the highest priority sub-drainages. If fully funded, this project will be able to treat an additional approximately 1,000¹ high priority acres in the Poudre.

Additionally, this project will support planning and implementation of unanticipated needs. After rain events, impacts from increased runoff and erosion are expected, however, it is unknown exactly what those impacts will be. For example, on July 20th, a rain event occurred causing debris flows and flooding throughout the Poudre River watershed, in particular the Black Hollow area was affected. Hillslopes eroded, debris piles filled the river, and homes were lost requiring a shift in our prioritization of projects. While Black Hollow was identified as a top priority for hillslope and channel rehabilitation work, the scope of the project now includes debris removal. Funding from this grant will go towards stream and hillslope restoration and stabilization, riparian revegetation and other mitigation work as needs arise such as those that surfaced from the July 20th flooding event, as well as other events that

may occur over the summer and into additional seasons.

These projects are part of a larger program of work intended to provide holistic post-fire mitigation that will reduce hillslope erosion, protect water quality, river health, and community infrastructure on a total of 20,000 acres in high priority sub-drainages in the CPF burn scar. Currently available federal or local funds are not sufficient to treat the vast majority of these acres.

The United States Forest Service (USFS) BAER program has not earmarked funds for watershed scale treatments and the NRCS EWP funds are not available for work on federal lands (where the greatest treatment needs lie). Even if the 2,000 acres under the approved Natural Resources Conservation Service/United States Forest Service (NRCS/USFS) pilot project are funded in the future, the total amount of funding available will still be insufficient to address even just the highest priorities. Thus, state funds are essential to fill this funding gap.

OBJECTIVES

List the objectives of the project. Please include objectives for all aspects of the project whether funded by the CWCB or not

¹ Range is dependent on final costs per unit acre for aerial mulching

1. Treat approximately 1000 acres of high priority sub basins on non-Wilderness USFS lands draining to the Poudre by June 30, 2022 with wood mulch sourced from both local and outside locations (much of the locally sourced material is processed out of state due to lack of operating mills in the vicinity). &/or other effective post-fire mitigation actions (wattles, directional tree felling, etc).
2. Treat unidentified needs that may occur after the monsoon season including but not limited to planning/implementation for in-stream channel repairs, gulley/stream stabilization, riparian revegetation, and installation of sediment basins, and;
3. Provide capacity support for the Coalition for the Poudre River Watershed (CPRW) and the Big Thompson Watershed Coalition (BTWC) to coordinate the implementation of mulching and unanticipated needs projects, as well as landowner education and engagement.

TASKS

Provide a detailed description of each task using the following format. Detailed descriptions are only required for CWCB funded tasks. Other tasks should be identified but do not require details beyond a brief description.

TASK 1 – Implement a landscape scale aerial/mastication mulching program to protect downstream values at risk

Description of Task

This task involves, overseeing its implementation, and verifying the outcomes. Mulching will primarily occur via aerial mulching but some areas will be treated via mastication. The majority of this work will occur on federal lands in the Poudre watershed for this project phase.

Method/Procedure

1. Complete mulch polygon verification of identified treatment locations prior to helicopter operations. Verification procedure will follow JW Associates CPF Mulch Polygon Field Procedures Plan.
2. Work with USFS to authorize use of existing trees in the burn area as wood mulch source materials; work with local wood product company to source mulch if trees are unavailable from the burn area.
3. Finalize available budget to determine total number of additional acres to be treated.
4. Received Special Use Permit from USFS on July 16th.
5. Post Fire Program Manager started at CPRW on July 6, 2021 to manage and coordinate the Cameron Peak Fire mitigation work.
6. Helicopter Contractors began on July 19th, finalize landing and staging areas to treat with the Phase 2 funding. The Post Fire Program Manager will oversee and coordinate quality control and contractor work.
7. Weather permitting, conduct mulching operations summer through fall, potentially into summer 2022 pending unforeseen weather delays.
8. Conduct post mulch inspections using the JW Associates CPF Aerial Mulch Inspection Plan to verify that treatment specs were met.

Deliverables

Reduced hillslope erosion on approximately 1,000 acres of Forest Service non-wilderness lands of high priority HUC 14s in the Poudre Watershed.

TASK 2 –Address unanticipated needs that arise in the CPF burn area and engage private landowners and other stakeholders.

Description of Task

This task focuses on both public and private lands and landowners that will not receive post fire assistance through the EWP program or the previously awarded CWCB post-fire grant to implement fire mitigation. CPRW and BTWC will continue to identify unanticipated needs that arise after the summer monsoon season. These high priority needs may be addressed by either a contractor to assist with design and implementation of identified projects or by volunteers to help conduct low-tech post fire restoration techniques. An example of an unanticipated high priority project occurred on July 20, 2021. A massive flash flood and debris flow event took place in the Black Hollow drainage in the CLP. Early estimates state that up to two inches of rain fell within an hour causing the river to rise from ~500 cfs to ~2,300 cfs in less than 20 minutes. At least five homes were destroyed, and one person has died. The impacts and needs are still yet to be determined in this drainage. It was already a priority area for mulching operations, and it is now a priority area for debris removal. We anticipate similar events occurring over the next 1-5 years post-fire.

We anticipate a variety of needs on private and USFS lands that will arise following the monsoon season this year including: hillslope stabilization, gulley formation, stream instability, need for revegetation in riparian areas and reforestation. CPRW and BTWC will work with stakeholders and private landowners to identify these potential needs as they occur and develop a plan to design and implement solutions

CPRW and BTWC will work with stakeholders and private landowners to identify these potential needs as they occur and develop a plan to design and implement solutions.

In addition to unanticipated needs, initial spatial analysis has been completed by CPRW to ascertain which private lands in the burn area not likely to be incorporated into the EWP program that align with watershed priorities and where it would be feasible to implement hand treatments.

Method/Procedure

1. Work with stakeholders and private landowners to identify needs that arise after the summer monsoon season that were not anticipated.
2. Secure landowner access agreements in place and create treatment plans.
3. Hire appropriate contractors to assist with prioritizing future mitigation sites and design/implementation.
4. Recruit volunteers for projects.
5. Implement prioritized projects using potential methods like hillslope stabilization, revegetation/reforestation, sediment catchment basins, stream channel restoration, or other appropriate methods to mitigate erosion and sedimentation.
6. Continue to engage landowners and other core stakeholders.

Deliverables

- Prioritize unanticipated post-fire restoration needs on both private and USFS land, taking into account unanticipated needs that arise for localized weather events and other impacts.
- Implement 1-5 priority projects to stabilize streams and/or hillslopes and reduce sedimentation/ash runoff and debris flows on private or public lands
- Report summarizing accomplishments.

TASK 3 – Project Management

Description of Task

The City of Greeley will be in charge of ensuring that all aspects of the project are meeting milestones, achieving desired outcomes, and are being effectively coordinated. This task will be shared by CPRW's Post Fire Program Manager, with the assistance of an Administrator, who will largely oversee the overall coordination of large landscape aerial and other mulching implementation, quality control, and reporting.

Method/Procedure

This task will involve regular consultations with consultants, contractors, and project partners working on the project and regular communication with stakeholders. Additionally, it will mean adhering to all grant administration requirements and other compliance needs.

Deliverable

The final deliverables for this task include: a stakeholder committee that is well informed about progress of projects with timely delivery of meeting notes; consultants and contractors who provide deliverables in keeping with defined milestones; and efficient/accurate grant administration.

REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

**COLORADO**Colorado Water
Conservation Board

Department of Natural Resources

Colorado Water Conservation Board**Watershed Restoration Program Grant****Budget and Schedule****Prepared Date: 07/21/2021****Name of Applicant: City of Greeley****Name of Water Project: Cameron Fire****Recovery Project Start Date: 08/08/2021****Project End Date: 07/31/2025**

Task No.	Task Description	Task Start Date	Task End Date	Grant Funding Request	Match Funding	Total
1	Mulching Program to Protect Watershed Values at Risk	8/8/2021	7/31/2025	\$2,683,000.00	\$3,007,577.50	\$5,690,577.50
2	Unanticipated Needs Hillslope Erosion	8/8/2021	7/31/2025	\$317,000.00	\$50,920.80	\$367,920.80
Total				\$3,000,000.00	\$3,058,498.30	\$6,058,498.30



COLORADO
Colorado Water
Conservation Board

Department of Natural Resources

Watershed Restoration Program Grant - Detailed Budget Estimate
Fair and Reasonable Estimate

Prepared Date: 7/21/2021
Name of Applicant: City of Greeley
Name of Water Project: Cameron Peak Fire Recovery

Task 1 - Mulching Program to Protect Watershed Values at Risk

Sub-task	Item	Hourly		Item		Item		Total	CWCBC Funds	Matching Funds
		Rate	# Hours	Sub-total	Item Cost	Quantity	Sub-total			
Implement Mulching Program	Aerial & ground mulching			\$0.00	2,600	\$995.00	\$2,587,000.00	\$2,587,000.00		
	Greeley EWP project costs			\$3,000,000.00				\$3,000,000.00		\$3,000,000.00
Coordinate and oversee mitigation work & compliance	CPRW Post-fire Project Manager	\$50.00	1,920	\$96,000.00				\$96,000.00	\$96,000.00	\$0.00
	Stakeholder Time	\$30.31	250	\$7,577.50			\$0.00	\$7,577.50	\$7,577.50	\$7,577.50
										\$0.00

Task 2 - Unanticipated needs on hillslopes

Sub-task	Item	Hourly		Item		Item		Total	CWCBC Funds	Matching Funds
		Rate	# Hours	Sub-total	Item Cost	Quantity	Sub-total			
Coordinate the implementation of projects and landowers - Poudre Watershed	CPRW Post-Fire Project Manager	\$50.00	300	\$15,000.00				\$15,000.00	\$15,000.00	\$0.00
	CPRW Forester	\$40.00	100	\$4,000.00				\$4,000.00	\$4,000.00	
	CPRW Watershed Project Manager	\$40.00	100	\$4,000.00				\$4,000.00	\$4,000.00	
	CPRW Executive Director	\$55.00	50	\$2,750.00				\$2,750.00	\$2,750.00	
	CPRW Communications Manager	\$36.00	50	\$1,800.00				\$1,800.00	\$1,800.00	
	CPRW Volunteer Time	\$30.31	1200	\$36,372.00				\$36,372.00	\$0.00	\$36,372.00
Design and Implementation - Poudre	Design watershed projects			\$0.00	\$ 150.00	355.00	\$53,250.00	\$53,250.00	\$53,250.00	
	Install watershed projects			\$0.00	\$ 125.00	550.00	\$68,750.00	\$68,750.00	\$68,750.00	
Coordinate the implementation of projects and landowers - Big Thompson	BTWC Staff time	\$50.00	600	\$30,000.00				\$30,000.00	\$30,000.00	\$0.00
	BTWC Stakeholder Time	\$30.31	160	\$4,849.60				\$4,849.60	\$0.00	\$4,849.60
	BTWC Volunteer Time	\$30.31	320	\$9,699.20				\$9,699.20	\$0.00	\$9,699.20

	Design watershed projects	Install watershed projects	
Consultant design	\$0.00	\$150.00	\$150.00
Contractor Labor	\$0.00	\$125.00	\$125.00
	\$0.00		\$0.00
TOTAL			\$3,058,498.30

Other Direct Costs (see below)

OVERALL TOTAL

Other Direct Costs

Item:	Mileage Big Thompson	Mileage CPRW	Total
Units:			
Unit Cost:			
Site Visits/Landowner meetings			
Total Units:			
Total Cost:			



1313 Sherman Street, Room 718
Denver, CO 80203

CMS#171057

Encumbrance # CTGG1 PDAA 2022*2181

City of Greeley

1000 10th St

Greeley, CO 80631

Dear Jennifer Petrzela, City of Greeley:

We are pleased to inform you that the Department of Natural Resources (DNR), Colorado Water Conservation Board (CWCB) has approved your application for funding pursuant to the Colorado Watershed Restoration Wild Fire Mitigation Grant ("Program") in the amount of \$6,307,336.80, (\$6,419,086.00 Local Match) for a total project cost of \$12,726,422.80. This letter authorizes you to proceed with the Cameron Peak Fire Area Phase 3 ("Project") in accordance with the terms of this Grant Award Letter.

Attached to this letter are the terms and conditions of your Grant. Please review these terms and conditions as they are requirements of this Grant to which you Grantee agree by accepting the Grant Funds.

If you have questions regarding this Grant, please contact: Chris Sturm at chris.sturm@state.co.us.

GRANT AWARD LETTER
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

State Agency Colorado Department of Natural Resources (DNR) Colorado Water Conservation Board (CWCB) 1313 Sherman St #718 Denver CO 80203	Contract Number CMS Number: 171057 Encumbrance Number: CTGG1 PDAA 2022*2181
Grantee City of Greeley	Grant Amount \$6,307,336.80
Grant Issuance Date Upon the Signature of the State Controller, or his delegate	
Grant Expiration Date August 27, 2025	Local Match Amount \$3,419,086.00
Grant Authority The CRS for this grant is 37-60-101 th 37-60-133. The Budget has been approved in SB21-240.	
Grant Purpose This grant is to conduct a Watershed grant for landscape scale post-fire mitigation for the Cameron Peak Fire to protect the critical watershed Phase 3.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: 1. Exhibit A, Statement of Work and Budget. In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: 1. The provisions of the main body of this Grant. 2. Exhibit A, Statement of Work and Budget.	
Principal Representatives For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us	For Contractor: Jennifer Petrzelka City of Greeley 1001 11 th Ave Greeley, CO 80631

CMS Number: 171057

Encumbrance Number: CTGG1 PDAA 2022*2181

SIGNATURE PAGE

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

STATE OF COLORADO Jared S. Polis, Governor Department of Natural Resources Dan Gibbs Colorado Water Conservation Board DocuSigned by:  By: Tina Heltzel, CWCB Budget Analyst Date: August 19, 2021 12:48 PM MDT	In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD DocuSigned by:  By: Ion Cotsapas Effective Date: August 19, 2021 2:52 PM MDT
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1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the "State") hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the "Grantee") an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties' respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter by providing Grantee with an updated Grant Award Letter showing the new Grant Expiration Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in Exhibit A.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Award Letter that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Grant Award Letter that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Grant Award Letter by the State for breach by Grantee.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Budget"** means the budget for the Work described in Exhibit A.
- B. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- C. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

- D. **“Grant Award Letter”** means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- E. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- F. **“Grant Expiration Date”** means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- G. **“Grant Issuance Date”** means the Grant Issuance Date shown on the first page of this Grant Award Letter.
- H. **“Exhibits”** exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- J. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- L. **“Initial Term”** means the time period between the Grant Issuance Date and the Grant Expiration Date.
- M. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.
- N. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- O. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally
- P. **“Services”** means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by

a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- R. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- S. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- T. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- U. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of
- V. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- W. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. **STATEMENT OF WORK**

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter.

5. **PAYMENTS TO GRANTEE**

A. **Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date.

B. **Matching Funds.**

Grantee shall provide the Local Match Amount shown on the first page of this Grant Award Letter and described in Exhibit A (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Award Letter each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Grant Award Letter irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Award Letter is not intended to create a multiple-fiscal year debt of

Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

C. Reimbursement of Grantee Costs

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall only reimburse allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

D. Close-Out.

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.D, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations. The State may impose any penalties for noncompliance which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration.

10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

11. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Award Letter at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

13. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Award Letter shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

15. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

16. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Award Letter.

B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Grant Award Letter represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Grant Award Letter.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Grant Award Letter, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of

the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Grant Award Letter to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Grant Award Letter shall not affect the validity or enforceability of any other provision of this Grant Award Letter, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Grant Award Letter Terms

Any provision of this Grant Award Letter that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Award Letter does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Grant Award Letter, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Exhibit A
Scope of Work

GRANTEE and FISCAL AGENT (if different): City of Greeley Water and Sewer Department

PRIMARY CONTACT: Jennifer Petrzelka

ADDRESS: 1001 11th Avenue, Second Floor,
Greeley, CO, 80631

PHONE: 970-350-9859

PROJECT NAME: Landscape scale post-fire mitigation for the Cameron Peak Fire to protect critical watershed values- Phase 3

GRANT AMOUNT: \$6,307,336.80

INTRODUCTION AND BACKGROUND

The Cameron Peak Fire (CPF) is the state's largest wildfire on record. It burned for over 100 days eventually surrounding ~ 16 mountain communities and 6 high elevation water storage reservoirs. According to the BAER report, 36% of the CPF burn perimeter is high to moderate severity burn. The BAER report determined that it was 'nearly certain (90% - 100%)' that water quality would be impacted by post fire debris flows, run-off, ash flows, sedimentation and nutrient loading within 1-3 years following the fire. Additionally, modelling done by the Colorado Forest Restoration Institute predicted that if the full fire perimeter was left untreated, hillslope erosion could increase by 1,267,301 Mg.

The purpose of this proposed project is to mitigate the negative consequences of the Cameron Peak Fire to high priority watershed values including water quality & supply, river ecosystem function & health, and to protect communities. The proposed scope would complement and further ongoing watershed-scale post-fire recovery efforts in the Poudre and Big Thompson watersheds. We are proposing to implement aerial mulching at a large enough landscape scale to reduce hillslope erosion in the highest priority sub-drainages. If fully funded, this project will be able to treat an additional approximately 1,850 high priority acres in the Poudre and Big Thompson watersheds.

This project will also support continued planning and implementation of unanticipated needs. After rain events, impacts from increased runoff and erosion are expected, however, it is unknown exactly what those specific impacts will be. For example, on July 20th, a rain event occurred causing debris flows and flooding throughout the Poudre River watershed, affecting the Black Hollow area specifically. Hillslopes eroded, debris piles filled the river, and homes were lost requiring a shift in our prioritization of projects. While Black Hollow was identified as a top priority for hillslope and channel rehabilitation work, the scope of the project now includes debris removal, temporary stabilization of the fan and river corridor, as well as potential long-term restoration. Funding from this grant will go towards stream and hillslope restoration and stabilization, riparian revegetation and other mitigation work as needs arise such as those that surfaced from the July 20th flooding event, as well as other events that may occur over the summer and into additional seasons.

Finally, Cameron Peak Fire partners are interested in furthering collective learning and understanding more about the effectiveness of post-fire mitigation treatments. This project proposes to work with CSU researchers to expand CPRW's existing monitoring program to track impacts to water quality from wood mulch application. We also propose to have CPRW staff identify specific locations to monitor performance of recent wood mulch applications on slopes above 45%. CPRW staff and partners also plan to identify and assess several locations mulched as part of the High Park Fire recovery efforts, to help gauge site condition nearly 10 years after mulching efforts were completed. Finally, BTWC will work with partners to continue monitoring of a weather station at Buckhorn Canyon that is critical to community safety.

These projects are part of a larger program of work intended to provide holistic post-fire mitigation that will reduce hillslope erosion, protect water quality, river health, and community infrastructure on a total of 20,000 acres in high priority sub-drainages in the CPF burn scar. Currently available federal or local funds are not sufficient to treat the vast majority of these acres.

The USFS BAER program has not earmarked funds for watershed scale treatments and the NRCS EWP funds are not available, or are very limited, for work on federal lands (where the greatest treatment needs lie). Currently NRCS is considering funding a pilot program to mulch federal lands, as well as considering emergency funding for the Black Hollow area after the July 20th event. Even if approved, the total amount of funding available will still be insufficient to address some of the highest priorities in the watersheds. Thus, state funds are essential to fill this funding gap.

OBJECTIVES

List the objectives of the project. Please include objectives for all aspects of the project whether funded by the CWCB or not.

1. Treat approximately 1850 acres of high priority sub basins on non-wilderness USFS lands draining to the Poudre and Big Thompson by October 30, 2022 with wood mulch sourced from both local and outside locations (much of the locally sourced material is processed out of state due to lack of operating mills in the vicinity). &/or other effective post-fire mitigation actions (wattles, directional tree felling, etc).
2. Treat unidentified needs that may occur after the monsoon season including but not limited to planning/implementation for in-stream channel repairs, gulley/stream stabilization, riparian revegetation, and installation of sediment basins;
3. Provide capacity support for the CPRW and the BTWC to coordinate the implementation of mulching and unanticipated needs projects, as well as landowner education and engagement; and
4. Further knowledge and understanding of post-fire treatment efficacy and impacts and continue important community safety monitoring, through CSU research on water quality impact; CPRW monitoring the performance of mulched areas after precipitation events; BTWC and partner monitoring of an important weather station in the Buckhorn Canyon.

TASKS

Provide a detailed description of each task using the following format. Detailed descriptions are only required for CWCB funded tasks. Other tasks should be identified but do not require details beyond a brief description.

TASK 1 – Implement a landscape scale aerial/mastication mulching program to protect downstream values at risk

Description of Task

This task involves, overseeing program implementation, and verifying the outcomes. Mulching will primarily occur via aerial mulching but some areas will be treated via mastication. Work will occur on a mix of both USFS and private lands in the Poudre Watershed and the Big Thompson Watershed.

Priority areas for mulching have been previously identified via planning efforts in the Poudre and Big Thompson Watersheds. Areas mulched will be contingent on final funding secured among federal and state sources and field verification to determine final acreage that is best suited for mulching treatments. Priorities for mulching include the following areas:

Watershed	Area	Acreage
Poudre	Bennett Creek	215 acres to complement ~700 acres already underway
Poudre	Black Hollow	1370 acres
Poudre	Roaring Creek	800 acres
Poudre	Sevenmile Creek	360 acres
Big Thompson	Miller Fork/Black Creek	1590 acres
Big Thompson	Buckhorn Creek	Acreage TBD by 9/2021 aerial mulching assessment expansion

Method/Procedure

1. Complete mulch polygon verification of identified treatment locations prior to helicopter operations. Verification procedure will follow JW Associates CPF Mulch Polygon Field Procedures Plan.
2. Work with USFS to authorize use of existing trees in the burn area as wood mulch source materials; work with wood product company to source mulch if trees are unavailable from the burn area.
3. Finalize available budget to determine total number of additional acres to be treated.
4. Received Special Use Permit from USFS on July 16th.
5. Post Fire Program Manager started at CPRW on July 6, 2021 to manage and coordinate the Cameron Peak Fire mitigation work.
6. Helicopter Contractors in the Poudre began on July 19th and the team has finalized landing and staging areas to treat with the previously received CWCB funding. The CPRW Post Fire Program Manager is currently overseeing and coordinating quality control and contractor work.
7. Weather permitting, conduct mulching operations summer through fall 2021, potentially into summer 2022 pending unforeseen weather delays.

8. Conduct post mulch inspections using the JW Associates CPF Aerial Mulch Inspection Plan to verify that treatment specs were met. As of August 11, 2021, approximately 2000 acres have been mulched in priority areas and field verified in the Poudre Watershed.
9. Aerial mulching operations in the Big Thompson will follow similar procedures and will leverage partner's existing contract for helicopter operations.

Deliverables

Reduced hillslope erosion on approximately 1,850 acres of Forest Service non-wilderness and private lands of high priority HUC 14s in the Poudre and Big Thompson Watershed.

TASK 2 –Address unanticipated needs that arise in the CPF burn area and engage private landowners and other stakeholders.

Description of Task

This task focuses on both public and private lands and landowners that will not receive post fire assistance through the EWP program or the previously awarded CWCB post-fire grant to implement fire mitigation. CPRW and BTWC will continue to identify unanticipated needs that arise after the summer monsoon season. These high priority needs may be addressed by a knowledgeable and experienced contractor to assist with design and implementation of identified projects and post fire restoration techniques. An example of an unanticipated high priority project occurred on July 20, 2021. A massive flash flood and debris flow event took place in the Black Hollow drainage in the CLP. Early estimates state that up to two inches of rain fell within an hour causing the river to rise from ~500 cfs to ~2,300 cfs in less than 20 minutes. At least five homes were destroyed, and one person has died. The impacts and needs are currently being assessed by CPF partners. It was already a priority area for mulching operations, and it is now a priority area for debris removal and longer-term river stabilization and alluvial fan restoration treatments.

We anticipate similar events occurring over the next 1-5 years post-fire. Cameron Peak Fire recovery partners experienced similar needs and implemented projects to address these needs in the years following the High Park Fire. Costs incurred for restoration efforts following the High Park Fire, such as Skin Gulch, UT3 and Seaman Reservoir projects were reviewed to estimate costs for projects that will likely arise from the Cameron Peak Fire. We anticipate a variety of needs on private and USFS lands following the monsoon season this year including: hillslope stabilization, gulley formation, stream instability, need for revegetation in riparian areas and reforestation. CPRW and BTWC will work with stakeholders and private landowners to identify these potential needs as they occur and develop a plan to design and implement solutions.

In addition to unanticipated needs, initial spatial analysis has been completed by CPRW to ascertain which private lands in the burn area not likely to be incorporated into the EWP program that align with watershed priorities and where it would be feasible to implement hand treatments.

Method/Procedure

1. Work with stakeholders and private landowners to identify needs that arise after the summer monsoon season that were not anticipated.
2. Secure landowner access agreements in place and create treatment plans.
3. Hire appropriate contractors to assist with prioritizing future mitigation sites and design/implementation.

4. Recruit volunteers for projects, if feasible and effective.
5. Implement prioritized projects using potential methods like hillslope stabilization, revegetation/reforestation, sediment catchment basins, stream channel restoration, or other appropriate methods to mitigate erosion and sedimentation.
6. Continue to engage landowners and other core stakeholders.

Deliverables

- Prioritize unanticipated post-fire restoration needs on both private and USFS land, taking into account unanticipated needs that arise for localized weather events and other impacts.
- Implement 1-5 priority projects to stabilize streams and/or hillslopes and reduce sedimentation/ash runoff and debris flows on private or public lands
- Report summarizing accomplishments.

TASK 3- Monitor mulch impacts to water quality and mulch performance

Description of Task

This monitoring task involves hiring two FTE graduate students to work under Dr. Stephanie Kampf, Dr. Peter Nelson at CSU and Dr. Charles Rhoades at Rocky Mountain Research Station. The graduate students will help to expand our existing monitoring program to track impacts to water quality from wood mulch application.

Additionally, CPRW will work with partners to identify and select several recently mulched areas that are over 45% slope. CPRW staff will visit these areas after precipitation events to gauge performance in comparison to selected mulched areas with more moderate slopes. Finally, CPRW staff will work with partners to identify areas mulched as part of the High Park Fire and will conduct site visits to gauge site condition nearly 10 years after mulching efforts were completed.

BTWC will work with City of Loveland and USGS to continue monitoring on a critical water quality monitoring station in the Buckhorn Creek near Masonville, CO. This station is important for community safety, but currently unfunded to ongoing monitoring post 2021.

Method/Procedure

1. Hire two FTE graduate students to work with researchers at CSU and RMRS to provide support to our monitoring program.
2. Refine monitoring plan in cooperation with RMRS and CSU & select sub-watershed sites for long-term measurements.
3. Graduate students will collect data for up to 2 years post mulch application.
4. RMRS will assist with water quality lab analysis. Analyze and report on data.
5. CPRW will work with partners to identify locations for ongoing monitoring of mulched areas with slopes over 45% and comparison areas. Areas for monitoring from the High Park Fire will also be identified.
6. CPRW will create a monitoring schedule, conduct monitoring, analyze and report on data collected.
7. BTWC will work with City of Loveland and partners to continue monitoring protocols via contract with USGS on the Buckhorn Canyon Weather Station.

Deliverable

1. Graduate students provide support to track impacts of wood mulch application on water quality and produce data and reports to share with land managers.
2. CPRW produced report detailing monitoring efforts on mulched areas.
3. Ongoing operation of the Buckhorn Canyon weather station through 2022.

TASK 4 – Project Management

Description of Task

The City of Greeley will be in charge of ensuring that all aspects of the project are meeting milestones, achieving desired outcomes, and are being effectively coordinated. This task will be shared by CPRW's Post Fire Program Manager, who will largely oversee the overall coordination of large landscape aerial and other mulching implementation, quality control, and reporting. BTWC staff will also help track project management deliverables and milestones.

Method/Procedure

This task will involve regular consultations with consultants, contractors, and project partners working on the project and regular communication with stakeholders. Additionally, it will mean adhering to all grant administration requirements and other compliance needs.

Deliverable

The final deliverables for this task include: a stakeholder committee that is well informed about progress of projects with timely delivery of meeting notes; consultants and contractors who provide deliverables in keeping with defined milestones; and efficient/accurate grant administration.

REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

**COLORADO**Colorado Water
Conservation Board

Department of Natural Resources

Colorado Water Conservation Board**Watershed Restoration Program Grant****Budget and Schedule****Prepared Date: 08/11/2021****Name of Applicant: City of Greeley****Name of Water Project: Cameron Fire Recovery****Project Start Date: 08/27/2021****Project End Date: 08/27/2025**

Task No.	Task Description	Task Start Date	Task End Date	Grant Funding Request	Match Funding	Total
1	Mulching Program to Protect Watershed Values at Risk	8/27/2021	8/27/2025	\$4,252,920.00	\$3,253,031.00	\$7,505,951.00
2	Unanticipated Needs Hillslope Erosion	9/1/2021	8/27/2025	\$1,863,440.00	\$3,106,062.00	\$4,969,502.00
3	Research and Monitoring	9/1/2021	8/27/2025	\$190,976.80	\$59,993.00	\$250,969.80
Total				\$6,307,336.80	\$6,419,086.00	\$12,726,422.80



COLORADO
Colorado Water
Conservation Board

Department of Natural Resources

Colorado Water Conservation Board
Watershed Restoration Program Grant - Detailed Budget Estimate
Fair and Reasonable Estimate

Prepared Date: 8/10/2021

Name of Applicant: City of Greeley
Name of Water Project: Cameron Peak Fire Recovery
EXAMPLE A: Study or Project Coordination

Task 1 - Implement Mulching Program to Protect Watershed Values at Risk

Sub-task	Item	Hourly Rate	# Hours	Sub-total	Item Cost	Item Quantity	Sub-total	Total	CWCB Funds	Matching Funds
1A. Implement Mulching Program - Poudre Watershed	Aerial & ground mulching			\$0.00	\$2,150.00	1100.00	\$2,365,000.00	\$2,365,000.00	\$2,365,000.00	
	NRCS EWP Black Hollow costs						\$3,250,000.00	\$3,250,000.00		\$3,250,000.00
1B. Coordinate and oversee mulching work, monitoring & compliance - Poudre Watershed	CPRW Stakeholder Time	\$30.31	100	\$3,031.00			\$0.00	\$3,031.00	\$0.00	\$3,031.00
	CPRW Post-Fire Program Manager	\$50.00	80	\$4,000.00			\$0.00	\$4,000.00	\$4,000.00	\$0.00
	CPRW Forester	\$40.00	40	\$1,600.00			\$0.00	\$1,600.00	\$1,600.00	\$0.00
	CPRW Watershed Project Manager	\$40.00	40	\$1,600.00			\$0.00	\$1,600.00	\$1,600.00	\$0.00
	CPRW Communications Manager	\$36.00	20	\$720.00			\$0.00	\$720.00	\$720.00	\$0.00
1C. Implement Mulching Program - Big Thompson Watershed	Aerial & Ground Mulching				\$2,500.00	750.00	\$1,875,000.00	\$1,875,000.00	\$1,875,000.00	\$0.00
1D. Coordinate and oversee mitigation work & compliance - Big Thompson Watershed	BTWC Staff Time	\$50.00	100	\$5,000.00				\$5,000.00	\$5,000.00	\$0.00

Task 2 - Unanticipated needs on hillslopes and riparian areas

Sub-task	Item	Hourly Rate	# Hours	Sub-total	Item Cost	Item Quantity	Sub-total	Total	CWCB Funds	Matching Funds
2A. Coordinate the implementation of projects and landowners - Poudre Watershed	CPRW Post-Fire Project Manager	\$50.00	1000	\$50,000.00				\$50,000.00	\$50,000.00	\$0.00
	CPRW Forester	\$40.00	500	\$20,000.00				\$20,000.00	\$20,000.00	\$0.00
	CPRW Watershed Project Manager	\$40.00	500	\$20,000.00				\$20,000.00	\$20,000.00	\$0.00
	CPRW Executive Director	\$55.00	120	\$6,600.00				\$6,600.00	\$6,600.00	\$0.00
	CPRW Communications Manager	\$36.00	220	\$7,920.00				\$7,920.00	\$7,920.00	\$0.00
2B. Design and Implementation - Poudre	Consultant design			\$0.00	\$150.00	2000.00	\$300,000.00	\$300,000.00	\$300,000.00	\$0.00
	Contractor labor to install projects			\$0.00	\$125.00	9000.00	\$1,125,000.00	\$1,125,000.00	\$1,125,000.00	\$0.00

2C. Coordinate the implementation of projects and landowners - Big Thompson									
	BTWC Staff time	\$50.00	350	\$17,500.00				\$17,500.00	\$0.00
	BTWC Stakeholder Time	\$30.31	100	\$3,031.00				\$3,031.00	\$3,031.00
	BTWC Volunteer Time	\$30.31	100	\$3,031.00				\$3,031.00	\$3,031.00
2D. Design and Implementation - Big Thompson									
	Consultant design			\$0.00				\$150,000.00	\$0.00
	Contractor labor to install projects							\$162,500.00	\$0.00
	Larimer County fire recovery project costs							\$3,100,000.00	\$3,100,000.00
Task 3 - Research and Monitoring									
Sub-task	Item	Hourly Rate	# Hours	Sub-total	Item Cost	Item Quantity	Sub-total	Total	Matching Funds
3A. CSU Research									
3B. CPRW Monitoring									
	2 FT grad students to monitor impacts and analysis				\$203,145.00	1.00	\$203,145.00	\$203,145.00	\$59,993.00
	CPRW Post-Fire Project Manager	\$50.00	320	\$ 16,000.00				\$16,000.00	\$0.00
	CPRW Forester	\$40.00	160	\$ 6,400.00				\$6,400.00	\$0.00
	CPRW Watershed Project Manager	\$40.00	160	\$ 6,400.00				\$6,400.00	\$0.00
	CPRW Communications Manager	\$36.00	40	\$ 1,440.00				\$1,440.00	\$0.00
3C. Big Thompson Weather Monitoring									
	USGS Weather Monitoring at Buckhorn Creek		6		\$2,930.80		\$17,584.80	\$17,584.80	\$0.00
TOTAL								\$12,722,502.80	\$6,419,086.00
Other Direct Costs (see below)									
OVERALL TOTAL								\$3,920.00	\$0.00
Other Direct Costs									
								\$12,726,422.80	\$6,419,086.00

Item:	Mileage Big Thompson	Mileage CPRW	Total
Units:	Miles	Miles	
Unit Cost:	\$0.56	\$0.56	
Site Visits/Landowner meetings	1000.00	6,000	7000.00
Total Units:	1,000	6,000	7000.00
Total Cost:	\$560.00	\$3,360.00	\$3,920.00

SECOND REIMBURSEMENT AGREEMENT FOR WILDFIRE MITIGATION AND REHABILITATION SERVICES

This SECOND REIMBURSEMENT AGREEMENT FOR WILDFIRE MITIGATION AND REHABILITATION SERVICES (“Agreement”) is entered into this ____ day of ____ 2022, by and between THE CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise (“Greeley”) and the COALITION FOR THE Poudre RIVER WATERSHED, a Colorado non-profit corporation (“CPRW”) (collectively, the “Parties”).

Recitals

- A. CPRW is a Colorado registered non-profit corporation organized to promote the ecological health of the Cache la Poudre River through collaboration with a broad range of stakeholders. CPRW has been designated a Section 501(c)(3) charitable organization by the Internal Revenue Service.
- B. Greeley is a municipal water provider who utilizes source water from the Cache la Poudre River.
- C. The 2020 Cameron Peak Fire burned over 200,000 acres in the watersheds of the Cache la Poudre and Big Thompson Rivers, including acreage upon both public and private properties, and caused severe impacts to public infrastructure serving properties throughout Larimer and Weld Counties, including, without limitation, water supply infrastructure.
- D. Greeley and CPRW previously entered into that certain Reimbursement Agreement for Wildfire Mitigation and Rehabilitation Services dated August 18, 2021, which allows for the reimbursement of Greeley by CPRW for certain wildfire mitigation and rehabilitation work with grant funding obtained by CPRW.
- E. The Colorado Water Conservation Board (“CWCB”) has since awarded Greeley two phases of grant funding that it can use for Cameron Peak Fire mitigation and rehabilitation measures and to pay CPRW for staff time used to manage post-fire projects (“Greeley Grants”).
- F. In accordance with the terms and conditions of the Greeley Grants, such measures may include, without limitation, mitigating hillslope erosion and sediment delivery in the watershed via landscape-scale mulching, monitoring post-fire water supply infrastructure and water quality impacts, addressing unanticipated needs in the burn area, and educating and engaging affected landowners and stakeholders concerning post-fire land stewardship.
- G. Greeley and CPRW have a strong common interest in protecting the upper Cache la Poudre River watershed, and desire to continue their coordination on the recovery measures and mitigation efforts employed in response to the Cameron Peak Fire.

- G. Coordination by Greeley and CPRW, including on the engagement of one or more contractors to undertake recovery measures and mitigation efforts in the upper Cache la Poudre River watershed, will increase the efficiency of such efforts and significantly reduce the likelihood of duplicative and counterproductive efforts in response to the Cameron Peak Fire.
- H. Greeley and CPRW have reached an understanding regarding their continued coordination on recovery measures and mitigation efforts in response to the Cameron Peak Fire, and desire to reduce their understanding to writing.

Agreement

Therefore, in consideration of the above-recited premises and the promises set forth below, the Parties agree as follows:

1. **Term of Reimbursement Agreement.** The term of this Agreement commences on the date it is mutually executed and expires after one year (“Initial Term”). Upon expiration of the Initial Term, this Agreement will automatically renew for successive terms of one year each, unless and until terminated by either Greeley or CPRW in accordance with Paragraphs 5 and 6 below. Additionally, Greeley may terminate this Agreement with immediate effect at any point that reimbursement funds to which Greeley may be entitled under the Greeley Grants are fully expended or otherwise no longer available.
2. **Sources of Funding; General Compliance with Greeley Grants.** As of the execution of this Agreement, Greeley has been awarded \$3,000,000 in grant funding by CWCB from its Watershed Restoration Program (Phase 2). Of this amount, and subject to the terms of this Agreement, Greeley will make \$245,550 available for reimbursement to CPRW. Greeley has also been awarded \$6,307,336.60 in grant funding by CWCB from its Watershed Restoration Program (Phase 3). Of this amount, and subject to the terms of this Agreement, Greeley will make \$1,567,680 available for reimbursement to CPRW. Greeley and CPRW agree that any coordinated and collaborative activities undertaken pursuant to this Agreement, and any potential reimbursement to CPRW for such activities, are expressly subject to compliance with the terms and conditions of the Greeley Grants. CPRW acknowledges that Greeley is engaged in multiple watershed protection projects in response to the Cameron Peak Fire, and that accordingly, nothing in this Agreement obligates Greeley to commit the full entitlement of its grant awards related to the Cameron Peak Fire to mitigation efforts undertaken by CPRW pursuant to this Agreement. Nothing in this Agreement shall prevent either CPRW or Greeley from seeking additional grant funding for the recovery measures and mitigation efforts contemplated herein.
3. **Coordination on Mitigation Efforts; Apportionment of Costs and Duties.** CPRW will select one or more contractors to perform services necessary to mitigate existing and future damage to the upper Cache la Poudre River watershed caused by the Cameron Peak Fire (“Mitigation Tasks”), and remit payment for such services directly to the selected contractor(s). Greeley will then reimburse CPRW for such funds paid to the selected contractor(s) for Mitigation Tasks, subject to the terms and conditions in this Agreement and the Greeley Grants.

3.1 CPRW shall coordinate with Greeley, and CWCB as necessary or appropriate, in selecting the contractor(s) to perform the Mitigation Tasks to ensure that such selection is consistent with the terms and conditions of the Greeley Grants.

3.2 CPRW shall provide Greeley, and CWCB as necessary or appropriate, with an opportunity to review in advance any designs, plans, scopes and schedules of work, and any other materials associated with the Mitigation Tasks to be performed by the selected contractor(s), to ensure that such designs, plans, scopes and schedules of work, and any other materials comply with the terms and conditions of the Greeley Grants.

3.3 CPRW shall provide Greeley, and CWCB as necessary or appropriate, with an opportunity to inspect the Mitigation Tasks performed by the selected contractor(s), to ensure compliance with the terms and conditions of the Greeley Grants.

3.4 Promptly after remitting payment to the selected contractor(s) for Mitigation Tasks, CPRW shall provide to Greeley a copy of any invoice for which it seeks reimbursement pursuant to this Agreement, along with any necessary supporting documentation. Greeley shall then promptly forward the invoice and supporting documentation to CWCB as necessary or appropriate for reimbursement consideration, in accordance with the terms and conditions of the Greeley Grants. Subject to and upon confirmation from CWCB that any invoice forwarded as described herein contains eligible reimbursement costs pursuant to the Greeley Grants, Greeley shall reimburse CPRW within 30 days of such confirmation.

3.5 Greeley shall not be obligated under any circumstances to reimburse CPRW for costs determined by CWCB to be ineligible under the Greeley Grants, or costs for which Greeley itself will not ultimately be reimbursed by CWCB. Reimbursements made by Greeley to CPRW shall not under any circumstances exceed the total amount of grant funding to which Greeley is entitled pursuant to the Greeley Grants.

3.6 CPRW shall use reasonable efforts to complete any other task required of it by CWCB to ensure compliance with the Greeley Grants, provided that CPRW shall not be required to incur any material expense in the course of such efforts.

3.7 Notwithstanding any other provision of this Agreement, Greeley's sole responsibility regarding the Mitigation Tasks and associated activities is to reimburse CPRW for those Mitigation Tasks and associated activities that are eligible for reimbursement under the terms of the Greeley Grants and this Agreement. Greeley shall have no input on, and does not warrant, the suitability, safety, effectiveness, appropriateness, or integrity of such Mitigation Tasks and associated activities for their intended purpose, which is strictly the responsibility of CPRW and its contractors.

4. Restriction on Assignment. Neither Greeley nor CPRW may assign this Agreement without prior written consent from the other party. Such consent may be given or withheld in the sole discretion of the other party.

5. Notice. Greeley and CPRW shall give any notice required under this Agreement using the contact information listed below. Such notice is adequate if (a) hand-delivered, (b) provided by certified or registered mail, return receipt requested, or (c) sent via email, if receipt is acknowledged or no bounce back or other notice of delivery disruption is received by the sender within three days after transmittal. Greeley and CPRW shall promptly notify the other party if the appropriate contact information for notice changes.

If to Greeley: Greeley Water and Sewer Department
Attention: Water Resources Division
1001 11th Avenue, 2nd Floor
Greeley, Colorado 80631
Telephone: (970) 350-9811
Email: jennifer.petrzelka@greeleygov.com
adam.jokerst@greeleygov.com

With a copy to: Greeley City Attorney's Office
Attention: Environmental and Water Resources Counsel
1100 10th Street, Suite 401
Greeley, Colorado 80631
Telephone: (970) 381-7408
Email: daniel.biwer@greeleygov.com

If to CPRW: Coalition for the Poudre River Watershed
Attn: Hally Strevey, Executive Director
320 East Vine Drive, Suite 317
Fort Collins, Colorado 80524
Telephone: (970) 222-5754
Email: hallys@poudrewatershed.org

6. Default and Termination; Waiver. In the event either Greeley or CPRW fails to comply with the terms and conditions of this Agreement, such failure constitutes a default, and the non-defaulting party may give notice of the perceived default in accordance with Paragraph 5 above. The defaulting party is then entitled to a period of 30 days from receipt of the notice within which to cure the default. Upon the cure of any such default during this period, this Agreement will remain in full force and effect.

6.1 If any declared default remains uncured after the 30-day cure period described above, or after any extension of the cure period mutually agreed to by the Parties, the non-defaulting party may immediately terminate this Agreement with written notice to the defaulting party. Nothing in this Agreement should be construed to limit either party from seeking damages or pursuing available remedies upon termination of this Agreement for default, including the recovery of reasonable costs and attorneys' fees.

6.2 The failure of either Greeley or CPRW to declare a default shall not establish a precedent or otherwise waive any subsequent breach of the terms and conditions in this Agreement. Any such waiver of breach must be made explicitly in writing.

7. Governmental Immunity and Liability. Greeley is a public entity, as that term is defined pursuant to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as it exists now or is amended in the future (“CGIA”). Nothing in this Agreement limits or alters the benefits and responsibilities conferred to Greeley under the CGIA. Greeley and CPRW shall defend, in accordance with the requirements and limitations of the CGIA, all claims for injuries or damages resulting from the acts or omissions of their respective officers, employees, or agents. Greeley and CPRW shall be responsible for all liability for injuries or damages to the extent caused by the acts or omissions of their respective officers, employees, or agents performing under this Agreement.

8. Appropriation of Funds Contingency. Any expenditure of City funds by Greeley associated with this Agreement is expressly subject to the appropriation of funds sufficient and intended for this purpose by its City Council during the fiscal year in which any such obligation is incurred.

9. Grant Funding and Revenues. CPRW and Greeley acknowledge that the Mitigation Tasks facilitated pursuant to this Agreement constitute one aspect of a larger regional and national policy objective, that is, to mitigate and rehabilitate the impacts of the Cameron Peak Fire, and that Greeley’s role in facilitating the Mitigation Tasks is for the benefit of all water users and other parties with an interest in the Cache la Poudre River watershed. Any grant funding received, passed through, or otherwise managed by Greeley pursuant to this Agreement is for the purposes of the greater policy objective and the common benefit of the parties described, and will not result in a revenue subsidy or production of a capital asset for the Water Enterprise of the City of Greeley.

10. Jurisdiction and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. Proper venue for any dispute between Greeley and CPRW arising out of this Agreement is the Weld County District Court.

11. No Third-Party Beneficiaries. The terms and conditions of this Agreement, and all rights of action related thereto, are strictly reserved to Greeley and CPRW. Nothing in this Agreement should be construed to allow any claim, right, or cause of action by any person or entity not a party to this Agreement. Any person or entity other than Greeley or CPRW that realizes a service or benefit under this Agreement is an incidental beneficiary only.

12. Integration and Amendment. This Agreement constitutes a complete integration of the understanding and agreement between Greeley and CPRW with respect to the subject matter herein. No representation, negotiation, or warranty, express or implied, exists between Greeley and CPRW except as explicitly set forth in this Agreement. This Agreement may only be amended in a writing duly authorized and executed by Greeley and CPRW.

13. Severability. If any provision in this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement will nevertheless be valid and binding upon Greeley and CPRW, unless the absence of such provision would destroy the intent and purpose of this Agreement.

14. Review by Legal Counsel. Greeley and CPRW acknowledge that each party had the opportunity to review this Agreement with its respective legal counsel, and that this Agreement should not be construed nor interpreted against a drafting party.

15. Authority to Contract. This Agreement has been duly authorized by Greeley and CPRW and the undersigned representatives are empowered to execute this Agreement on behalf of their respective organizations.

16. Counterparts. The Parties may execute this Agreement in counterparts, each of which and the combination of which when signed by both Greeley and CPRW may be deemed original and together constitute a single contract.

IN WITNESS WHEREOF, the City of Greeley and Coalition for the Poudre River Watershed have executed this Agreement on the date first set forth above.

COALITION FOR THE POUDRE RIVER WATERSHED
a Colorado Non-profit Corporation

By: _____
Hally Strevey, Executive Director

Date: _____

THE CITY OF GREELEY, COLORADO
a Colorado Home Rule Municipal Corporation
acting by and through its Water Enterprise

By: _____
Raymond Lee, City Manager

Date: _____

Approved as to Legal Form:

By: _____
Douglas Marek, City Attorney

As to Availability of Funds:

By: _____
John Karner, Director of Finance

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X

NO ENCLOSURE

ITEM NUMBER: 5

TITLE: APPROVE SECOND REIMBURSEMENT
 AGREEMENT FOR WILDFIRE MITIGATION
 AND REHABILITATION SERVICES WITH
 BTWC

RECOMMENDATION: APPROVE AGREEMENT

ADDITIONAL INFORMATION:

Greeley and the Coalition for the Big Thompson Watershed Coalition (BTWC) are cooperating on recovery measures and mitigation efforts being employed in response to the Cameron Peak Fire within the Big Thompson Watershed, one of the watersheds that supply Greeley's potable water. Greeley has received funding from the Colorado Water Conservation Board that they want to provide to BTWC for post-fire recovery and mitigation efforts. Currently, \$520,034.80 is available for BTWC but additional funding may become available. This work is not being funded by the City of Greeley; it is a pass-through agreement. This agreement details the process for Greeley to reimburse BTWC for this fire recovery work.

Second Reimbursement Agreement for Wildfire Mitigation and Rehabilitation Services with the Big Thompson River Watershed Coalition



Background

- The Big Thompson Watershed experienced a large % of medium to high burn severity areas from the Cameron Peak Fire
- Greeley has received funding from the Colorado Water Conservation Board for post-fire recovery work
- Greeley desires to provide BTWC funding for recovery work
- Greeley is not funding this work



Terms of Agreement

- Greeley will reimburse BTWC for agreed upon mitigation work
- 1 year with option to renew annually
- Currently, \$520,034.80 available, with the potential to receive additional



Questions?





COLORADO
**Colorado Water
Conservation Board**
Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

CMS#170786

Encumbrance # CTGG1 PDAA 2022*2122

City of Greeley

1000 10th St

Greeley, CO 80631

Dear Jennifer Petrzelka, City of Greeley:

We are pleased to inform you that the Department of Natural Resources (DNR), Colorado Water Conservation Board (CWCB) has approved your application for funding pursuant to the Colorado Watershed Restoration Wild Fire Mitigation Grant ("Program") in the amount of \$3,000,000.00, (\$3,058,498.30.00 Local Match) for a total project cost of \$6,058,498.30. This letter authorizes you to proceed with the Cameron Peak Fire Area ("Project") in accordance with the terms of this Grant Award Letter.

Attached to this letter are the terms and conditions of your Grant. Please review these terms and conditions as they are requirements of this Grant to which you Grantee agree by accepting the Grant Funds.

If you have questions regarding this Grant, please contact: Chris Sturm at chris.sturm@state.co.us.

GRANT AWARD LETTER
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

State Agency Colorado Department of Natural Resources (DNR) Colorado Water Conservation Board (CWCB) 1313 Sherman St #718 Denver CO 80203	Contract Number CMS Number: 170786 Encumbrance Number: CTGG1 PDAA 2022*2122		
Grantee City of Greeley	Grant Amount \$3,000,000.00		
Grant Issuance Date Upon the Signature of the State Controller, or his delegate			
Grant Expiration Date July 31, 2025	Local Match Amount \$3,058,498.30		
Grant Authority The CRS for this grant is 37-60-101 th 37-60-133. The Budget has been approved in SB21-240.			
Grant Purpose This grant is to conduct a Watershed assessment of the Upper Culebra Basin.			
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: - Exhibit A, Statement of Work and Budget. In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: - The provisions of the main body of this Grant. - Exhibit A, Statement of Work and Budget.			
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Principal Representatives For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us </td> <td style="width: 50%; vertical-align: top;"> For Contractor: Jennifer Petrzela City of Greeley 1001 11th Ave Greeley, CO 80631 </td> </tr> </table>		Principal Representatives For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us	For Contractor: Jennifer Petrzela City of Greeley 1001 11 th Ave Greeley, CO 80631
Principal Representatives For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us	For Contractor: Jennifer Petrzela City of Greeley 1001 11 th Ave Greeley, CO 80631		

CMS Number: 170786

Encumbrance Number: CTGG1 PDAA 2022*2122

SIGNATURE PAGE

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

STATE OF COLORADO Jared S. Polis, Governor Department of Natural Resources Dan Gibbs Colorado Water Conservation Board DocuSigned by: <i>Anna Mauss, P.E.</i> 020B050C0000407... By: Anna Mauss, P.E. Chief Operating Officer Date: August 5, 2021 10:57 AM PDT	In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD DocuSigned by: <i>Ion Cotsapas</i> 70E3DF1B09EE4E8... By: Ion Cotsapas DNR Procurement Director Effective Date: August 5, 2021 3:58 PM MDT
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1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the "State") hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the "Grantee") an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties' respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter by providing Grantee with an updated Grant Award Letter showing the new Grant Expiration Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in Exhibit A.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Award Letter that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Grant Award Letter that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Grant Award Letter by the State for breach by Grantee.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. "**Budget**" means the budget for the Work described in Exhibit A.
- B. "**Business Day**" means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- C. "**CORA**" means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

- D. **“Grant Award Letter”** means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- E. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- F. **“Grant Expiration Date”** means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- G. **“Grant Issuance Date”** means the Grant Issuance Date shown on the first page of this Grant Award Letter.
- H. **“Exhibits”** exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- J. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- L. **“Initial Term”** means the time period between the Grant Issuance Date and the Grant Expiration Date.
- M. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.
- N. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- O. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally
- P. **“Services”** means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by

a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- R. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- S. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- T. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- U. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of
- V. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- W. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter.

5. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date.

B. Matching Funds.

Grantee shall provide the Local Match Amount shown on the first page of this Grant Award Letter and described in Exhibit A (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Award Letter each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Grant Award Letter irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Award Letter is not intended to create a multiple-fiscal year debt of

Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

C. Reimbursement of Grantee Costs

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall only reimburse allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

D. Close-Out.

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.D, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations. The State may impose any penalties for noncompliance which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration.

10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

11. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Award Letter at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

13. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Award Letter shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

15. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

16. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Award Letter.

B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Grant Award Letter represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Grant Award Letter.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Grant Award Letter, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of

the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Grant Award Letter to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Grant Award Letter shall not affect the validity or enforceability of any other provision of this Grant Award Letter, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Grant Award Letter Terms

Any provision of this Grant Award Letter that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Award Letter does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Grant Award Letter, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Exhibit A

Scope of Work

GRANTEE and FISCAL AGENT (if different): City of Greeley Water and Sewer Department

PRIMARY CONTACT: Jennifer Petrzalka

ADDRESS: 1001 11th Avenue, Second Floor,
Greeley, CO, 80631

PHONE: 970-350-9859

PROJECT NAME: Landscape scale post-fire mitigation for the Cameron Peak Fire to protect critical watershed values- Phase 2

GRANT AMOUNT: \$3,000,000.00

INTRODUCTION AND BACKGROUND

The Cameron Peak Fire (CPF) is the state's largest wildfire on record. It burned for over 100 days eventually surrounding ~ 16 mountain communities and 6 high elevation water storage reservoirs. According to the Burned Area Emergency Response (BAER) report, 36% of the CPF burn perimeter is high to moderate severity burn. The BAER report determined that it was 'nearly certain (90% - 100%)' that water quality would be impacted by post fire debris flows, run-off, ash flows, sedimentation and nutrient loading within 1-3 years following the fire. Additionally, modelling done by the Colorado Forest Restoration Institute predicted that if the full fire perimeter was left untreated, hillslope erosion could increase by 1,267,301 Mg.

The purpose of this proposed project is to mitigate the negative consequences of the Cameron Peak Fire to high priority watershed values including water quality & supply, river ecosystem function & health, and to protect communities. We are proposing to implement aerial mulching at a large enough landscape scale to reduce hillslope erosion in the highest priority sub-drainages. If fully funded, this project will be able to treat an additional approximately 1,000¹ high priority acres in the Poudre.

Additionally, this project will support planning and implementation of unanticipated needs. After rain events, impacts from increased runoff and erosion are expected, however, it is unknown exactly what those impacts will be. For example, on July 20th, a rain event occurred causing debris flows and flooding throughout the Poudre River watershed, in particular the Black Hollow area was affected. Hillslopes eroded, debris piles filled the river, and homes were lost requiring a shift in our prioritization of projects. While Black Hollow was identified as a top priority for hillslope and channel rehabilitation work, the scope of the project now includes debris removal. Funding from this grant will go towards stream and hillslope restoration and stabilization, riparian revegetation and other mitigation work as needs arise such as those that surfaced from the July 20th flooding event, as well as other events that

may occur over the summer and into additional seasons.

These projects are part of a larger program of work intended to provide holistic post-fire mitigation that will reduce hillslope erosion, protect water quality, river health, and community infrastructure on a total of 20,000 acres in high priority sub-drainages in the CPF burn scar. Currently available federal or local funds are not sufficient to treat the vast majority of these acres.

The United States Forest Service (USFS) BAER program has not earmarked funds for watershed scale treatments and the NRCS EWP funds are not available for work on federal lands (where the greatest treatment needs lie). Even if the 2,000 acres under the approved Natural Resources Conservation Service/United States Forest Service (NRCS/USFS) pilot project are funded in the future, the total amount of funding available will still be insufficient to address even just the highest priorities. Thus, state funds are essential to fill this funding gap.

OBJECTIVES

List the objectives of the project. Please include objectives for all aspects of the project whether funded by the CWCB or not

¹ Range is dependent on final costs per unit acre for aerial mulching

1. Treat approximately 1000 acres of high priority sub basins on non-Wilderness USFS lands draining to the Poudre by June 30, 2022 with wood mulch sourced from both local and outside locations (much of the locally sourced material is processed out of state due to lack of operating mills in the vicinity). &/or other effective post-fire mitigation actions (wattles, directional tree felling, etc).
2. Treat unidentified needs that may occur after the monsoon season including but not limited to planning/implementation for in-stream channel repairs, gulley/stream stabilization, riparian revegetation, and installation of sediment basins, and;
3. Provide capacity support for the Coalition for the Poudre River Watershed (CPRW) and the Big Thompson Watershed Coalition (BTWC) to coordinate the implementation of mulching and unanticipated needs projects, as well as landowner education and engagement.

TASKS

Provide a detailed description of each task using the following format. Detailed descriptions are only required for CWCB funded tasks. Other tasks should be identified but do not require details beyond a brief description.

TASK 1 – Implement a landscape scale aerial/mastication mulching program to protect downstream values at risk

Description of Task

This task involves, overseeing its implementation, and verifying the outcomes. Mulching will primarily occur via aerial mulching but some areas will be treated via mastication. The majority of this work will occur on federal lands in the Poudre watershed for this project phase.

Method/Procedure

1. Complete mulch polygon verification of identified treatment locations prior to helicopter operations. Verification procedure will follow JW Associates CPF Mulch Polygon Field Procedures Plan.
2. Work with USFS to authorize use of existing trees in the burn area as wood mulch source materials; work with local wood product company to source mulch if trees are unavailable from the burn area.
3. Finalize available budget to determine total number of additional acres to be treated.
4. Received Special Use Permit from USFS on July 16th.
5. Post Fire Program Manager started at CPRW on July 6, 2021 to manage and coordinate the Cameron Peak Fire mitigation work.
6. Helicopter Contractors began on July 19th, finalize landing and staging areas to treat with the Phase 2 funding. The Post Fire Program Manager will oversee and coordinate quality control and contractor work.
7. Weather permitting, conduct mulching operations summer through fall, potentially into summer 2022 pending unforeseen weather delays.
8. Conduct post mulch inspections using the JW Associates CPF Aerial Mulch Inspection Plan to verify that treatment specs were met.

Deliverables

Reduced hillslope erosion on approximately 1,000 acres of Forest Service non-wilderness lands of high priority HUC 14s in the Poudre Watershed.

TASK 2 –Address unanticipated needs that arise in the CPF burn area and engage private landowners and other stakeholders.

Description of Task

This task focuses on both public and private lands and landowners that will not receive post fire assistance through the EWP program or the previously awarded CWCB post-fire grant to implement fire mitigation. CPRW and BTWC will continue to identify unanticipated needs that arise after the summer monsoon season. These high priority needs may be addressed by either a contractor to assist with design and implementation of identified projects or by volunteers to help conduct low-tech post fire restoration techniques. An example of an unanticipated high priority project occurred on July 20, 2021. A massive flash flood and debris flow event took place in the Black Hollow drainage in the CLP. Early estimates state that up to two inches of rain fell within an hour causing the river to rise from ~500 cfs to ~2,300 cfs in less than 20 minutes. At least five homes were destroyed, and one person has died. The impacts and needs are still yet to be determined in this drainage. It was already a priority area for mulching operations, and it is now a priority area for debris removal. We anticipate similar events occurring over the next 1-5 years post-fire.

We anticipate a variety of needs on private and USFS lands that will arise following the monsoon season this year including: hillslope stabilization, gulley formation, stream instability, need for revegetation in riparian areas and reforestation. CPRW and BTWC will work with stakeholders and private landowners to identify these potential needs as they occur and develop a plan to design and implement solutions

CPRW and BTWC will work with stakeholders and private landowners to identify these potential needs as they occur and develop a plan to design and implement solutions.

In addition to unanticipated needs, initial spatial analysis has been completed by CPRW to ascertain which private lands in the burn area not likely to be incorporated into the EWP program that align with watershed priorities and where it would be feasible to implement hand treatments.

Method/Procedure

1. Work with stakeholders and private landowners to identify needs that arise after the summer monsoon season that were not anticipated.
2. Secure landowner access agreements in place and create treatment plans.
3. Hire appropriate contractors to assist with prioritizing future mitigation sites and design/implementation.
4. Recruit volunteers for projects.
5. Implement prioritized projects using potential methods like hillslope stabilization, revegetation/reforestation, sediment catchment basins, stream channel restoration, or other appropriate methods to mitigate erosion and sedimentation.
6. Continue to engage landowners and other core stakeholders.

Deliverables

- Prioritize unanticipated post-fire restoration needs on both private and USFS land, taking into account unanticipated needs that arise for localized weather events and other impacts.
- Implement 1-5 priority projects to stabilize streams and/or hillslopes and reduce sedimentation/ash runoff and debris flows on private or public lands
- Report summarizing accomplishments.

TASK 3 – Project Management

Description of Task

The City of Greeley will be in charge of ensuring that all aspects of the project are meeting milestones, achieving desired outcomes, and are being effectively coordinated. This task will be shared by CPRW's Post Fire Program Manager, with the assistance of an Administrator, who will largely oversee the overall coordination of large landscape aerial and other mulching implementation, quality control, and reporting.

Method/Procedure

This task will involve regular consultations with consultants, contractors, and project partners working on the project and regular communication with stakeholders. Additionally, it will mean adhering to all grant administration requirements and other compliance needs.

Deliverable

The final deliverables for this task include: a stakeholder committee that is well informed about progress of projects with timely delivery of meeting notes; consultants and contractors who provide deliverables in keeping with defined milestones; and efficient/accurate grant administration.

REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

**COLORADO**Colorado Water
Conservation Board

Department of Natural Resources

Colorado Water Conservation Board**Watershed Restoration Program Grant****Budget and Schedule****Prepared Date: 07/21/2021****Name of Applicant: City of Greeley****Name of Water Project: Cameron Fire****Recovery Project Start Date: 08/08/2021****Project End Date: 07/31/2025**

Task No.	Task Description	Task Start Date	Task End Date	Grant Funding Request	Match Funding	Total
1	Mulching Program to Protect Watershed Values at Risk	8/8/2021	7/31/2025	\$2,683,000.00	\$3,007,577.50	\$5,690,577.50
2	Unanticipated Needs Hillslope Erosion	8/8/2021	7/31/2025	\$317,000.00	\$50,920.80	\$367,920.80
Total				\$3,000,000.00	\$3,058,498.30	\$6,058,498.30



COLORADO
Colorado Water
Conservation Board

Department of Natural Resources

Watershed Restoration Program Grant - Detailed Budget Estimate
Fair and Reasonable Estimate

Prepared Date: 7/21/2021
Name of Applicant: City of Greeley
Name of Water Project: Cameron Peak Fire Recovery

Task 1 - Mulching Program to Protect Watershed Values at Risk

Sub-task	Item	Hourly		Item		Item		Total	CWCBC Funds	Matching Funds
		Rate	# Hours	Sub-total	Item Cost	Quantity	Sub-total			
Implement Mulching Program	Aerial & ground mulching			\$0.00	2,600	\$995.00	\$2,587,000.00	\$2,587,000.00		
	Greeley EWP project costs			\$3,000,000.00				\$3,000,000.00		\$3,000,000.00
Coordinate and oversee mitigation work & compliance	CPRW Post-fire Project Manager	\$50.00	1,920	\$96,000.00				\$96,000.00	\$96,000.00	\$0.00
	Stakeholder Time	\$30.31	250	\$7,577.50			\$0.00	\$7,577.50		\$7,577.50
										\$0.00

Task 2 - Unanticipated needs on hillslopes

Sub-task	Item	Hourly		Item		Item		Total	CWCBC Funds	Matching Funds
		Rate	# Hours	Sub-total	Item Cost	Quantity	Sub-total			
Coordinate the implementation of projects and landowers - Poudre Watershed	CPRW Post-Fire Project Manager	\$50.00	300	\$15,000.00				\$15,000.00	\$15,000.00	\$0.00
	CPRW Forester	\$40.00	100	\$4,000.00				\$4,000.00	\$4,000.00	
	CPRW Watershed Project Manager	\$40.00	100	\$4,000.00				\$4,000.00	\$4,000.00	
	CPRW Executive Director	\$55.00	50	\$2,750.00				\$2,750.00	\$2,750.00	
	CPRW Communications Manager	\$36.00	50	\$1,800.00				\$1,800.00	\$1,800.00	
	CPRW Volunteer Time	\$30.31	1200	\$36,372.00				\$36,372.00	\$0.00	\$36,372.00
Design and Implementation - Poudre	Design watershed projects			\$0.00	\$ 150.00	355.00	\$53,250.00	\$53,250.00	\$53,250.00	
	Contractor Labor			\$0.00	\$ 125.00	550.00	\$68,750.00	\$68,750.00	\$68,750.00	
	Coordinate the implementation of projects and landowers - Big Thompson									
Coordinate the implementation of projects and landowers - Big Thompson	BTWC Staff time	\$50.00	600	\$30,000.00				\$30,000.00	\$30,000.00	\$0.00
	BTWC Stakeholder Time	\$30.31	160	\$4,849.60				\$4,849.60	\$0.00	\$4,849.60
	BTWC Volunteer Time	\$30.31	320	\$9,699.20				\$9,699.20	\$0.00	\$9,699.20

Design watershed projects	\$0.00	\$ 150.00	350.00	\$52,500.00	\$52,500.00	\$52,500.00
Install watershed projects	\$0.00	\$ 125.00	679.60	\$84,950.00	\$84,950.00	\$84,950.00
Contractor Labor	\$0.00			\$0.00		
TOTAL				\$6,058,498.30	\$3,000,000.00	\$3,058,498.30

Other Direct Costs (see below)

OVERALL TOTAL

Other Direct Costs

Item:	Mileage Big Thompson	Mileage CPRW	Total
Units:	Miles	Miles	
Unit Cost:	\$0.56	\$0.56	
Site Visits/Landowner meetings			0.00
Total Units:			0.00
Total Cost:		\$0	\$0



1313 Sherman Street, Room 718
Denver, CO 80203

CMS#171057

Encumbrance # CTGG1 PDAA 2022*2181

City of Greeley

1000 10th St

Greeley, CO 80631

Dear Jennifer Petrzela, City of Greeley:

We are pleased to inform you that the Department of Natural Resources (DNR), Colorado Water Conservation Board (CWCB) has approved your application for funding pursuant to the Colorado Watershed Restoration Wild Fire Mitigation Grant ("Program") in the amount of \$6,307,336.80, (\$6,419,086.00 Local Match) for a total project cost of \$12,726,422.80. This letter authorizes you to proceed with the Cameron Peak Fire Area Phase 3 ("Project") in accordance with the terms of this Grant Award Letter.

Attached to this letter are the terms and conditions of your Grant. Please review these terms and conditions as they are requirements of this Grant to which you Grantee agree by accepting the Grant Funds.

If you have questions regarding this Grant, please contact: Chris Sturm at chris.sturm@state.co.us.

GRANT AWARD LETTER
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

State Agency Colorado Department of Natural Resources (DNR) Colorado Water Conservation Board (CWCB) 1313 Sherman St #718 Denver CO 80203	Contract Number CMS Number: 171057 Encumbrance Number: CTGG1 PDAA 2022*2181
Grantee City of Greeley	Grant Amount \$6,307,336.80
Grant Issuance Date Upon the Signature of the State Controller, or his delegate	
Grant Expiration Date August 27, 2025	Local Match Amount \$3,419,086.00
Grant Authority The CRS for this grant is 37-60-101 th 37-60-133. The Budget has been approved in SB21-240.	
Grant Purpose This grant is to conduct a Watershed grant for landscape scale post-fire mitigation for the Cameron Peak Fire to protect the critical watershed Phase 3.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: - Exhibit A, Statement of Work and Budget. In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: - The provisions of the main body of this Grant. - Exhibit A, Statement of Work and Budget.	
Principal Representatives For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us	For Contractor: Jennifer Petrzelka City of Greeley 1001 11 th Ave Greeley, CO 80631

CMS Number: 171057

Encumbrance Number: CTGG1 PDAA 2022*2181

SIGNATURE PAGE

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

STATE OF COLORADO Jared S. Polis, Governor Department of Natural Resources Dan Gibbs Colorado Water Conservation Board DocuSigned by:  By: Tina Heltzel, CWCB Budget Analyst Date: August 19, 2021 12:48 PM MDT	In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD DocuSigned by:  By: Ion Cotsapas DNR Procurement Director Effective Date: August 19, 2021 2:52 PM MDT
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1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the "State") hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the "Grantee") an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties' respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter by providing Grantee with an updated Grant Award Letter showing the new Grant Expiration Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in Exhibit A.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Award Letter that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Grant Award Letter that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Grant Award Letter by the State for breach by Grantee.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. "**Budget**" means the budget for the Work described in Exhibit A.
- B. "**Business Day**" means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- C. "**CORA**" means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

- D. **“Grant Award Letter”** means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- E. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- F. **“Grant Expiration Date”** means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- G. **“Grant Issuance Date”** means the Grant Issuance Date shown on the first page of this Grant Award Letter.
- H. **“Exhibits”** exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- J. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- L. **“Initial Term”** means the time period between the Grant Issuance Date and the Grant Expiration Date.
- M. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.
- N. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- O. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally
- P. **“Services”** means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by

a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- R. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- S. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- T. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- U. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of
- V. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- W. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. **STATEMENT OF WORK**

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter.

5. **PAYMENTS TO GRANTEE**

A. **Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date.

B. **Matching Funds.**

Grantee shall provide the Local Match Amount shown on the first page of this Grant Award Letter and described in Exhibit A (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Award Letter each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Grant Award Letter irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Award Letter is not intended to create a multiple-fiscal year debt of

Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

C. Reimbursement of Grantee Costs

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall only reimburse allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

D. Close-Out.

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.D, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations. The State may impose any penalties for noncompliance which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration.

10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

11. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Award Letter at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

13. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Award Letter shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

15. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

16. GENERAL PROVISIONS**A. Assignment**

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Award Letter.

B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Grant Award Letter represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Grant Award Letter.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Grant Award Letter, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of

the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Grant Award Letter to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Grant Award Letter shall not affect the validity or enforceability of any other provision of this Grant Award Letter, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Grant Award Letter Terms

Any provision of this Grant Award Letter that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Award Letter does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Grant Award Letter, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Exhibit A
Scope of Work

GRANTEE and FISCAL AGENT (if different): City of Greeley Water and Sewer Department

PRIMARY CONTACT: Jennifer Petrzelka

ADDRESS: 1001 11th Avenue, Second Floor,
Greeley, CO, 80631

PHONE: 970-350-9859

PROJECT NAME: Landscape scale post-fire mitigation for the Cameron Peak Fire to protect critical watershed values- Phase 3

GRANT AMOUNT: \$6,307,336.80

INTRODUCTION AND BACKGROUND

The Cameron Peak Fire (CPF) is the state's largest wildfire on record. It burned for over 100 days eventually surrounding ~ 16 mountain communities and 6 high elevation water storage reservoirs. According to the BAER report, 36% of the CPF burn perimeter is high to moderate severity burn. The BAER report determined that it was 'nearly certain (90% - 100%)' that water quality would be impacted by post fire debris flows, run-off, ash flows, sedimentation and nutrient loading within 1-3 years following the fire. Additionally, modelling done by the Colorado Forest Restoration Institute predicted that if the full fire perimeter was left untreated, hillslope erosion could increase by 1,267,301 Mg.

The purpose of this proposed project is to mitigate the negative consequences of the Cameron Peak Fire to high priority watershed values including water quality & supply, river ecosystem function & health, and to protect communities. The proposed scope would complement and further ongoing watershed-scale post-fire recovery efforts in the Poudre and Big Thompson watersheds. We are proposing to implement aerial mulching at a large enough landscape scale to reduce hillslope erosion in the highest priority sub-drainages. If fully funded, this project will be able to treat an additional approximately 1,850 high priority acres in the Poudre and Big Thompson watersheds.

This project will also support continued planning and implementation of unanticipated needs. After rain events, impacts from increased runoff and erosion are expected, however, it is unknown exactly what those specific impacts will be. For example, on July 20th, a rain event occurred causing debris flows and flooding throughout the Poudre River watershed, affecting the Black Hollow area specifically. Hillslopes eroded, debris piles filled the river, and homes were lost requiring a shift in our prioritization of projects. While Black Hollow was identified as a top priority for hillslope and channel rehabilitation work, the scope of the project now includes debris removal, temporary stabilization of the fan and river corridor, as well as potential long-term restoration. Funding from this grant will go towards stream and hillslope restoration and stabilization, riparian revegetation and other mitigation work as needs arise such as those that surfaced from the July 20th flooding event, as well as other events that may occur over the summer and into additional seasons.

Finally, Cameron Peak Fire partners are interested in furthering collective learning and understanding more about the effectiveness of post-fire mitigation treatments. This project proposes to work with CSU researchers to expand CPRW's existing monitoring program to track impacts to water quality from wood mulch application. We also propose to have CPRW staff identify specific locations to monitor performance of recent wood mulch applications on slopes above 45%. CPRW staff and partners also plan to identify and assess several locations mulched as part of the High Park Fire recovery efforts, to help gauge site condition nearly 10 years after mulching efforts were completed. Finally, BTWC will work with partners to continue monitoring of a weather station at Buckhorn Canyon that is critical to community safety.

These projects are part of a larger program of work intended to provide holistic post-fire mitigation that will reduce hillslope erosion, protect water quality, river health, and community infrastructure on a total of 20,000 acres in high priority sub-drainages in the CPF burn scar. Currently available federal or local funds are not sufficient to treat the vast majority of these acres.

The USFS BAER program has not earmarked funds for watershed scale treatments and the NRCS EWP funds are not available, or are very limited, for work on federal lands (where the greatest treatment needs lie). Currently NRCS is considering funding a pilot program to mulch federal lands, as well as considering emergency funding for the Black Hollow area after the July 20th event. Even if approved, the total amount of funding available will still be insufficient to address some of the highest priorities in the watersheds. Thus, state funds are essential to fill this funding gap.

OBJECTIVES

List the objectives of the project. Please include objectives for all aspects of the project whether funded by the CWCBC or not.

1. Treat approximately 1850 acres of high priority sub basins on non-wilderness USFS lands draining to the Poudre and Big Thompson by October 30, 2022 with wood mulch sourced from both local and outside locations (much of the locally sourced material is processed out of state due to lack of operating mills in the vicinity). &/or other effective post-fire mitigation actions (wattles, directional tree felling, etc).
2. Treat unidentified needs that may occur after the monsoon season including but not limited to planning/implementation for in-stream channel repairs, gulley/stream stabilization, riparian revegetation, and installation of sediment basins;
3. Provide capacity support for the CPRW and the BTWC to coordinate the implementation of mulching and unanticipated needs projects, as well as landowner education and engagement; and
4. Further knowledge and understanding of post-fire treatment efficacy and impacts and continue important community safety monitoring, through CSU research on water quality impact; CPRW monitoring the performance of mulched areas after precipitation events; BTWC and partner monitoring of an important weather station in the Buckhorn Canyon.

TASKS

Provide a detailed description of each task using the following format. Detailed descriptions are only required for CWCBC funded tasks. Other tasks should be identified but do not require details beyond a brief description.

TASK 1 – Implement a landscape scale aerial/mastication mulching program to protect downstream values at risk

Description of Task

This task involves, overseeing program implementation, and verifying the outcomes. Mulching will primarily occur via aerial mulching but some areas will be treated via mastication. Work will occur on a mix of both USFS and private lands in the Poudre Watershed and the Big Thompson Watershed.

Priority areas for mulching have been previously identified via planning efforts in the Poudre and Big Thompson Watersheds. Areas mulched will be contingent on final funding secured among federal and state sources and field verification to determine final acreage that is best suited for mulching treatments. Priorities for mulching include the following areas:

Watershed	Area	Acreage
Poudre	Bennett Creek	215 acres to complement ~700 acres already underway
Poudre	Black Hollow	1370 acres
Poudre	Roaring Creek	800 acres
Poudre	Sevenmile Creek	360 acres
Big Thompson	Miller Fork/Black Creek	1590 acres
Big Thompson	Buckhorn Creek	Acreage TBD by 9/2021 aerial mulching assessment expansion

Method/Procedure

1. Complete mulch polygon verification of identified treatment locations prior to helicopter operations. Verification procedure will follow JW Associates CPF Mulch Polygon Field Procedures Plan.
2. Work with USFS to authorize use of existing trees in the burn area as wood mulch source materials; work with wood product company to source mulch if trees are unavailable from the burn area.
3. Finalize available budget to determine total number of additional acres to be treated.
4. Received Special Use Permit from USFS on July 16th.
5. Post Fire Program Manager started at CPRW on July 6, 2021 to manage and coordinate the Cameron Peak Fire mitigation work.
6. Helicopter Contractors in the Poudre began on July 19th and the team has finalized landing and staging areas to treat with the previously received CWCB funding. The CPRW Post Fire Program Manager is currently overseeing and coordinating quality control and contractor work.
7. Weather permitting, conduct mulching operations summer through fall 2021, potentially into summer 2022 pending unforeseen weather delays.

8. Conduct post mulch inspections using the JW Associates CPF Aerial Mulch Inspection Plan to verify that treatment specs were met. As of August 11, 2021, approximately 2000 acres have been mulched in priority areas and field verified in the Poudre Watershed.
9. Aerial mulching operations in the Big Thompson will follow similar procedures and will leverage partner's existing contract for helicopter operations.

Deliverables

Reduced hillslope erosion on approximately 1,850 acres of Forest Service non-wilderness and private lands of high priority HUC 14s in the Poudre and Big Thompson Watershed.

TASK 2 –Address unanticipated needs that arise in the CPF burn area and engage private landowners and other stakeholders.

Description of Task

This task focuses on both public and private lands and landowners that will not receive post fire assistance through the EWP program or the previously awarded CWCB post-fire grant to implement fire mitigation. CPRW and BTWC will continue to identify unanticipated needs that arise after the summer monsoon season. These high priority needs may be addressed by a knowledgeable and experienced contractor to assist with design and implementation of identified projects and post fire restoration techniques. An example of an unanticipated high priority project occurred on July 20, 2021. A massive flash flood and debris flow event took place in the Black Hollow drainage in the CLP. Early estimates state that up to two inches of rain fell within an hour causing the river to rise from ~500 cfs to ~2,300 cfs in less than 20 minutes. At least five homes were destroyed, and one person has died. The impacts and needs are currently being assessed by CPF partners. It was already a priority area for mulching operations, and it is now a priority area for debris removal and longer-term river stabilization and alluvial fan restoration treatments.

We anticipate similar events occurring over the next 1-5 years post-fire. Cameron Peak Fire recovery partners experienced similar needs and implemented projects to address these needs in the years following the High Park Fire. Costs incurred for restoration efforts following the High Park Fire, such as Skin Gulch, UT3 and Seaman Reservoir projects were reviewed to estimate costs for projects that will likely arise from the Cameron Peak Fire. We anticipate a variety of needs on private and USFS lands following the monsoon season this year including: hillslope stabilization, gulley formation, stream instability, need for revegetation in riparian areas and reforestation. CPRW and BTWC will work with stakeholders and private landowners to identify these potential needs as they occur and develop a plan to design and implement solutions.

In addition to unanticipated needs, initial spatial analysis has been completed by CPRW to ascertain which private lands in the burn area not likely to be incorporated into the EWP program that align with watershed priorities and where it would be feasible to implement hand treatments.

Method/Procedure

1. Work with stakeholders and private landowners to identify needs that arise after the summer monsoon season that were not anticipated.
2. Secure landowner access agreements in place and create treatment plans.
3. Hire appropriate contractors to assist with prioritizing future mitigation sites and design/implementation.

4. Recruit volunteers for projects, if feasible and effective.
5. Implement prioritized projects using potential methods like hillslope stabilization, revegetation/reforestation, sediment catchment basins, stream channel restoration, or other appropriate methods to mitigate erosion and sedimentation.
6. Continue to engage landowners and other core stakeholders.

Deliverables

- Prioritize unanticipated post-fire restoration needs on both private and USFS land, taking into account unanticipated needs that arise for localized weather events and other impacts.
- Implement 1-5 priority projects to stabilize streams and/or hillslopes and reduce sedimentation/ash runoff and debris flows on private or public lands
- Report summarizing accomplishments.

TASK 3- Monitor mulch impacts to water quality and mulch performance

Description of Task

This monitoring task involves hiring two FTE graduate students to work under Dr. Stephanie Kampf, Dr. Peter Nelson at CSU and Dr. Charles Rhoades at Rocky Mountain Research Station. The graduate students will help to expand our existing monitoring program to track impacts to water quality from wood mulch application.

Additionally, CPRW will work with partners to identify and select several recently mulched areas that are over 45% slope. CPRW staff will visit these areas after precipitation events to gauge performance in comparison to selected mulched areas with more moderate slopes. Finally, CPRW staff will work with partners to identify areas mulched as part of the High Park Fire and will conduct site visits to gauge site condition nearly 10 years after mulching efforts were completed.

BTWC will work with City of Loveland and USGS to continue monitoring on a critical water quality monitoring station in the Buckhorn Creek near Masonville, CO. This station is important for community safety, but currently unfunded to ongoing monitoring post 2021.

Method/Procedure

1. Hire two FTE graduate students to work with researchers at CSU and RMRS to provide support to our monitoring program.
2. Refine monitoring plan in cooperation with RMRS and CSU & select sub-watershed sites for long-term measurements.
3. Graduate students will collect data for up to 2 years post mulch application.
4. RMRS will assist with water quality lab analysis. Analyze and report on data.
5. CPRW will work with partners to identify locations for ongoing monitoring of mulched areas with slopes over 45% and comparison areas. Areas for monitoring from the High Park Fire will also be identified.
6. CPRW will create a monitoring schedule, conduct monitoring, analyze and report on data collected.
7. BTWC will work with City of Loveland and partners to continue monitoring protocols via contract with USGS on the Buckhorn Canyon Weather Station.

Deliverable

1. Graduate students provide support to track impacts of wood mulch application on water quality and produce data and reports to share with land managers.
2. CPRW produced report detailing monitoring efforts on mulched areas.
3. Ongoing operation of the Buckhorn Canyon weather station through 2022.

TASK 4 – Project Management

Description of Task

The City of Greeley will be in charge of ensuring that all aspects of the project are meeting milestones, achieving desired outcomes, and are being effectively coordinated. This task will be shared by CPRW's Post Fire Program Manager, who will largely oversee the overall coordination of large landscape aerial and other mulching implementation, quality control, and reporting. BTWC staff will also help track project management deliverables and milestones.

Method/Procedure

This task will involve regular consultations with consultants, contractors, and project partners working on the project and regular communication with stakeholders. Additionally, it will mean adhering to all grant administration requirements and other compliance needs.

Deliverable

The final deliverables for this task include: a stakeholder committee that is well informed about progress of projects with timely delivery of meeting notes; consultants and contractors who provide deliverables in keeping with defined milestones; and efficient/accurate grant administration.

REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

**COLORADO**Colorado Water
Conservation Board

Department of Natural Resources

Colorado Water Conservation Board**Watershed Restoration Program Grant****Budget and Schedule****Prepared Date: 08/11/2021****Name of Applicant: City of Greeley****Name of Water Project: Cameron Fire Recovery****Project Start Date: 08/27/2021****Project End Date: 08/27/2025**

Task No.	Task Description	Task Start Date	Task End Date	Grant Funding Request	Match Funding	Total
1	Mulching Program to Protect Watershed Values at Risk	8/27/2021	8/27/2025	\$4,252,920.00	\$3,253,031.00	\$7,505,951.00
2	Unanticipated Needs Hillslope Erosion	9/1/2021	8/27/2025	\$1,863,440.00	\$3,106,062.00	\$4,969,502.00
3	Research and Monitoring	9/1/2021	8/27/2025	\$190,976.80	\$59,993.00	\$250,969.80
Total				\$6,307,336.80	\$6,419,086.00	\$12,726,422.80

Colorado Water Conservation Board

Department of Natural Resources

**Colorado Water Conservation Board
Watershed Restoration Program Grant - Detailed Budget Estimate
Fair and Reasonable Estimate**

Name of Applicant: City of Greeley
Name of Water Project: Cameron Peak Fire Recovery
EXAMPLE A: Study or Project Coordination

EXAMPLE A: Study or Project Coordination

Task 1 - Implement Mulching Program to Protect Watershed Values at Risk

Sub-task	Item	Hourly		#	Item		Matching Funds					
		Rate	Hours		Sub-total	Item Cost		Quantity	Sub-total	Total	CWCB Funds	
1A. Implement Mulching Program - Poudre Watershed	Aerial & ground mulching											
	NRCS EWP Black Hollow costs											
1B. Coordinate and oversee mulching work, monitoring & compliance - Poudre Watershed												
	CPRW Stakeholder Time	\$30.31	100	\$3,031.00			\$0.00	\$3,031.00	\$0.00	\$3,031.00	\$0.00	\$3,031.00
	CPRW Post-Fire Program Manager	\$50.00	80	\$4,000.00			\$0.00	\$4,000.00	\$4,000.00	\$0.00	\$0.00	
	CPRW Forester	\$40.00	40	\$1,600.00			\$0.00	\$1,600.00	\$1,600.00	\$0.00	\$0.00	
	CPRW Watershed Project Manager	\$40.00	40	\$1,600.00			\$0.00	\$1,600.00	\$1,600.00	\$0.00	\$0.00	
1C. Implement Mulching Program - Big Thompson Watershed	CPRW Communications Manager	\$36.00	20	\$720.00			\$0.00	\$720.00	\$720.00	\$0.00	\$0.00	
	Aerial & Ground Mulching											
1D. Coordinate and oversee mitigation work & compliance - Big Thompson Watershed												
	BTWC Staff Time	\$50.00	100	\$5,000.00								
Task 2 - Unanticipated needs on hillslopes and riparian areas												
Sub-task	Item	Hourly		#	Item		Matching Funds					
		Rate	Hours		Sub-total	Item Cost		Quantity	Sub-total	Total	CWCB Funds	
2A. Coordinate the implementation of projects and landowers - Poudre Watershed												
	CPRW Post-Fire Project Manager	\$50.00	1000	\$50,000.00			\$50,000.00	\$50,000.00	\$50,000.00	\$0.00	\$0.00	
	CPRW Forester	\$40.00	500	\$20,000.00			\$20,000.00	\$20,000.00	\$20,000.00	\$0.00	\$0.00	
	CPRW Watershed Project Manager	\$40.00	500	\$20,000.00			\$20,000.00	\$20,000.00	\$20,000.00	\$0.00	\$0.00	
	CPRW Executive Director	\$55.00	120	\$6,600.00			\$6,600.00	\$6,600.00	\$6,600.00	\$0.00	\$0.00	
2B. Design and Implementation - Poudre	CPRW Communications Manager	\$36.00	220	\$7,920.00			\$7,920.00	\$7,920.00	\$7,920.00	\$0.00	\$0.00	
	Consultant design											
	Contractor labor to install projects											

2C. Coordinate the implementation of projects and landowners - Big Thompson									
BTWC Staff time		\$50.00	350	\$17,500.00			\$17,500.00	\$0.00	\$0.00
BTWC Stakeholder Time		\$30.31	100	\$3,031.00			\$3,031.00	\$0.00	\$3,031.00
BTWC Volunteer Time		\$30.31	100	\$3,031.00			\$3,031.00	\$0.00	\$3,031.00
2D. Design and Implementation - Big Thompson									
Consultant design				\$0.00				\$150,000.00	\$0.00
Contractor labor to install projects								\$162,500.00	\$0.00
Larimer County fire recovery project costs								\$3,100,000.00	\$0.00
									\$3,100,000.00
Task 3 - Research and Monitoring									
Sub-task	Item	Hourly Rate	# Hours	Sub-total	Item Cost	Item Quantity	Sub-total	Total	CWCB Funds
3A. CSU Research									Matching Funds
2 FT grad students to monitor impacts and analysis					\$203,145.00	1.00	\$203,145.00	\$203,145.00	\$59,993.00
3B. CPRW Monitoring									
CPRW Post-Fire Project Manager		\$50.00	320	\$ 16,000.00				\$16,000.00	\$0.00
CPRW Forester		\$40.00	160	\$ 6,400.00				\$6,400.00	\$0.00
CPRW Watershed Project Manager		\$40.00	160	\$ 6,400.00				\$6,400.00	\$0.00
CPRW Communications Manager		\$36.00	40	\$ 1,440.00				\$1,440.00	\$0.00
3C. Big Thompson Weather Monitoring									
USGS Weather Monitoring at Buckhorn Creek					\$2,930.80	6	\$17,584.80	\$17,584.80	\$0.00
								\$12,722,502.80	\$6,303,416.80
								\$3,920.00	\$0.00
								\$12,726,422.80	\$6,307,336.80
									\$6,419,086.00
									\$0.00
									\$6,419,086.00
TOTAL									
Other Direct Costs (see below)									
OVERALL TOTAL									
Other Direct Costs									

Item:	Mileage Big Thompson	Mileage CPRW	Total
Units:	Miles	Miles	
Unit Cost:	\$0.56	\$0.56	
Site Visits/Landowner meetings	1000.00	6,000	7000.00
Total Units:	1,000	6,000	7000.00
Total Cost:	\$560.00	\$3,360.00	\$3,920.00

SECOND REIMBURSEMENT AGREEMENT FOR
WILDFIRE MITIGATION AND REHABILITATION SERVICES

This SECOND REIMBURSEMENT AGREEMENT FOR WILDFIRE MITIGATION AND REHABILITATION SERVICES (“Agreement”) is entered into this ____ day of _____ 2022, by and between THE CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise (“Greeley”) and BIG THOMPSON WATERSHED COALITION, a Colorado non-profit corporation (“BTWC”).

Recitals

WHEREAS, the 2020 Cameron Peak Fire burned over 200,000 acres in the watersheds of the Cache la Poudre and Big Thompson Rivers, including acreage upon both public and private properties, and caused severe impacts to public infrastructure serving properties throughout Larimer and Weld Counties, including, without limitation, water supply infrastructure; and

WHEREAS, Greeley and BTWC previously entered into that certain Reimbursement Agreement for Wildfire Mitigation and Rehabilitation Services dated October 4, 2021, which allows for the reimbursement of Greeley by BTWC for certain grant funding obtained by BTWC; and

WHEREAS, Greeley has since been awarded grant funds by the Colorado Water Conservation Board (“CWCB Grant”) and is actively seeking other grant funds from other sources that may be used for mitigation and rehabilitation measures in response to the Cameron Peak Fire (collectively “Greeley Grants”); and

WHEREAS, in accordance with the terms and conditions of the CWCB Grant, such measures may include, without limitation, mitigation of hillslope erosion and sediment delivery in the watershed via landscape-scale mulching, topical hillslope treatments, in-channel restoration techniques (including by not limited to catchment basin installation), post-fire monitoring of water supply infrastructure and water quality impacts, and the education and engagement of affected landowners and stakeholders concerning post-fire land stewardship; and

WHEREAS, Greeley and BTWC anticipate that any additional grant funding by Greeley may be used for measures similar to those described in the CWCB Grant; and

WHEREAS, Greeley and BTWC have a strong common interest in the protection of the upper Big Thompson River watershed, and desire to continue their coordination on recovery measures and mitigation efforts being employed in response to the Cameron Peak Fire; and

WHEREAS, coordination by Greeley and BTWC, including on the engagement of one or more contractors to undertake recovery measures and mitigation efforts in the upper Big Thompson watershed, will increase the efficiency of such efforts and significantly reduce the likelihood of duplicative and counterproductive efforts in response to the Cameron Peak Fire; and

WHEREAS, Greeley and BTWC have reached an understanding regarding their continued coordination on recovery measures and mitigation efforts in response to the Cameron Peak Fire, and desire to reduce their understanding to writing;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged by both parties, Greeley and BTWC agree as follows.

Agreement

1. Term of Reimbursement Agreement. The term of this Agreement commences on the date it is mutually executed and expires after a period of one (1) year (“Initial Term”). Upon expiration of the Initial Term, this Agreement will automatically renew for successive terms of one (1) year each, unless and until terminated by either Greeley or BTWC in accordance with paragraphs 5 and 6 below. Additionally, Greeley may terminate this Agreement with immediate effect at any point that reimbursement funds to which Greeley may be entitled under the CWCB or Greeley Grants are fully expended or otherwise no longer available, except that Greeley shall reimburse BTWC for all eligible expenses incurred under the CWCB Grants through the date of such termination.

2. Sources of Funding; General Compliance with CWCB and Greeley Grants. As of the execution of this Agreement, Greeley will orchestrate the utilization of \$9,307,337.00 of grant funding provided to Greeley by CWCB. Of this amount, and subject to the terms of this Agreement, Greeley will make \$520,034.80 available for reimbursement to BTWC for aerial mulching application in the Big Thompson watershed. Greeley and BTWC agree that any coordinated and collaborative activities undertaken pursuant to this Agreement, and any potential reimbursement to BTWC for such activities, are expressly subject to compliance with the terms and conditions of the CWCB and Greeley Grants. BTWC acknowledges that Greeley is engaged in multiple watershed protection projects in response to the Cameron Peak Fire, and that accordingly, nothing in this Agreement obligates Greeley to commit the full entitlement of its grant awards related to the Cameron Peak Fire to mitigation efforts undertaken by BTWC pursuant to this Agreement. Nothing in this Agreement should be construed to prevent either BTWC or Greeley from seeking additional grant funding for the recovery measures and mitigation efforts contemplated herein and undertaking such measures and efforts outside of this Agreement.

3. Coordination on Mitigation Efforts; Apportionment of Costs and Duties. BTWC will select one or more contractors to perform services necessary to mitigate existing and future damage to the upper Big Thompson River watershed caused by the Cameron Peak Fire (“Mitigation Tasks”), and remit payment for such services directly to the selected contractor(s). Greeley will then reimburse BTWC for such funds paid to the selected contractor(s) for Mitigation Tasks, subject to the terms and conditions in this Agreement and the CWCB and Greeley Grants.

3.1 BTWC shall coordinate with Greeley, CWCB, any other entities as necessary or appropriate, in the selection of the contractor(s) to perform the Mitigation Tasks to ensure that such selection is consistent with the terms and conditions of the CWCB and Greeley Grant.

3.2 BTWC shall provide Greeley, CWCB, any other entities as necessary or appropriate, with an opportunity to review in advance any designs, plans, scopes and schedules of work, and any other materials associated with the Mitigation Tasks to be performed by the selected contractor(s), to ensure that such designs, plans, scopes and schedules of work, and any other materials are compliant with the terms and conditions of the CWCB and Greeley Grants.

3.3 Upon reasonable advance notice, BTWC shall provide Greeley, CWCB, any other entities as necessary or appropriate, with an opportunity to inspect the Mitigation Tasks performed by the selected contractor(s), to ensure compliance with the terms and conditions of the CWCB and Greeley Grants. Greeley shall not interfere with or damage work performed pursuant to the Mitigation Tasks during any such inspection.

3.4 Promptly after remitting payment to the selected contractor(s) for Mitigation Tasks, BTWC shall provide to Greeley a copy of any invoice for which it is seeking reimbursement pursuant to this Agreement, along with any necessary supporting documentation. Greeley shall then promptly forward the invoice and supporting documentation to CWCB or other granting entities as necessary or appropriate for reimbursement consideration, in accordance with the terms and conditions of the CWCB and Greeley Grants. Subject to and upon confirmation from the awarding entity that any invoice forwarded as described herein contains costs eligible for reimbursement pursuant to a CWCB or Greeley Grant, Greeley shall reimburse BTWC within thirty (30) days of Greeley receiving its funding pursuant to the CWCB or Greeley Grant.

3.5 Greeley shall not be obligated under any circumstances to reimburse BTWC for costs determined by CWCB or other granting entities to be ineligible under the CWCB and Greeley Grants, or costs for which Greeley itself will not ultimately be reimbursed by CWCB or other granting entities. Reimbursements made by Greeley to BTWC shall not under any circumstances exceed the total amount of grant funding to which Greeley is entitled pursuant to the CWCB and Greeley Grants.

3.6 BTWC shall undertake reasonable efforts to complete any other task required of it by CWCB or other granting entities to ensure compliance with the CWCB and Greeley Grants, provided that BTWC shall not be required to incur any material expense in the course of such efforts.

3.7 Notwithstanding any other provision of this Agreement, Greeley's sole responsibility regarding the Mitigation Tasks and associated activities is to reimburse BTWC for those Mitigation Tasks and associated activities that are eligible for reimbursement under the terms of the CWCB and Greeley Grants and this Agreement. A copy of the CWCB Grant, which includes an associated budget for Mitigation Tasks, is attached hereto as Exhibit A. Greeley does not warrant, the suitability, safety, effectiveness, appropriateness, or integrity of such Mitigation Tasks and associated activities for their intended purpose, which is strictly the responsibility of BTWC and its contractors.

4. Restriction on Assignment. Neither Greeley nor BTWC may assign this Agreement without prior written consent from the other party. Such consent may be given or withheld in the sole discretion of the other party.

5. Notice. Greeley and BTWC shall give any notice required under this Agreement using the contact information listed below. Such notice is adequate if (a) hand-delivered, (b) provided by certified or registered mail, return receipt requested, or (c) sent via email, if receipt is acknowledged or no bounce back or other notice of delivery disruption is received by the sender within three (3) days after transmittal. Greeley and BTWC shall promptly notify the other party if the appropriate contact information for notice changes.

If to Greeley: Greeley Water and Sewer Department
Attention: Water Resources Division
1001 11th Avenue, 2nd Floor
Greeley, Colorado 80631
Telephone: (970) 350-9811
Email: jennifer.petrzelka@greeleygov.com
adam.jokerst@greeleygov.com

With a copy to: Greeley City Attorney's Office
Attention: Environmental and Water Resources
1100 10th Street, Suite 401
Greeley, Colorado 80631
Telephone: (970) 381-7408
Email: daniel.biwer@greeleygov.com

If to BTWC: Big Thompson Watershed Coalition
Attention: Laura Quattrini, Director
1530 N. Boise Avenue, 204c
Loveland, Colorado 80538
P.O. Box 1923, Loveland, Colorado 80539
Telephone: (970) 699-2906
Email: Laura.Quattrini@bigthompson.co

6. Default and Termination; Waiver. In the event either Greeley or BTWC fails to comply with the terms and conditions of this Agreement, such failure constitutes a default of this Agreement and the non-defaulting party may give notice of the perceived default in accordance with paragraph 5 above. The defaulting party is then entitled to a period of forty-five (45) from receipt of the notice within which to cure the default. Upon the cure of any such default during this period, this Agreement will remain in full force and effect.

6.1 If any declared default remains uncured after the 45-day cure period described above, or after any extension of the cure period mutually agreed to by the parties, the non-defaulting party may immediately terminate this Agreement with written notice to the defaulting party. Nothing in this Agreement should be construed to limit either party

from seeking damages or pursuing available remedies upon the termination of this Agreement for default, including the recovery of reasonable costs and attorneys' fees.

6.2 The failure of either Greeley or BTWC to declare a default does not establish a precedent nor constitute an implied waiver of any subsequent breach of the terms and conditions in this Agreement. Any such waiver of breach must be made explicitly in writing.

7. Governmental Immunity and Liability. Greeley is a public entity, as that term is defined pursuant to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as it exists now or is amended in the future ("CGIA"). Nothing in this Agreement should be construed to limit or alter the benefits and responsibilities to which Greeley is entitled pursuant to the CGIA. Greeley and BTWC respectively shall defend any and all claims for injuries or damages, in accordance with the requirements and limitations of the CGIA, which occur as a result of the negligent or intentional acts or omissions of their own officers and employees. Greeley and BTWC respectively shall be responsible for any and all liability for injuries or damages caused by any negligent acts or omissions of their own officers or employees, performing functions or activities under this Agreement.

8. Appropriation of Funds Contingency. Any expenditure of funds by Greeley associated with this Agreement is expressly subject to the appropriation of funds sufficient and intended for this purpose by its City Council during the fiscal year in which any such obligation is incurred.

9. Grant Funding and Revenues. BTWC and Greeley acknowledge that the Mitigation Tasks facilitated by Greeley pursuant to this Agreement constitute one aspect of a larger regional and national policy objective, that is, to mitigate and rehabilitate the impacts of the Cameron Peak Fire, and that Greeley is facilitating the Mitigation Tasks for the benefit of all water users and other parties with an interest in the Big Thompson River watershed. Any grant funding received, passed through, or otherwise managed by Greeley pursuant to this Agreement is for the purposes of the greater policy objective and the common benefit of the parties described, and will not result in a revenue subsidy or production of a capital asset for the Water Enterprise of the City of Greeley.

10. Jurisdiction and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. Proper venue for any dispute between Greeley and BTWC arising out of this Agreement is the Weld County District Court.

11. No Third Party Beneficiaries. The terms and conditions of this Agreement, and all rights of action related thereto, are strictly reserved to Greeley and BTWC. Nothing in this Agreement should be construed to allow any claim, right, or cause of action by any person or entity not a party to this Agreement. Any person or entity other than Greeley or BTWC that realizes a service or benefit under this Agreement is an incidental beneficiary only.

12. Integration and Amendment. This Agreement constitutes a complete integration of the understandings and agreement between Greeley and BTWC with respect to the subject matter herein. No representations, negotiations, or warranties, express or implied, exist between Greeley

and BTWC except as explicitly set forth in this Agreement. This Agreement may only be amended in a writing duly authorized and executed by Greeley and BTWC.

13. Severability. In the event that one or more clauses in this Agreement are found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement will nevertheless be valid and binding upon Greeley and BTWC, unless the absence of such clause or clauses would destroy the intent and purpose of this Agreement.

14. Review by Legal Counsel. Greeley and BTWC acknowledge that each party had the opportunity to review this Agreement with its respective legal counsel, and that this Agreement should not be construed nor interpreted against a drafting party.

15. Authority to Contract. This Agreement has been duly authorized by Greeley and BTWC and the undersigned representatives are empowered to execute this Agreement on behalf of their respective organizations.

16. Counterparts. The parties may execute this Agreement in counterparts, each of which and the combination of which when signed by both Greeley and BTWC may be deemed original and together constitute a single contract.

IN WITNESS WHEREOF, the City of Greeley and Big Thompson Watershed Coalition have executed this Agreement on the date first set forth above.

BIG THOMPSON WATERSHED COALITION
a Colorado non-profit corporation

By: _____

Big Thompson Watershed Coalition
Board President, Rich Alper

Date: _____

THE CITY OF GREELEY, COLORADO
a Colorado home rule municipal corporation
acting by and through its Water Enterprise

By: _____

City Manager

Date: _____

Approved as to Legal Form:

By: _____

City Attorney

As to Availability of Funds:

By: _____

Director of Finance

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X

NO ENCLOSURE

ITEM NUMBER: 6

TITLE: APPROVE AND RECOMMEND TO CITY
 COUNCIL THE RESEARCH AGREEMENT
 WITH COLORADO STATE UNIVERSITY

RECOMMENDATION: APPROVE AND RECOMMEND TO CITY
 COUNCIL THE RESEARCH AGREEMENT
 WITH COLORADO STATE UNIVERSITY

ADDITIONAL INFORMATION:

Greeley and Colorado State University (CSU) are coordinating various projects related to post-fire recovery efforts from the Cameron Peak Fire. One aspect of post-fire recovery is better understanding the effectiveness of various mitigation treatments. CSU desires to study the effectiveness of mulching treatments that have been performed throughout the Poudre River Watershed. Greeley has received funding from the Colorado Water Conservation Board earmarked to CSU for this research. This work is not being funded by the City of Greeley; it is a pass-through agreement. This agreement details the process for Greeley to reimburse CSU for this work.

Research Agreement with CSU for Post-fire Recovery Research on the Cameron Peak Fire



Background

- The Poudre River Watershed experienced a large % of medium to high burn severity from the Cameron Peak Fire
- Aerial Mulching has been implemented on ~6,000 acres for mitigation purposes
- Better understanding the effectiveness of these mulching treatments is important



Background

- CSU desires to study the effectiveness of these treatments
- Greeley has received funding from the Colorado Water Conservation Board for post-fire recovery work and research
- Greeley desires to provide CSU funding for this research
- Greeley is not funding this work



Terms of Agreement

- Greeley will reimburse CSU for agreed upon mitigation work
- Agreement will terminate August 27th, 2025
 - This is date when research is expected to be completed and CWCB grant expires



Questions?





1313 Sherman Street, Room 718
Denver, CO 80203

CMS#171057

Encumbrance # CTGG1 PDAA 2022*2181

City of Greeley

1000 10th St

Greeley, CO 80631

Dear Jennifer Petrzela, City of Greeley:

We are pleased to inform you that the Department of Natural Resources (DNR), Colorado Water Conservation Board (CWCB) has approved your application for funding pursuant to the Colorado Watershed Restoration Wild Fire Mitigation Grant ("Program") in the amount of \$6,307,336.80, (\$6,419,086.00 Local Match) for a total project cost of \$12,726,422.80. This letter authorizes you to proceed with the Cameron Peak Fire Area Phase 3 ("Project") in accordance with the terms of this Grant Award Letter.

Attached to this letter are the terms and conditions of your Grant. Please review these terms and conditions as they are requirements of this Grant to which you Grantee agree by accepting the Grant Funds.

If you have questions regarding this Grant, please contact: Chris Sturm at chris.sturm@state.co.us.

GRANT AWARD LETTER
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

State Agency Colorado Department of Natural Resources (DNR) Colorado Water Conservation Board (CWCB) 1313 Sherman St #718 Denver CO 80203	Contract Number CMS Number: 171057 Encumbrance Number: CTGG1 PDAA 2022*2181
Grantee City of Greeley	Grant Amount \$6,307,336.80
Grant Issuance Date Upon the Signature of the State Controller, or his delegate	
Grant Expiration Date August 27, 2025	Local Match Amount \$3,419,086.00
Grant Authority The CRS for this grant is 37-60-101 th 37-60-133. The Budget has been approved in SB21-240.	
Grant Purpose This grant is to conduct a Watershed grant for landscape scale post-fire mitigation for the Cameron Peak Fire to protect the critical watershed Phase 3.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: - Exhibit A, Statement of Work and Budget. In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: - The provisions of the main body of this Grant. - Exhibit A, Statement of Work and Budget.	
Principal Representatives For the State: Chris Sturm CWCB 1313 Sherman St 718 Denver, CO 80203 chris.sturm@state.co.us	For Contractor: Jennifer Petrzelka City of Greeley 1001 11 th Ave Greeley, CO 80631

CMS Number: 171057

Encumbrance Number: CTGG1 PDAA 2022*2181

SIGNATURE PAGE

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

STATE OF COLORADO Jared S. Polis, Governor Department of Natural Resources Dan Gibbs Colorado Water Conservation Board DocuSigned by:  By: Tina Heltzel, CWCB Budget Analyst Date: August 19, 2021 12:48 PM MDT	In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD DocuSigned by:  By: Ion Cotsapas Effective Date: August 19, 2021 2:52 PM MDT
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1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the "State") hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the "Grantee") an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties' respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter by providing Grantee with an updated Grant Award Letter showing the new Grant Expiration Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in Exhibit A.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Award Letter that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Grant Award Letter that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Grant Award Letter by the State for breach by Grantee.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. "**Budget**" means the budget for the Work described in Exhibit A.
- B. "**Business Day**" means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- C. "**CORA**" means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

- D. **“Grant Award Letter”** means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- E. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- F. **“Grant Expiration Date”** means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- G. **“Grant Issuance Date”** means the Grant Issuance Date shown on the first page of this Grant Award Letter.
- H. **“Exhibits”** exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- J. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- L. **“Initial Term”** means the time period between the Grant Issuance Date and the Grant Expiration Date.
- M. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.
- N. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- O. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally
- P. **“Services”** means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by

a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- R. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- S. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- T. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- U. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of
- V. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- W. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. **STATEMENT OF WORK**

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter.

5. **PAYMENTS TO GRANTEE**

A. **Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date.

B. **Matching Funds.**

Grantee shall provide the Local Match Amount shown on the first page of this Grant Award Letter and described in Exhibit A (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Award Letter each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Grant Award Letter irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Award Letter is not intended to create a multiple-fiscal year debt of

Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

C. Reimbursement of Grantee Costs

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall only reimburse allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

D. Close-Out.

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.D, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations. The State may impose any penalties for noncompliance which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration.

10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

11. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Award Letter at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

13. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Award Letter shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

15. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

16. GENERAL PROVISIONS**A. Assignment**

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Award Letter.

B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Grant Award Letter represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Grant Award Letter.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Grant Award Letter, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of

the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Grant Award Letter to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Grant Award Letter shall not affect the validity or enforceability of any other provision of this Grant Award Letter, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Grant Award Letter Terms

Any provision of this Grant Award Letter that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Award Letter does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Grant Award Letter, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Exhibit A
Scope of Work

GRANTEE and FISCAL AGENT (if different): City of Greeley Water and Sewer Department

PRIMARY CONTACT: Jennifer Petrzelka

ADDRESS: 1001 11th Avenue, Second Floor,
Greeley, CO, 80631

PHONE: 970-350-9859

PROJECT NAME: Landscape scale post-fire mitigation for the Cameron Peak Fire to protect critical watershed values- Phase 3

GRANT AMOUNT: \$6,307,336.80

INTRODUCTION AND BACKGROUND

The Cameron Peak Fire (CPF) is the state's largest wildfire on record. It burned for over 100 days eventually surrounding ~ 16 mountain communities and 6 high elevation water storage reservoirs. According to the BAER report, 36% of the CPF burn perimeter is high to moderate severity burn. The BAER report determined that it was 'nearly certain (90% - 100%)' that water quality would be impacted by post fire debris flows, run-off, ash flows, sedimentation and nutrient loading within 1-3 years following the fire. Additionally, modelling done by the Colorado Forest Restoration Institute predicted that if the full fire perimeter was left untreated, hillslope erosion could increase by 1,267,301 Mg.

The purpose of this proposed project is to mitigate the negative consequences of the Cameron Peak Fire to high priority watershed values including water quality & supply, river ecosystem function & health, and to protect communities. The proposed scope would complement and further ongoing watershed-scale post-fire recovery efforts in the Poudre and Big Thompson watersheds. We are proposing to implement aerial mulching at a large enough landscape scale to reduce hillslope erosion in the highest priority sub-drainages. If fully funded, this project will be able to treat an additional approximately 1,850 high priority acres in the Poudre and Big Thompson watersheds.

This project will also support continued planning and implementation of unanticipated needs. After rain events, impacts from increased runoff and erosion are expected, however, it is unknown exactly what those specific impacts will be. For example, on July 20th, a rain event occurred causing debris flows and flooding throughout the Poudre River watershed, affecting the Black Hollow area specifically. Hillslopes eroded, debris piles filled the river, and homes were lost requiring a shift in our prioritization of projects. While Black Hollow was identified as a top priority for hillslope and channel rehabilitation work, the scope of the project now includes debris removal, temporary stabilization of the fan and river corridor, as well as potential long-term restoration. Funding from this grant will go towards stream and hillslope restoration and stabilization, riparian revegetation and other mitigation work as needs arise such as those that surfaced from the July 20th flooding event, as well as other events that may occur over the summer and into additional seasons.

Finally, Cameron Peak Fire partners are interested in furthering collective learning and understanding more about the effectiveness of post-fire mitigation treatments. This project proposes to work with CSU researchers to expand CPRW's existing monitoring program to track impacts to water quality from wood mulch application. We also propose to have CPRW staff identify specific locations to monitor performance of recent wood mulch applications on slopes above 45%. CPRW staff and partners also plan to identify and assess several locations mulched as part of the High Park Fire recovery efforts, to help gauge site condition nearly 10 years after mulching efforts were completed. Finally, BTWC will work with partners to continue monitoring of a weather station at Buckhorn Canyon that is critical to community safety.

These projects are part of a larger program of work intended to provide holistic post-fire mitigation that will reduce hillslope erosion, protect water quality, river health, and community infrastructure on a total of 20,000 acres in high priority sub-drainages in the CPF burn scar. Currently available federal or local funds are not sufficient to treat the vast majority of these acres.

The USFS BAER program has not earmarked funds for watershed scale treatments and the NRCS EWP funds are not available, or are very limited, for work on federal lands (where the greatest treatment needs lie). Currently NRCS is considering funding a pilot program to mulch federal lands, as well as considering emergency funding for the Black Hollow area after the July 20th event. Even if approved, the total amount of funding available will still be insufficient to address some of the highest priorities in the watersheds. Thus, state funds are essential to fill this funding gap.

OBJECTIVES

List the objectives of the project. Please include objectives for all aspects of the project whether funded by the CWCB or not.

1. Treat approximately 1850 acres of high priority sub basins on non-wilderness USFS lands draining to the Poudre and Big Thompson by October 30, 2022 with wood mulch sourced from both local and outside locations (much of the locally sourced material is processed out of state due to lack of operating mills in the vicinity). &/or other effective post-fire mitigation actions (wattles, directional tree felling, etc).
2. Treat unidentified needs that may occur after the monsoon season including but not limited to planning/implementation for in-stream channel repairs, gulley/stream stabilization, riparian revegetation, and installation of sediment basins;
3. Provide capacity support for the CPRW and the BTWC to coordinate the implementation of mulching and unanticipated needs projects, as well as landowner education and engagement; and
4. Further knowledge and understanding of post-fire treatment efficacy and impacts and continue important community safety monitoring, through CSU research on water quality impact; CPRW monitoring the performance of mulched areas after precipitation events; BTWC and partner monitoring of an important weather station in the Buckhorn Canyon.

TASKS

Provide a detailed description of each task using the following format. Detailed descriptions are only required for CWCB funded tasks. Other tasks should be identified but do not require details beyond a brief description.

TASK 1 – Implement a landscape scale aerial/mastication mulching program to protect downstream values at risk

Description of Task

This task involves, overseeing program implementation, and verifying the outcomes. Mulching will primarily occur via aerial mulching but some areas will be treated via mastication. Work will occur on a mix of both USFS and private lands in the Poudre Watershed and the Big Thompson Watershed.

Priority areas for mulching have been previously identified via planning efforts in the Poudre and Big Thompson Watersheds. Areas mulched will be contingent on final funding secured among federal and state sources and field verification to determine final acreage that is best suited for mulching treatments. Priorities for mulching include the following areas:

Watershed	Area	Acreage
Poudre	Bennett Creek	215 acres to complement ~700 acres already underway
Poudre	Black Hollow	1370 acres
Poudre	Roaring Creek	800 acres
Poudre	Sevenmile Creek	360 acres
Big Thompson	Miller Fork/Black Creek	1590 acres
Big Thompson	Buckhorn Creek	Acreage TBD by 9/2021 aerial mulching assessment expansion

Method/Procedure

1. Complete mulch polygon verification of identified treatment locations prior to helicopter operations. Verification procedure will follow JW Associates CPF Mulch Polygon Field Procedures Plan.
2. Work with USFS to authorize use of existing trees in the burn area as wood mulch source materials; work with wood product company to source mulch if trees are unavailable from the burn area.
3. Finalize available budget to determine total number of additional acres to be treated.
4. Received Special Use Permit from USFS on July 16th.
5. Post Fire Program Manager started at CPRW on July 6, 2021 to manage and coordinate the Cameron Peak Fire mitigation work.
6. Helicopter Contractors in the Poudre began on July 19th and the team has finalized landing and staging areas to treat with the previously received CWCB funding. The CPRW Post Fire Program Manager is currently overseeing and coordinating quality control and contractor work.
7. Weather permitting, conduct mulching operations summer through fall 2021, potentially into summer 2022 pending unforeseen weather delays.

8. Conduct post mulch inspections using the JW Associates CPF Aerial Mulch Inspection Plan to verify that treatment specs were met. As of August 11, 2021, approximately 2000 acres have been mulched in priority areas and field verified in the Poudre Watershed.
9. Aerial mulching operations in the Big Thompson will follow similar procedures and will leverage partner's existing contract for helicopter operations.

Deliverables

Reduced hillslope erosion on approximately 1,850 acres of Forest Service non-wilderness and private lands of high priority HUC 14s in the Poudre and Big Thompson Watershed.

TASK 2 –Address unanticipated needs that arise in the CPF burn area and engage private landowners and other stakeholders.

Description of Task

This task focuses on both public and private lands and landowners that will not receive post fire assistance through the EWP program or the previously awarded CWCB post-fire grant to implement fire mitigation. CPRW and BTWC will continue to identify unanticipated needs that arise after the summer monsoon season. These high priority needs may be addressed by a knowledgeable and experienced contractor to assist with design and implementation of identified projects and post fire restoration techniques. An example of an unanticipated high priority project occurred on July 20, 2021. A massive flash flood and debris flow event took place in the Black Hollow drainage in the CLP. Early estimates state that up to two inches of rain fell within an hour causing the river to rise from ~500 cfs to ~2,300 cfs in less than 20 minutes. At least five homes were destroyed, and one person has died. The impacts and needs are currently being assessed by CPF partners. It was already a priority area for mulching operations, and it is now a priority area for debris removal and longer-term river stabilization and alluvial fan restoration treatments.

We anticipate similar events occurring over the next 1-5 years post-fire. Cameron Peak Fire recovery partners experienced similar needs and implemented projects to address these needs in the years following the High Park Fire. Costs incurred for restoration efforts following the High Park Fire, such as Skin Gulch, UT3 and Seaman Reservoir projects were reviewed to estimate costs for projects that will likely arise from the Cameron Peak Fire. We anticipate a variety of needs on private and USFS lands following the monsoon season this year including: hillslope stabilization, gulley formation, stream instability, need for revegetation in riparian areas and reforestation. CPRW and BTWC will work with stakeholders and private landowners to identify these potential needs as they occur and develop a plan to design and implement solutions.

In addition to unanticipated needs, initial spatial analysis has been completed by CPRW to ascertain which private lands in the burn area not likely to be incorporated into the EWP program that align with watershed priorities and where it would be feasible to implement hand treatments.

Method/Procedure

1. Work with stakeholders and private landowners to identify needs that arise after the summer monsoon season that were not anticipated.
2. Secure landowner access agreements in place and create treatment plans.
3. Hire appropriate contractors to assist with prioritizing future mitigation sites and design/implementation.

4. Recruit volunteers for projects, if feasible and effective.
5. Implement prioritized projects using potential methods like hillslope stabilization, revegetation/reforestation, sediment catchment basins, stream channel restoration, or other appropriate methods to mitigate erosion and sedimentation.
6. Continue to engage landowners and other core stakeholders.

Deliverables

- Prioritize unanticipated post-fire restoration needs on both private and USFS land, taking into account unanticipated needs that arise for localized weather events and other impacts.
- Implement 1-5 priority projects to stabilize streams and/or hillslopes and reduce sedimentation/ash runoff and debris flows on private or public lands
- Report summarizing accomplishments.

TASK 3- Monitor mulch impacts to water quality and mulch performance

Description of Task

This monitoring task involves hiring two FTE graduate students to work under Dr. Stephanie Kampf, Dr. Peter Nelson at CSU and Dr. Charles Rhoades at Rocky Mountain Research Station. The graduate students will help to expand our existing monitoring program to track impacts to water quality from wood mulch application.

Additionally, CPRW will work with partners to identify and select several recently mulched areas that are over 45% slope. CPRW staff will visit these areas after precipitation events to gauge performance in comparison to selected mulched areas with more moderate slopes. Finally, CPRW staff will work with partners to identify areas mulched as part of the High Park Fire and will conduct site visits to gauge site condition nearly 10 years after mulching efforts were completed.

BTWC will work with City of Loveland and USGS to continue monitoring on a critical water quality monitoring station in the Buckhorn Creek near Masonville, CO. This station is important for community safety, but currently unfunded to ongoing monitoring post 2021.

Method/Procedure

1. Hire two FTE graduate students to work with researchers at CSU and RMRS to provide support to our monitoring program.
2. Refine monitoring plan in cooperation with RMRS and CSU & select sub-watershed sites for long-term measurements.
3. Graduate students will collect data for up to 2 years post mulch application.
4. RMRS will assist with water quality lab analysis. Analyze and report on data.
5. CPRW will work with partners to identify locations for ongoing monitoring of mulched areas with slopes over 45% and comparison areas. Areas for monitoring from the High Park Fire will also be identified.
6. CPRW will create a monitoring schedule, conduct monitoring, analyze and report on data collected.
7. BTWC will work with City of Loveland and partners to continue monitoring protocols via contract with USGS on the Buckhorn Canyon Weather Station.

Deliverable

1. Graduate students provide support to track impacts of wood mulch application on water quality and produce data and reports to share with land managers.
2. CPRW produced report detailing monitoring efforts on mulched areas.
3. Ongoing operation of the Buckhorn Canyon weather station through 2022.

TASK 4 – Project Management

Description of Task

The City of Greeley will be in charge of ensuring that all aspects of the project are meeting milestones, achieving desired outcomes, and are being effectively coordinated. This task will be shared by CPRW's Post Fire Program Manager, who will largely oversee the overall coordination of large landscape aerial and other mulching implementation, quality control, and reporting. BTWC staff will also help track project management deliverables and milestones.

Method/Procedure

This task will involve regular consultations with consultants, contractors, and project partners working on the project and regular communication with stakeholders. Additionally, it will mean adhering to all grant administration requirements and other compliance needs.

Deliverable

The final deliverables for this task include: a stakeholder committee that is well informed about progress of projects with timely delivery of meeting notes; consultants and contractors who provide deliverables in keeping with defined milestones; and efficient/accurate grant administration.

REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

**COLORADO**Colorado Water
Conservation Board

Department of Natural Resources

Colorado Water Conservation Board**Watershed Restoration Program Grant****Budget and Schedule****Prepared Date: 08/11/2021****Name of Applicant: City of Greeley****Name of Water Project: Cameron Fire Recovery****Project Start Date: 08/27/2021****Project End Date: 08/27/2025**

Task No.	Task Description	Task Start Date	Task End Date	Grant Funding Request	Match Funding	Total
1	Mulching Program to Protect Watershed Values at Risk	8/27/2021	8/27/2025	\$4,252,920.00	\$3,253,031.00	\$7,505,951.00
2	Unanticipated Needs Hillslope Erosion	9/1/2021	8/27/2025	\$1,863,440.00	\$3,106,062.00	\$4,969,502.00
3	Research and Monitoring	9/1/2021	8/27/2025	\$190,976.80	\$59,993.00	\$250,969.80
Total				\$6,307,336.80	\$6,419,086.00	\$12,726,422.80



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

Colorado Water Conservation Board Watershed Restoration Program Grant - Detailed Budget Estimate Fair and Reasonable Estimate

Prepared Date: 8/10/2021

Name of Applicant: City of Greeley
Name of Water Project: Cameron Peak Fire Recovery
EXAMPLE A: Study or Project Coordination

Task 1 - Implement Mulching Program to Protect Watershed Values at Risk

Sub-task	Item	Hourly Rate	# Hours	Sub-total	Item Cost	Item Quantity	Sub-total	Total	CWCB Funds	Matching Funds
1A. Implement Mulching Program - Poudre Watershed	Aerial & ground mulching			\$0.00	\$2,150.00	1100.00	\$2,365,000.00	\$2,365,000.00	\$2,365,000.00	
	NRCS EWP Black Hollow costs						\$3,250,000.00	\$3,250,000.00		\$3,250,000.00
1B. Coordinate and oversee mulching work, monitoring & compliance - Poudre Watershed	CPRW Stakeholder Time	\$30.31	100	\$3,031.00			\$0.00	\$3,031.00	\$0.00	\$3,031.00
	CPRW Post-Fire Program Manager	\$50.00	80	\$4,000.00			\$0.00	\$4,000.00	\$4,000.00	\$0.00
	CPRW Forester	\$40.00	40	\$1,600.00			\$0.00	\$1,600.00	\$1,600.00	\$0.00
	CPRW Watershed Project Manager	\$40.00	40	\$1,600.00			\$0.00	\$1,600.00	\$1,600.00	\$0.00
	CPRW Communications Manager	\$36.00	20	\$720.00			\$0.00	\$720.00	\$720.00	\$0.00
1C. Implement Mulching Program - Big Thompson Watershed	Aerial & Ground Mulching				\$2,500.00	750.00	\$1,875,000.00	\$1,875,000.00	\$1,875,000.00	\$0.00
1D. Coordinate and oversee mitigation work & compliance - Big Thompson Watershed	BTWC Staff Time	\$50.00	100	\$5,000.00				\$5,000.00	\$5,000.00	\$0.00

Task 2 - Unanticipated needs on hillslopes and riparian areas

Sub-task	Item	Hourly Rate	# Hours	Sub-total	Item Cost	Item Quantity	Sub-total	Total	CWCB Funds	Matching Funds
2A. Coordinate the implementation of projects and landowners - Poudre Watershed	CPRW Post-Fire Project Manager	\$50.00	1000	\$50,000.00				\$50,000.00	\$50,000.00	\$0.00
	CPRW Forester	\$40.00	500	\$20,000.00				\$20,000.00	\$20,000.00	\$0.00
	CPRW Watershed Project Manager	\$40.00	500	\$20,000.00				\$20,000.00	\$20,000.00	\$0.00
	CPRW Executive Director	\$55.00	120	\$6,600.00				\$6,600.00	\$6,600.00	\$0.00
	CPRW Communications Manager	\$36.00	220	\$7,920.00				\$7,920.00	\$7,920.00	\$0.00
2B. Design and Implementation - Poudre	Consultant design			\$0.00	\$150.00	2000.00	\$300,000.00	\$300,000.00	\$300,000.00	\$0.00
	Contractor labor to install projects			\$0.00	\$125.00	9000.00	\$1,125,000.00	\$1,125,000.00	\$1,125,000.00	\$0.00

2C. Coordinate the implementation of projects and landowners - Big Thompson									
	BTWC Staff time	\$50.00	350	\$17,500.00				\$17,500.00	\$0.00
	BTWC Stakeholder Time	\$30.31	100	\$3,031.00				\$3,031.00	\$3,031.00
	BTWC Volunteer Time	\$30.31	100	\$3,031.00				\$3,031.00	\$3,031.00
2D. Design and Implementation - Big Thompson									
	Consultant design			\$0.00				\$150,000.00	\$0.00
	Contractor labor to install projects							\$162,500.00	\$0.00
	Larimer County fire recovery project costs							\$3,100,000.00	\$0.00
								\$0.00	\$3,100,000.00
Task 3 - Research and Monitoring									
Sub-task	Item	Hourly Rate	# Hours	Sub-total	Item Cost	Item Quantity	Sub-total	Total	CWCB Funds
3A. CSU Research									Matching Funds
	2 FT grad students to monitor impacts and analysis				\$203,145.00	1.00	\$203,145.00	\$203,145.00	\$59,993.00
3B. CPRW Monitoring									
	CPRW Post-Fire Project Manager	\$50.00	320	\$ 16,000.00				\$16,000.00	\$0.00
	CPRW Forester	\$40.00	160	\$ 6,400.00				\$6,400.00	\$0.00
	CPRW Watershed Project Manager	\$40.00	160	\$ 6,400.00				\$6,400.00	\$0.00
	CPRW Communications Manager	\$36.00	40	\$ 1,440.00				\$1,440.00	\$0.00
3C. Big Thompson Weather Monitoring									
	USGS Weather Monitoring at Buckhorn Creek				\$2,930.80	6	\$17,584.80	\$17,584.80	\$0.00
TOTAL								\$12,722,502.80	\$6,419,086.00
Other Direct Costs (see below)									
OVERALL TOTAL								\$3,920.00	\$0.00
Other Direct Costs								\$12,726,422.80	\$6,419,086.00

Item:	Mileage Big Thompson	Mileage CPRW	Total
Units:	Miles	Miles	
Unit Cost:	\$0.56	\$0.56	
Site Visits/Landowner meetings	1000.00	6,000	7000.00
Total Units:	1,000	6,000	7000.00
Total Cost:	\$560.00	\$3,360.00	\$3,920.00

Multi-year evaluation of the hydrologic, geomorphic, and biogeochemical impacts of post-fire mulching

January 1, 2022 – December 31, 2023

Peter A. Nelson¹, Stephanie Kampf², Chuck Rhoades³

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Introduction

Wildfires consume vegetation and alter soil physical and chemical characteristics (Parsons et al., 2010), causing hydrologic changes that lead to increased likelihood of flash flooding, erosion, and debris flows (Shakesby and Doerr, 2006; Moody and Martin, 2001, 2009). To mitigate these risks to human safety, infrastructure, and water supply, management agencies may apply post-fire treatments aimed at reducing runoff and erosion. Mulching – application of material such as straw or wood directly on the burned surface – is a commonly used post-fire treatment and has been shown to reduce erosion from rainfall impacts and surface runoff (e.g., Robichaud et al., 2010, 2013; Schmeer et al., 2018).

Drought conditions in the summer and fall of 2020 in Colorado led to a very active fire season. The Cameron Peak Fire was the largest wildfire in Colorado history, burning over 830 km² in the upper Cache la Poudre basin, which is a primary water supply source for the cities of Fort Collins and Greeley. Active monsoonal precipitation in July 2021 has produced numerous debris flows and flash floods, leading to road closures, destruction of property, and at least three fatalities (Swanson, 2021). With financial support from the Colorado state government, aerial application of wood mulch over high-priority burned areas took place in the summer and fall of 2021.

This project will investigate how water quality, hydrologic response, and hillslope and channel geomorphology are affected by these mulching practices. Most prior research evaluating the effects of post-fire mulching on runoff, erosion, and water quality has been conducted at the hillslope or plot scale, and the effects of mulching at larger scales are generally unknown (Zema, 2021; Prosdocimi et al., 2016). Therefore, we propose to monitor paired (mulched/unmulched) at a small watersheds (0.5-1.5 km²) and examine the effects of mulching on hydrology, geomorphology, and water quality.

Research objectives

The proposed research has the following objectives:

Objective 1: Characterize the hydrologic response at the watershed scale for mulched and unmulched burned watersheds.

Hypothesis 1: mulched watersheds will produce less runoff, smaller flood peaks, and longer lag times between peak precipitation and peak discharge than unmulched watersheds.

Rationale: Mulching increases the surface roughness of the hillslopes, leading to more opportunities for breaking up and slowing down overland flow paths compared to an unmulched surface. Ultimately,

slower and more diffuse overland flow could have more opportunities to infiltrate, leading to slower and lower water delivery to streams during rain storms.

Objective 2: Measure geomorphic changes in mulched and unmulched burned watersheds at the watershed and hillslope scale.

Hypothesis 2: Hillslope erosion, rilling, and channel changes will be more pronounced in unmulched watersheds than in mulched watersheds.

Rationale: Mulching increases ground cover, which provides a layer of protection to hillslope sediment from raindrop impacts. Additionally, increased surface roughness due to mulch may decrease the erosive capability of overland flow. So, for a given precipitation intensity, hillslope erosion is less likely to occur on a mulched hillslope. Lower peak flows in streams (H1) would also lead to less channel change compared to unmulched watersheds.

Objective 3: Measure biogeochemical characteristics (carbon, nutrients, metals) of mulch, soil, and stream water, and evaluate the impact of mulching on water quality.

Hypothesis 3: Mulching will alter water chemistry compared to unmulched watersheds, with lower nitrogen, but higher C concentrations and export from mulched watersheds.

Rationale: Post-fire stream water chemistry reflects contributions from ash, eroded sediment and subsurface leachate. Elevated nutrient losses are typical in burned watersheds, and the magnitude of this response scales with burn severity (Riggan et al., 1994; Rhoades et al., 2011). The duration of elevated nutrients relates to the extent of a catchment burned and the rate of vegetation recovery (Rhoades et al., 2019; Rust et al., 2019). Mulch has the potential to alter water chemistry in the short term by reducing soil erosion (Pierson et al. 2019), and the carbon contained in fresh wood mulch can also stimulate soil microbes to immobilize nitrogen and reduce nitrogen leaching losses (Homyak et al., 2008; Rhoades et al., 2015). Mulch layers can also increase soil moisture and stimulate plant recovery (Rhoades et al., 2012 & 2017) and nutrient demand, thus limiting nutrient export to stream water.

Proposed work

Field sites

Research will primarily be conducted in six watersheds that drain to Bennett Creek (Figure 1). The watersheds range in size from 0.57 – 1.49 km², have similar distributions of burn severity (Table 1), and are all draining to the northeast. Three of these watersheds have been mulched (prefix “M” in Figure 1) and three were not mulched (prefix “U” in Figure 1a).

Table 1. Study watershed areas and burn severities.

Watershed name	Area (km ²)	% Unburned	% Low	% Moderate	% High
U_W	1.03	0	11	81	8
U_M	0.57	0	11	74	14
U_E	0.62	0	5	80	15
M_W	1.49	0	15	74	12
M_M	0.71	0	20	74	6
M_E	1.37	0	18	71	11

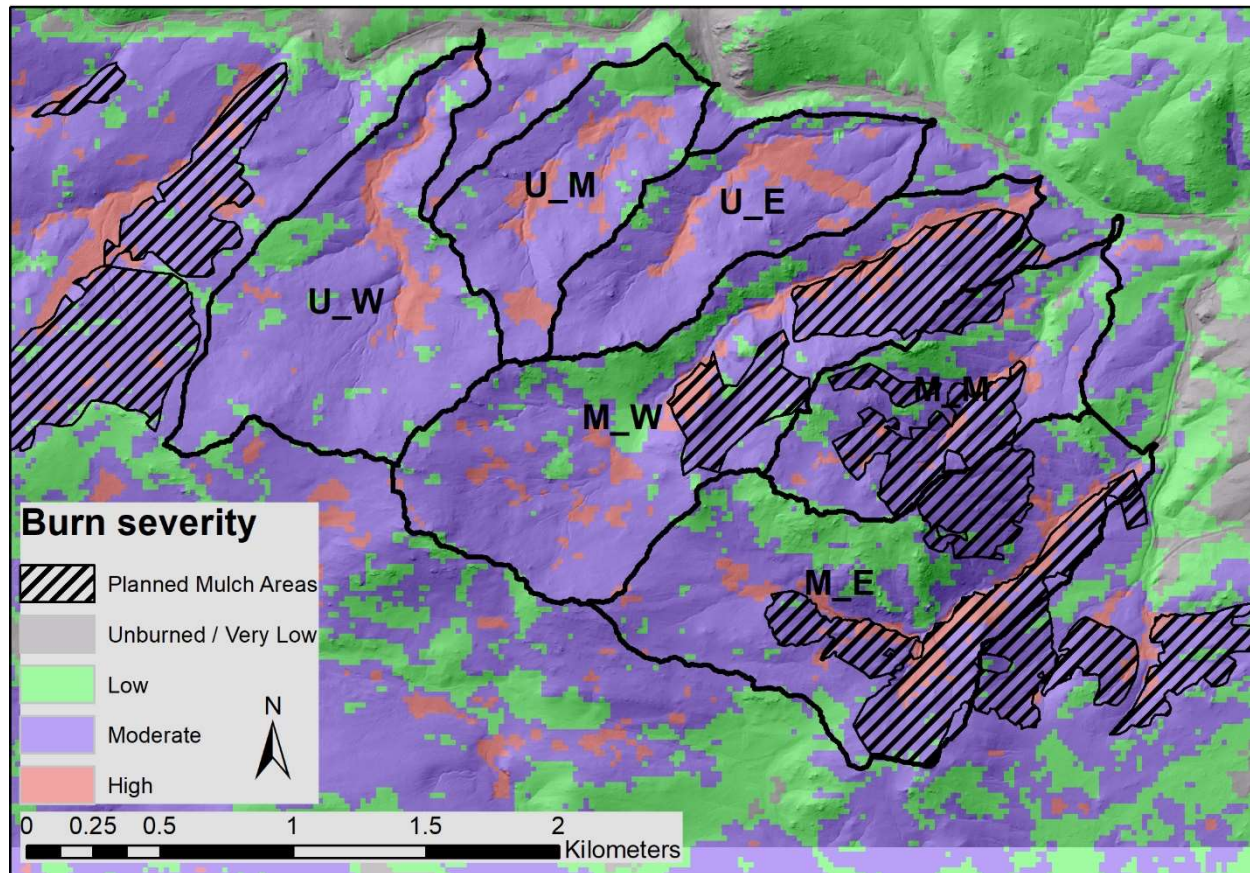


Figure 1. Proposed study watersheds. Prefixes "M" and "U" indicate "mulched" and "unmulched", respectively, and suffixes "W", "M" and "E" indicate "west", "middle", and "east".

Shredded wood mulch was applied via helicopter to the three mulched watersheds in August 2021. The targeted areas for mulching are shown in Figure 1.

Hydrologic monitoring

The hydrologic response of each watershed will be monitored throughout the study. Capacitance rods have been installed near the outlet of each watershed, and will record water stage at 5-minute intervals

during the summer; recording intervals will be reduced to 30 min during the fall-spring. Periodically throughout the study, salt dilution discharge measurements will be collected so that stage-discharge rating curves may be developed; however, these channels are rapidly changing in their morphology, so we may not be able to derive a consistent stage-discharge relationship. Staff plates with game cameras pointed at them have also been installed near the watershed outlets to provide additional data on water stage and general vegetation and mulch conditions. Six tipping-bucket rain gauges have been installed across the study area to characterize rainfall intensity and patterns.

Geomorphic monitoring

Geomorphic changes will be characterized at the watershed and hillslope/channel scale primarily using remote-sensing methods. Pre-fire high-resolution LiDAR topography was collected in summer 2020, and these data provide a baseline condition for the study watersheds. Twice yearly, high-resolution watershed-scale topographic datasets will be collected using drone imagery processed with structure-from-motion (SfM) software to generate very high-resolution point clouds, scaled and registered using ground-control targets surveyed with real-time kinematic (RTK) geographic navigation satellite systems (GNSS). Watershed-scale topographic datasets will be differenced to quantify volumes and patterns of erosion and deposition. Additionally, we will scan individual hillslopes in each watershed with a terrestrial laser scanner (TLS). Five of the six watersheds have had hillslopes scanned already, and two of the mulched watersheds had the same hillslope scanned before and after mulch application. These hillslope scans will be repeated twice per year to document hillslope-scale topographic changes that may not be resolvable with the LiDAR or SfM watershed-scale data. Both the hillslope and watershed-scale topographic changes will be related to the hydrologic measurements, burn severity, and presence or absence of mulch.

Biogeochemical sampling

Streamwater samples will be collected near the outlet of each study watershed. Pre- and post-mulch longitudinal streamwater sampling will also occur throughout each watershed to assess inputs from individual sub-watersheds. Mulch mass and bulk density will be collected from quadrats (0.1 m²) located along transects distributed throughout mulched polygons each study watershed (see sampling below). Surface organic soil horizons and mineral horizons will be sampled in each plot. Chemical analysis of mulch will quantitate concentrations of water-extractable and acid-digestible elemental forms.

Table 2. Stream, soil and mulch biogeochemical constituents.

Nutrients	PO ₄ , NH ₄ , NO ₃ , total N, total P
Carbon	TOC, DOC, fluorescence
Sediment	Total suspended sediment, turbidity
Chemistry	ANC (alkalinity), pH, EC
Major Ions	Ca, Mg, K, Na, SO ₄ , Cl, F
Metals	Ti, V, Cr, Mn, Al, Fe, Co, Ni, Cu, Zn, Cd, Pb

All samples will be analyzed at the US Forest Service Rocky Mountain Research Station biogeochemistry lab using standard protocols and QA/QC procedures (<https://www.fs.usda.gov/rmrs/research-labs/fort-collins-biogeochemistry-laboratory>) (Table 2). Metal and total P analysis will be conducted by ICP on a

subset of samples at the Analytical Resources Core - Bioanalysis and Omics (ARC-BIO) on the CSU campus. Analyses of constituent concentrations will be coupled with streamflow estimates to generate downstream loads likely to influence receiving waters that are of concern to water providers, aquatic ecosystems and other users.

Mulch and vegetation cover monitoring

Mulch cover will be characterized through a combination of ground observations and drone imagery. Ground cover of mulch, bare soil, rock, residual litter/duff (O-horizon) and vegetation will be measured within 25 x 25 cm quadrats along a systematic grid within the mulched areas. These plots will be identified in the drone imagery collected closest to the sampling date and used to establish a relationship between ground cover and image characteristics (e.g., RGB values). That relationship will then be used to map mulch across the entire study area. Repeat measurements will allow us to document how persistent mulch coverage is, possible transport of mulch by wind or overland flow, and changes in vegetation during the study.

Budget and Justification

			Sponsor contribution			Cost Share			Total Project
			Year 1	Year 2	Total CoG	Year 1	Year 2	Total Cost Share	Costs
PERSONNEL SALARIES									
Peter Nelson, 0.12 month/yr	match: 1.6 mo/yr		\$ 1,586	\$ 1,634	\$ 3,220	\$ 21,681	\$ 22,332	\$ 44,013	\$ 47,233
Fringe	26.70%		\$ 423	\$ 436	\$ 860	\$ 5,789	\$ 5,963	\$ 11,751	\$ 12,611
Stephanie Kampf, 0.12 month/yr	match: 1.6 mo/yr		\$ 1,334	\$ 1,374	\$ 2,708	\$ 18,233	\$ 18,780	\$ 37,013	\$ 39,720
Fringe	26.70%		\$ 356	\$ 367	\$ 723	\$ 4,868	\$ 5,014	\$ 9,882	\$ 10,605
GRA1 (CEE), 50% for 12 mo/yr1; 6 mo/yr2 at 2100/month			\$ 25,200	\$ 12,600	\$ 37,800	\$ -	\$ -	\$ -	\$ 37,800
Fringe	10.00%		\$ 2,520	\$ 1,260	\$ 3,780	\$ -	\$ -	\$ -	\$ 3,780
GRA2 (CEE), 50% for 12 months/yr at 2100/month			\$ 25,200	\$ 25,200	\$ 50,400	\$ -	\$ -	\$ -	\$ 50,400
Fringe	10.00%		\$ 2,520	\$ 2,520	\$ 5,040	\$ -	\$ -	\$ -	\$ 5,040
Undergrad hourlyies,			\$ 9,600	\$ 9,600	\$ 19,200	\$ -	\$ -	\$ -	\$ 19,200
Fringe	0.20%		\$ 19	\$ 19	\$ 38	\$ -	\$ -	\$ -	\$ 38
TOTAL SALARY:			\$ 62,920	\$ 50,408	\$ 113,327	\$ 39,914	\$ 41,112	\$ 81,026	\$ 194,353
TOTAL FRINGE:			\$ 5,839	\$ 4,602	\$ 10,441	\$ 10,657	\$ 10,977	\$ 21,634	\$ 32,075
TOTAL PERSONNEL:			\$ 68,759	\$ 55,010	\$ 123,769	\$ 50,571	\$ 52,088	\$ 102,659	\$ 226,428
DOMESTIC TRAVEL:			\$ 624	\$ 624	\$ 1,248	\$ -	\$ -	\$ -	\$ 1,248
MATERIALS AND SUPPLIES			\$ 270	\$ 200	\$ 470	\$ -	\$ -	\$ -	\$ 470
OTHER DIRECT COSTS									
In-State Tuition:			\$ 23,453	\$ 11,659	\$ 35,112	\$ -	\$ -	\$ -	\$ 35,112
Equipment Use Fees:	CSU Drone Center; analysis costs		\$ 1,000	\$ 1,000	\$ 2,000	\$ -	\$ -	\$ -	\$ 2,000
Other:	RMRS water analysis costs		\$ 7,025	\$ 7,025	\$ 14,050	\$ -	\$ -	\$ -	\$ 14,050
TOTAL OTHER DIRECT:			\$ 31,478	\$ 19,684	\$ 51,162	\$ -	\$ -	\$ -	\$ 51,162
TOTAL DIRECT COSTS:			\$ 101,131	\$ 75,517	\$ 176,648	\$ 50,571	\$ 52,088	\$ 102,659	\$ 279,308
Facilities & Administrative:			\$ 15,170	\$ 11,328	\$ 26,497	\$ 26,297	\$ 27,086	\$ 53,383	\$ 79,880
Unrecovered F&A 52% MTDC - requested 15% TDC			\$ -	\$ -	\$ -	\$ 25,223	\$ 21,879	\$ 47,102	\$ 47,102
TOTAL:			\$ 116,300	\$ 86,845	\$ 203,145	\$ 102,091	\$ 101,053	\$ 203,145	\$ 406,290
Cost share:			53.3%	46.2%	50.0%	46.7%	53.8%	50.0%	100.00%
F&A Rate:			15.0%	15.0%		52.0%	52.0%		
F&A Base:			\$ 101,131	\$ 75,517	\$ 176,648	\$ 50,571	\$ 52,088	\$ 102,659	\$ 279,308
			\$ 15,170	\$ 11,328	\$ 26,497	\$ 26,297	\$ 27,086	\$ 53,383	\$ 79,880

Personnel:

- Minimal salary (0.12 month per year) is requested for Nelson and Kampf to oversee the project.
- Graduate students: Funds are requested for salary for two graduate research assistants (GRAs) at \$2100/month, distributed as 12 months GRA effort (at 50%) for each student in year 1; 6 months effort (at 50%) for GRA1 in year 2, and 12 months effort (at 50%) for GRA2. (\$50,400 year 1; \$37,800 year 2). One GRA will be responsible for the hydrologic and water quality analysis, and the other will be responsible for the geomorphic analysis.
- Undergrad hourlies: Funds for undergraduate student hourly labor, primarily for field data collection support, are requested for both years (\$16/hr, 40 hours/week, 15 weeks/year). (\$9600/year).
- Fringe benefits are calculated following Colorado State University's federally negotiated rates: Administrative Professional at 26.7%, Graduate Students at 10.0%, student hourly at 0.2%.

Other Direct Costs:

- Drone Center: costs requested to cover aircraft rental, pilot time, and training for graduate students to become certified pilots (10 days/year @ \$50/day drone rental + 16.5 hrs of pilot time/year @ \$30/hr).
- Biogeochemical analyses will be conducted at CSU and at the USFS Rocky Mountain Research Station (RMRS). The RMRS 'suite' of analyses (Table 2) cost \$20/sample. Metals will be measured at CSU's ARC-BIO at a cost of \$25/sample. Funds are requested to analyze 290 'suite' samples per year, and 49 metals samples per year (\$7,025/year).
- Tuition: GRA1: One 9-credit semester and one 5-credit semester year 1, one 5-credit semester year 2 (\$14,007). GRA2: two 9-credit semesters year 1, two 5-credit semesters year 2 (\$21,105).
- Travel: \$624/year for mileage to field sites (12 trips/year, 100 miles/trip, \$0.52/mile).
- Materials and supplies: \$470 requested for supplies (e.g., sample bottles and bags, drone targets, flagging, and other consumables).

Facilities and Administrative:

- Indirect costs are charged at the 15% rate authorized by the Colorado Water Conservation Board (CWCBC) for contracts between CSU and CWCBC.

Cost share

- 1:1 cost share achieved through salary match for Kampf and Nelson (1.6 months/year for each), as well as the unrecovered indirect cost difference between CSU's regular 52% rate on modified total direct costs and the requested 15% rate on total direct costs.

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RESEARCH AGREEMENT

This Research Agreement (“Agreement”) is entered into by and between The Board of Governors of The Colorado State University System, acting by and through Colorado State University, an institution of higher education of the State of Colorado, located at Fort Collins, Colorado, 80523-2002 (“University”), and the Sponsor, The City of Greeley a Colorado home rule municipal corporation acting by and through its Water Enterprise (“Sponsor”), whose address is 1001 11th Avenue, 2nd Floor, Greeley, Colorado 80631, collectively referred to as “Parties,” and is effective upon the date of final signature by both Parties below (“Effective Date”).

PARTIES

UNIVERSITY:

The Board of Governors of the Colorado State University System, acting by and through Colorado State University, an institution of higher education of the State of Colorado, located at Fort Collins, Colorado, 80523-2002
Office of Sponsored Programs
601 Howes Street, Ste 500
Fort Collins, CO 80525-2002

SPONSOR:

The City of Greeley, a Colorado home rule municipal corporation, acting by and through its Water Enterprise
Attn: Water and Sewer, Water Resources Division
1001 11th Avenue, 2nd Floor
Greeley, Colorado 80631

RECITALS

1. University is a comprehensive, land-grant University with experience and resources in a field of mutual interest between University and Sponsor.
2. Sponsor is a home rule municipal corporation in Colorado, acting by and through its Water Enterprise.
3. On August 13, 2020, the Cameron Peak Fire ignited in the Cache la Poudre basin. It burned for over 100 days and eventually became Colorado’s largest recorded wildfire. Since the beginning of the Cameron Peak Fire, Sponsor has been coordinating partners, stakeholders, and experts to facilitate restoration opportunities to protect water quality, water supply, and river health.
4. The City of Greeley entered an agreement with the Colorado Department of Natural Resources (“DNR Agreement”) that awarded Sponsor money to facilitate landscape scale post-fire mitigation to protect critical watershed values, including mitigation by aerial application of wood mulch. A component of this work involves quantifying how wood mulch application affects the watershed.
5. Sponsor desires research to be performed in accordance with the Scope of Work described in Exhibit A, and with the terms outlined in this Agreement (the “Project”).
6. Performance of such research is consistent, compatible, and beneficial to the academic role and mission of the University as an institution of higher education.

AGREEMENT

1. **Independent Contractors.** It is understood and agreed by the Parties that the University is an independent contractor with respect to the Sponsor and that this Agreement is not intended and shall not

be construed to create an employer/employee relationship or a joint venture relationship between the University and the Sponsor. The University shall be free from the direction and control of the Sponsor in the performance of the University's obligations under this Agreement, except that the Sponsor may indicate specifications, standards requirements and deliverables for satisfaction of the University's obligations under this Agreement.

2. **Term.** This Agreement shall begin on the Effective Date and shall terminate on August 27, 2025 unless sooner terminated as provided herein. The Term of this Agreement may be extended by mutual written agreement of the Parties.

3. **Scope of Work.** The University agrees to perform the research activities described in the Scope of Work, a copy of which is attached hereto as Exhibit A, under the direction and supervision of the University Principal Investigator and in accordance with any milestones or periodic deliverables specified in Exhibit A. The University Principal Investigator is Peter Nelson of the Department of Civil Engineering, who will be responsible for the technical direction of the Project.

4. **Payment.** The Sponsor agrees to pay the University for the Project performed under this Agreement in an amount not to exceed Two Hundred Three Thousand One Hundred Forty-Five Dollars (\$203,145.00) on a cost reimbursement basis. University will invoice not more than monthly based on actual expenditures. At the conclusion of the Project, the University will submit an invoice marked "Final". Sponsor shall pay invoices within 60 days of receipt from University.

If the Sponsor uses a purchase order or some other source document as a Sponsor method for paying invoices from the University and the purchase order or source document contains terms and conditions, those terms and conditions will be null and void and not applicable to this Agreement. The purchase order or source document is solely an internal Sponsor payment document.

In addition to the funds provided by Sponsor, the University will provide Two Hundred Three Thousand One Hundred Forty-Five (\$203,145.00) in cost share which it will document on its invoices as spent toward the Project.

5. **Source of Funds for Payment.** Sponsor has been awarded grant funds by the Colorado Department of Natural Resources that may be used for the research activities contemplated by this Agreement, as is more particularly described in the DNR Agreement, a copy of which is attached hereto as Exhibit B. Of the grant funds available pursuant to the DNR Agreement, and subject to the terms and conditions therein and in this Agreement, Sponsor will make available to the University for reimbursement the amounts described in Section 4 above and any such additional amounts properly invoiced under mutual extensions of this Agreement. Nothing in this Agreement is intended to obligate the Sponsor to commit the full entitlement of its grant funding under the DNR Agreement to the Project, or to reimburse the University for expenditures deemed ineligible under the DNR Agreement by the Colorado Department of Natural Resources.

6. **Reporting Requirements.** The University will provide reports on the progress of the research as required in the Scope of Work attached hereto as Exhibit A.

7. **Confidentiality.**

(a) Parties may have certain documents, data, information, and methodologies that are confidential and proprietary to that Party ("Confidential Information"). During the term of this Agreement, either Party may, as the "Disclosing Party," disclose its Confidential Information to the other Party (the "Recipient"), in writing, visually, or orally. If submitted other than in writing, the

Confidential Information shall be reduced to writing within 30 working days. Recipient shall receive and use the Confidential Information for the sole purpose of the performance of this Agreement, and for no other purpose (except as may be specifically authorized by the Disclosing Party, in writing). Recipient agrees not to make use of the Confidential Information except for research conducted under this Agreement and agrees not to disclose the Confidential Information to any third party or parties for a period of three (3) years after the end of this Agreement without the prior written consent of the Disclosing Party

(b) Recipient shall use reasonable efforts to preserve the confidentiality of the Confidential Information (using the same or similar protections as it would as if the Confidential Information were Recipient's own, and in any event, not less than reasonable care). Recipient shall obligate its affiliates with access to any portion of the Confidential Information to protect the proprietary nature of the Confidential Information at least to the extent set forth in this Section 7.

(c) "Confidential Information" shall not include, and Recipient shall have no obligation to refrain from disclosing or using, information which: is generally available to the public at the time of this Agreement; becomes part of the public domain or publicly known or available by publication or otherwise, not through any unauthorized act or omission of Recipient; is lawfully disclosed to the Recipient by third parties without breaching any obligation of non-use or confidentiality; or has been independently developed by persons in Recipient's employ, as proven with written records, or otherwise who have no contact with Confidential Information.

(d) In the event that Recipient is required by law to disclose Confidential Information, Recipient will promptly notify the Disclosing Party, and the Disclosing Party may, at its sole discretion and expense, initiate legal action to prevent, limit or condition such disclosure.

(e) Notwithstanding any other provision of this Agreement, a Party may retain one copy of the other Party's Confidential Information in its confidential files, for the sole purpose of establishing compliance with the terms hereof.

(f) To the extent the "Confidential Information" referenced in this Section 7 constitutes "State Confidential Information" as defined in the DNR Agreement, the Parties must maintain such information in accordance with Section 8 of the DNR Agreement.

8. **Publication.** The University, as a state institution of higher education, engages only in research that is compatible, consistent, and beneficial to its academic role and mission. Therefore, significant results of research activities must be reasonably available for publication. The Parties acknowledge that the University shall have the right to publish results including student theses and dissertations. The University agrees, however, that during the term of this Agreement and for six (6) months thereafter, the Sponsor shall have forty-five (45) days to review and comment on any proposed publication. Should Sponsor believe that any part of such publication would constitute the disclosure of Confidential Information as defined in Section 6 above or contain information that might be patentable as a result of this research, Sponsor will notify University in writing within such forty-five (45) day period, of the relevant material, and University shall delay publication of such article for up to an additional ninety (90) days in order to allow Sponsor to diligently pursue the filing of a patent application. University agrees that any Confidential Information supplied to it by the Sponsor will not be included in any published material without prior written approval by the Sponsor.

9. **Intellectual Property.** "Intellectual Property" as used herein shall mean all discoveries, inventions, methodologies, improvements, software (but not copyrightable works) conceived, made, discovered, and first reduced to practice in performance of the research under this Agreement ("IP"). IP

shall also mean any and all data, publications, and computer software and algorithms generated in performance of the research under this Agreement.

(a) Each Party shall require its employees to promptly disclose to its respective technology transfer office any IP. Each Party agrees to provide the other Party with a copy of each IP disclosure within thirty (30) days after the disclosure is made, and in addition, will provide the other Party with a written listing of all IP created pursuant to this Agreement within sixty (60) days from the expiration or termination of this Agreement. For all such IP identified, University, through its Technology Transfer Agent, Colorado State University Research Foundation (CSURF) will provide, upon agreement by Sponsor to its payment of patent costs to CSURF, via separate written agreement(s), licenses to UNIVERSITY IP and JOINT IP according to the provisions of Section 8(a)(i) and 8(a)(iii) above. Each Party will consult with the other Party at least thirty (30) days prior to filing any patent or copyright application for IP and shall promptly notify the other of any patents or copyright registrations issued.

(b) Intellectual property created external to the Project (“EXTERNAL IP”) will be owned by the originating Party. Nothing in this Agreement will be construed as any conferral of rights to any of the Parties regarding such EXTERNAL IP. Nothing contained herein is to be construed as permission, a recommendation or an inducement to use or practice any product, process, equipment or formulation that may infringe upon any other intellectual property rights without the prior written permission of the intellectual property owner.

(c) University does not make any representation or warranty, express or implied, that the use of UNIVERSITY IP and/or JOINT IP will not infringe any patent or other intellectual property rights.

(d) All rights and claims by either Party under this Section 8 are subject to the rights and claims of the State of Colorado under the DNR Agreement, provided however, that DNR and Sponsor provide Colorado State University with a non-exclusive, royalty-free, perpetual license to any and all IP developed in performance of University’s research under this Agreement for research and educational purposes.

10. **Equipment.** Unless otherwise provided in the Scope of Work or in a writing signed by the Parties, all equipment purchased with funds provided under this Agreement for use in connection with this Agreement shall be the property of the University, and shall be dedicated to providing services under this Agreement while this Agreement is in effect.

11. **Grant Funding and Revenues.** University and Sponsor acknowledge that the Project and associated activities undertaken pursuant to this Agreement constitute one aspect of a larger regional and national policy objective, that is, to mitigate and rehabilitate the impacts of the Cameron Peak Fire, and that Sponsor is facilitating the Project and associated activities for the benefit of all water users and other parties with an interest in the Cache la Poudre basin. Any grant funding received, passed through, or otherwise managed by Sponsor pursuant to this Agreement is for the purposes of the greater policy objective and the common benefit of the parties described, and will not result in a revenue subsidy or production of a capital asset for the Water Enterprise of the City of Greeley.

12. **Liability; Insurance.** Each Party hereto agrees to be responsible for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent allowed by law. Liability of the University and of the Sponsor is at all times herein strictly limited and controlled by the provisions of the Colorado government Immunity Act, C.R.S. §§ 24-10-101, *et seq.* as now or hereafter amended. Nothing in this Agreement shall be construed as a waiver of the protections of said Act by

either Party. Each Party represents and warrants that it maintains comprehensive general liability insurance and all coverages required by law sufficient for the purpose of carrying out the duties and obligations arising under this Agreement. A Party will furnish the other Party a certificate evidencing such insurance upon written request.

13. **Exclusive Warranty; Disclaimer.** University warrants that all deliverables provided under this Agreement will be provided substantially in accordance with the Scope of Work and/or written protocol provided by Sponsor. Research results, deliverables, reports, IP disclosures and IP provided by University are provided strictly “as-is” without any other warranty or guaranty of any kind. All other warranties, express and implied, are hereby expressly disclaimed **INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE**. University does not perform any services under this Agreement that may be subject to FDA Regulations, e.g. GMP, cGMP, GLP, GCP work/services. University shall not be liable for any indirect, special, incidental, consequential or punitive loss or damage of any kind, including but not limited to lost profits (regardless of whether or not University knows or should know of the possibility of such loss or damages). The liability of either Party under this Agreement shall not exceed the amount paid or payable to the University under this Agreement.

14. **Use of Tradenames and Service Marks.** Neither Party obtains by this Agreement any right, title, or interest in, or any right to reproduce or to use for any purpose, the name, tradenames, trade- or service marks, or logos (the “Marks”), or the copyrights of the other Party. Neither Party will include the name of the other Party or of any employee of that Party in any advertising, sales promotion, or other publicity matter without the prior written approval of that other Party. In the case of the University, prior written approval is required from the University Vice President for Research. In the case of the Sponsor, prior written approval is required from an authorized representative of the Sponsor.

15. **Termination.** Either Party may terminate this Agreement, without cause, upon not less than sixty (60) days' written notice, given in accordance with the Notice provisions of this Agreement. Termination of this Agreement shall not relieve a Party from its obligations incurred prior to the termination date. Upon termination of this Agreement by Sponsor, except in the case of a material breach by University, Sponsor shall pay all costs accrued by University as of the date of termination including non-cancelable obligations for the term of this Agreement, which shall include all appointments of staff incurred prior to the effective date of the termination. University shall take steps to limit or terminate any outstanding financial commitments for which Sponsor is to be liable. University shall furnish, within ninety (90) days of the effective termination date, a final report of all costs incurred and all funds received and shall reimburse Sponsor for payments which may have been advanced in excess of total costs incurred with no further obligations to Sponsor.

16. **Default.** A Party will be considered in default of its obligations under this Agreement if such Party should fail to observe, to comply with, or to perform any term, condition, or covenant contained in this Agreement and such failure continues for thirty (30) days after the non-defaulting Party gives the defaulting Party written notice thereof. In the event of default, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Agreement as of the date specified in the notice, and may seek such other and further relief as may be provided by law. Notwithstanding the foregoing, in the event of a breach or threatened breach of Section 7 of this Agreement, the non-defaulting Party may terminate the Agreement immediately without affording the defaulting Party the opportunity to cure, and may seek an injunction or restraining order as required to prevent unauthorized disclosures of Confidential Information or unauthorized use of its Marks or copyrights.

17. **Notices.** All notices and other correspondence related to this Agreement shall be in writing and shall be effective when delivered by: (i) certified mail with return receipt, (ii) hand delivery with

signature or delivery receipt provided by a third Party courier service (such as FedEx, UPS, etc.), or (iii) email with return receipt, to the designated representative of the Party as indicated below. A Party may change its designated representative for notice purposes at any time by written notice to the other Party. The initial representatives of the Parties are as follows:

University:

Director
Office of Sponsored Programs
500 University Services Center
601 So. Howes Street
Colorado State University
Fort Collins, CO 80523-2002
Telephone: (970) 491-1541
E-mail: sp@research@colostate.edu and
Bill.Moseley@colostate.edu

Sponsor:

City of Greeley Water and Sewer Department
Attn: Water Resources Division
1001 11th Avenue, 2nd Floor
Greeley, CO 80631
Telephone: (970) 350-9811
E-mail: water@greeleygov.com and
jennifer.petrzelka@greeleygov.com

18. **Legal Authority.** Each Party to this Agreement warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement and to bind it to its terms. The person(s) executing this agreement on behalf of a Party warrant(s) that such person(s) have full authorization to execute this Agreement. This Agreement shall not be binding upon Colorado State University, its governing board or the State of Colorado unless signed by the University Vice-President for Research or his/her authorized delegate.

19. **Entire Agreement; Changes and Amendments.** This Agreement constitutes the entire agreement between the Parties, and supersedes any previous contracts, understandings, or agreements of the Parties, whether verbal or written, concerning the subject matter of this Agreement. No amendment to this Agreement shall be valid unless it is made in a writing signed by the authorized representatives of the Parties.

20. **Governing Law, Jurisdiction and Venue.** Each Party agrees to comply with all applicable federal, state and local laws, codes, regulations, rules, and orders in the performance of this Agreement. This Agreement shall be governed by and construed under the laws of the State of Colorado. Any claim arising under this Agreement shall be filed and tried in a court of competent jurisdiction in the City and County of Denver, State of Colorado.

21. **Assignment.** This Agreement shall not be assigned without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, provided however, such consent shall not be required in the case of a sale or transfer to a third Party of all or substantially all of a Party's business. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the Parties.

22. **Export of Technology.** It is understood that University and Sponsor are subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and that obligations hereunder are contingent on compliance with applicable U.S. export laws and regulations (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979). The transfer of certain technical data and commodities may require a license from the cognizant agency of the United States Government and/or written assurances that such data or commodities will not be exported to certain foreign countries without prior approval of the cognizant government agency. Sponsor and University agree to cooperate in securing any license which the

cognizant agency deems necessary in connection with this Agreement. Sponsor shall notify University if any data or materials to be supplied to University by Sponsor are subject to export control license requirements or are listed under export control regulations.

23. **Waiver and Severability.** No waiver of any breach of any provision of this Agreement shall operate as a waiver of any other or subsequent breach thereof or of the provision itself, or of any other provision. No provision of this Agreement shall be deemed to have been waived unless such waiver is in writing and signed by the Party waiving the same, with the signature on behalf of University being that of a vice president of University and the signature on behalf of Sponsor being that of the Director of Water and Sewer. If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

24. **Conflict of Interest.** Except as set forth herein, Sponsor certifies that no officer, employee, student or agent of University has been employed, retained, or paid a fee, or has otherwise received or will receive during the term of this Agreement any personal compensation or consideration by or from Sponsor or any of Sponsor's directors, officers, employees, or agents in connection with the obtaining, arranging, negotiation or conducting of this Agreement without advance, written notification to the University.

25. **Headings.** Section headings are for reference and convenience only and shall not be determinative of the meaning or the interpretation of the language of this Agreement.

26. **Force Majeure.** Neither party shall be liable for any failure or delay in performance under this Agreement for causes beyond that party's reasonable control and occurring without that party's fault or negligence, including, but not limited to, acts of God, disease, epidemic, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving that party's employees, respectively). Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

27. **Survival.** The respective rights and obligations of University and Sponsor under Sections 7, 8, 9, 13, 14 and 20 shall survive the expiration or earlier termination of this Agreement.

28. **Compliance with DNR Agreement.** The DNR Agreement attached as Exhibit B may create obligations for University. University is solely responsible for its own review and understanding of the terms and requirements of the DNR Agreement and shall ensure that it complies fully with such requirements in performing under this Agreement.

29. **Compliance with Law.** This Agreement is funded through a grant from DNR. University shall comply with all applicable laws and regulations and restrictions associated with this grant and any other requirements that the State may prescribe. In performing under this Agreement, University shall further comply with all applicable federal, State, and local laws and implementing regulations, currently in existence and as hereafter amended.

30. **Permits, Licenses, and Other Authorizations.** University shall, at its sole expense, secure and maintain at all times during the term of this Agreement, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement.

31. **Public Contracts for Services. §§8-17.5-101, et seq., C.R.S.** University and Sponsor certify that they shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written below.

**The Board of Governors of the Colorado State University
System, acting by and through Colorado State University:**

By: _____

Printed Name: _____

Title: _____

Date: _____

**The City of Greeley, a Colorado home rule municipal corporation,
acting by and through its Water Enterprise**

By: _____
City Manager

Date: _____

As to Legal Form:

By: _____
City Attorney

As to Availability of Funds:

By: _____
Director of Finance

EXHIBIT A TO RESEARCH AGREEMENT

Scope of Work

EXHIBIT B TO RESEARCH AGREEMENT

DNR Agreement

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 7

TITLE: WELCOME NEW WATER AND SEWER
EMPLOYEES AND RECOGNIZE
DEPARTMENT PROMOTIONS

RECOMMENDATION: INFORMATION ONLY

ADDITIONAL INFORMATION:

Karl Steinkopf – Plant Operator A
Patrick Zapolsky – Plant Operator D
Carlos Rodriquez – Water Distribution - Maintenance Technician I
James Pascoe – WWC – Maintenance Technician I

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 8

TITLE: ELECTION OF 2022 WATER AND SEWER
BOARD OFFICERS

RECOMMENDATION: TO BE DETERMINED

ADDITIONAL INFORMATION:

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X

NO ENCLOSURE

ITEM NUMBER: 9

TITLE: 2021 4TH QUARTER, WATER COURT UPDATE
AND 2022/2023 PROJECTIONS

RECOMMENDATION: INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

The City of Greeley Water and Sewer Department is active in numerous Water Court matters to develop additional water supply and to protect existing water rights. In the fourth quarter of 2021, Greeley was active in a total of XX Water Court cases, XX of which were in the role of opposition. Expenses in Q4 totaled XXXX. The attached memorandum and presentation summarizes significant activities over the past quarter.

Looking forward, Water & Sewer Staff anticipate filing four Water Court applications. The Department will also be active as an opposer in several high priority change cases affecting the Poudre, Big Thompson, and South Platte Rivers, as well as non-tributary groundwater resources near Terry Ranch. Staff and counsel are currently assessing how these various cases will be managed in the coming years given case load, budget, and resource constraints.

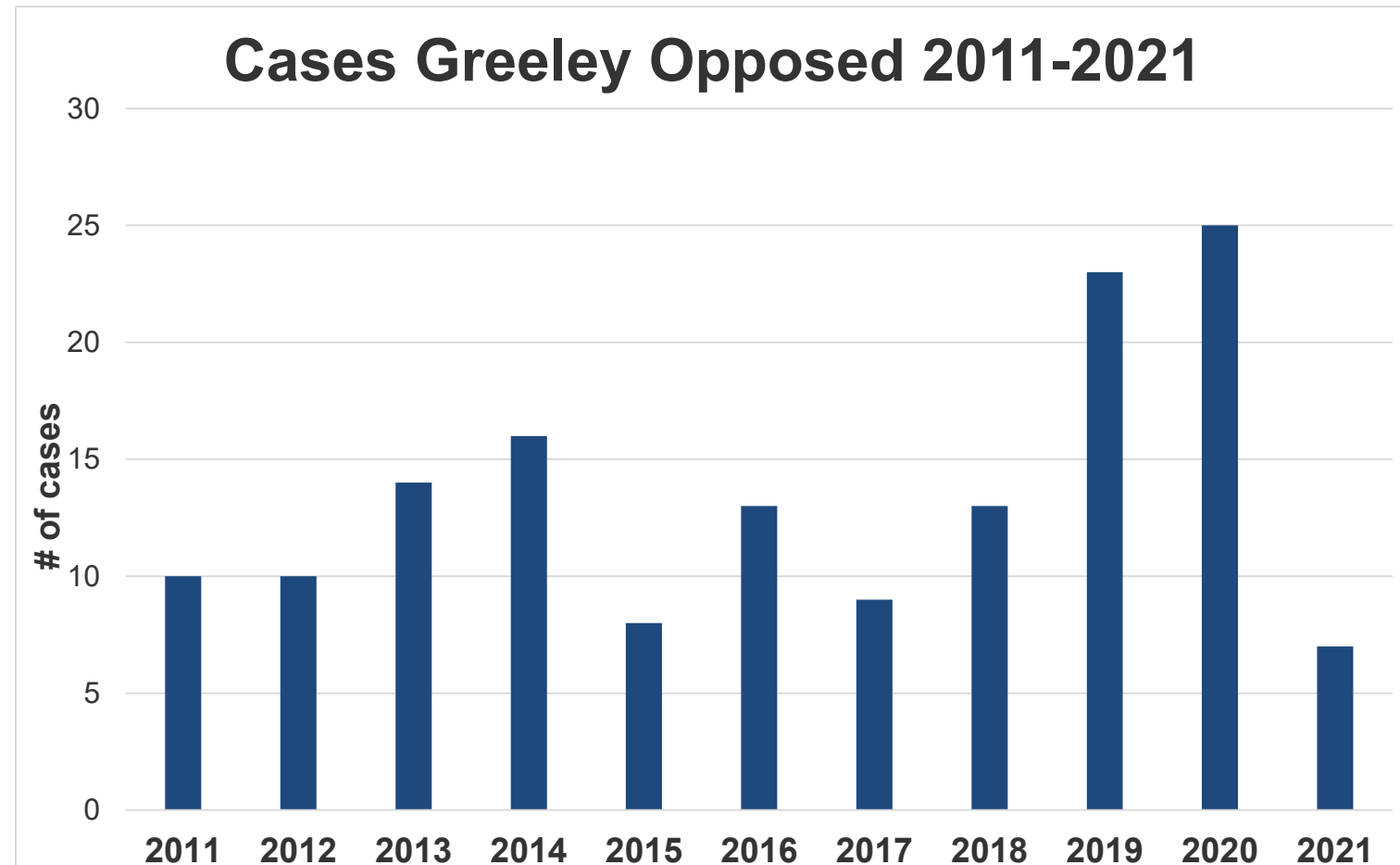
4th Quarter Water Court Update

Leah Hubbard, Water Resources Administrator III
January 19th, 2022



Statements of Opposition

- Q4 2022: 1 statement of opposition filed and 2 stipulations reached
- Number of cases Greeley is *currently* an opposer: **28**
- Total number of active cases in 2021: **33**



Greeley as Applicant

GLIC Diligence Case No.'s 99CW235 & 95CW235

- Diligence for exchange of GLIC return flows
- Similar cases
- 30 cfs exchange; not yet operated
- Opposing attorney has recommended stipulations to their client, final decrees should be filed soon.



Greeley as Applicant

Poudre Instream Flows Aug. Plan 21CW3056



- Preserve and improve Poudre River instream flows
- Co-Applicants with CWCB, Fort Collins, and Thornton
- Greeley using GIC rights
- 20 statements of opposition filed
- Opposer comments due by February 28th

Legal & Engineering Expenses

2021 Costs to date

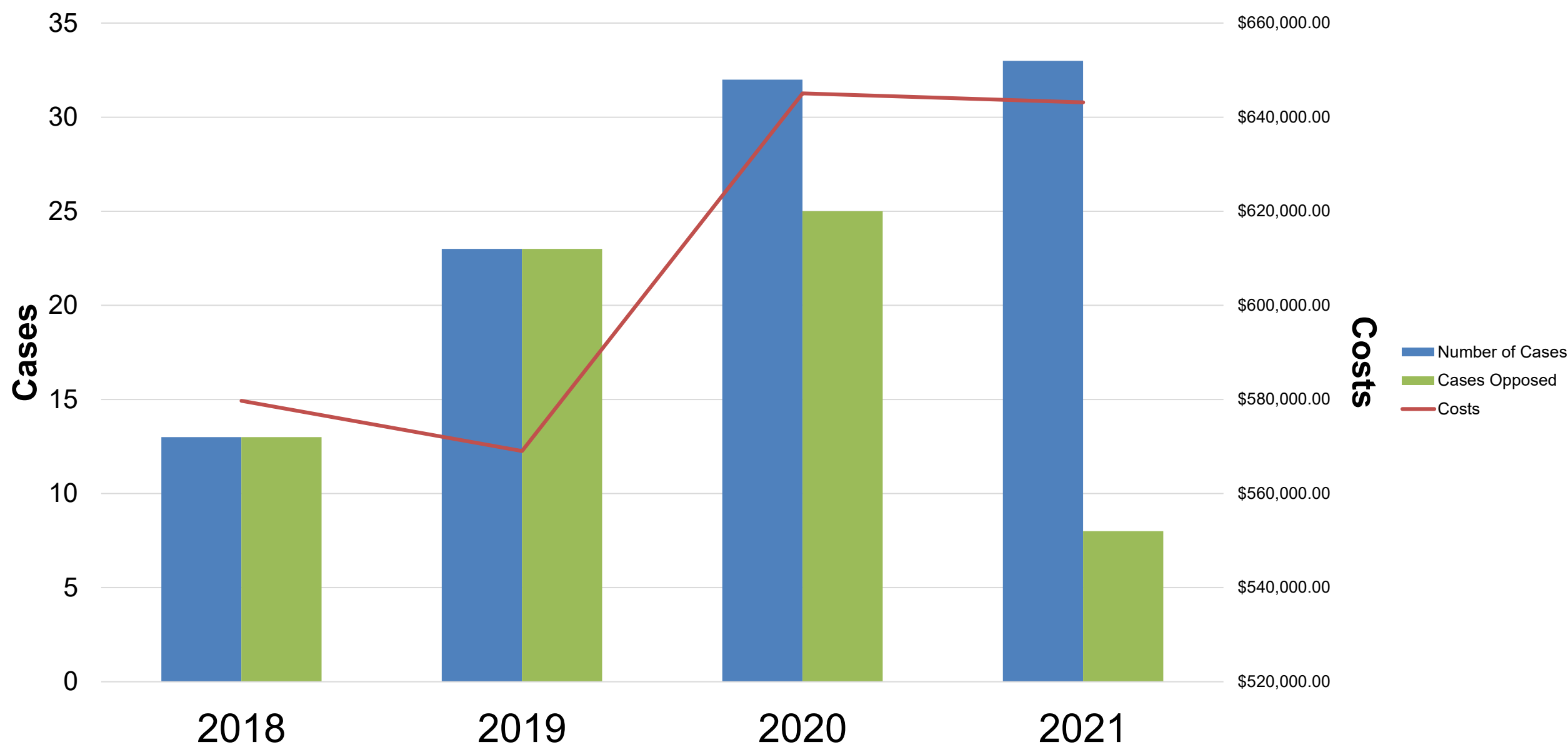
Legal	\$ 369,965
Engineering	\$ 273,183
Total	\$ 643,148

This is 99% of the \$645,069 spent in 2020

2022 Budget

Legal	\$ 301,000
Engineering	\$ 292,500
Total	\$ 593,500

Court Cases vs. Costs



Upcoming Applications

- Change of WSSC shares
- State Land Board non-tributary groundwater
- Change of GLIC shares
- 8th Street Pit Aug. Plan
- Mountain and Plains (TBD)

These cases are budgeted as Capital Projects



Priority Opposition Cases

- 18CW3042 – Windsor (change of GLIC)
- 18CW3193 – Loveland (return flows)
- 19CW3200 – 30 Mile Ranch (non-tributary groundwater)
- 19CW3253 – Parker's (large South Platte application)
- 20CW3113 – Lazy D Ranch (non-tributary groundwater)
- 20CW3208 – Montava (various claims)
- 20CW3215 – BennT (large South Platte application)
- 20CW3046 – Parker vs. State (groundwater rules)

*18CW3042 – Windsor's Change of GLIC has cost
~\$150,000 in the last four years*

Moving Forward



Reassessing water court priorities considering:

1. Available budget
2. Staff resources
3. High number of applications
4. Attention to priority opposition cases



Questions?





Water & Sewer Department MEMORANDUM

TO: Greeley Water & Sewer Board
FROM: Leah Hubbard, Water Resources Administrator III
DATE: January 19, 2022
RE: 2021 4th Quarter Water Court Cases Update

This memorandum is a review of the Water and Sewer Department's legal activities from October of 2021 through December of 2021. The review includes an update on Greeley's current Water Court cases and a summary of the Water Resources Division's legal expenses.

Moving forward the Water and Sewer Board will be presented with triannual updates versus quarterly.

STATEMENTS OF OPPOSITION

Since the last update in October, Greeley has filed one statement of opposition and stipulated in two cases. Therefore, the current number of pending Water Court cases in which Greeley is an opposer is 28.

Statements of Opposition filed:

Case	Applicant
21CW3125	Parker Water and Sanitation District

Stipulations filed:

Case	Applicant
20CW3123	Central
20CW3050	Weld County Dust Control

SERVING OUR COMMUNITY • IT'S A TRADITION

We promise to preserve and improve the quality of life for Greeley through timely, courteous and cost-effective service.

GREELEY AS APPLICANT

A summary of pending Water Court cases in which Greeley is the applicant is as follows:

20CW3149 (GLIC Diligence, Case No. 99CW235)

On October 26th, 2020 Greeley filed this application for a finding of reasonable diligence for a conditional exchange originally decreed in Case No. 99CW235. The exchange provides for the use of return flows from certain water rights in Case 99CW235 as a substitute supply for diversions at the headgates of the Greeley-Loveland Irrigation Company. No absolute claim was made in this application, and the right will remain conditional. One statement of opposition has been filed in this case by the Thompson Water Users Association. TWUA signed a stipulation with Greeley on January 12th, and Greeley will file a motion to enter the decree shortly.

21CW3003 (GLIC Exchange Diligence, Case No. 95CW42)

On January 27th, 2021, Greeley filed its application for a finding of reasonable diligence for the conditional appropriative right of exchange originally decreed in Case No. 95CW42. Under this exchange, Greeley may divert excess municipal return flows from GLIC, Seven Lakes, and Lake Loveland water rights changed in Case No. 95CW42 released from Greeley's WTRF and the Lone Tree wastewater treatment plant by exchange to the headgates of the ditch companies. Three parties filed statements of opposition; Cache La Poudre Water Users Association, Ogilvy Irrigation and Land Company, and Thompson Water Users Association. Based upon opposing counsel representations Referee Cowan did not set another status conference because settlement in the near future is likely.

21CW3056 (City of Greeley, et al., Poudre River Instream Flows Augmentation Plan)

On April 29, 2021, the City of Greeley filed a joint application with the Colorado Water Conservation Board, Colorado Water Trust, City of Fort Collins, City of Thornton, Northern Water, and the Cache la Poudre Water Users Association for approval of a plan of augmentation for instream flows in the Cache la Poudre River. The purpose of the augmentation plan is to preserve and improve the natural environment to a reasonable degree at various locations in the Poudre River from the Cache la Poudre at Canyon Mouth near Fort Collins gage to the confluence of the South Platte River. Greeley has proposed to include certain of its changed Greeley Irrigation Company shares in the plan. Twenty statements of opposition have been filed. The joint applicants circulated preliminary engineering and a proposed decree in December, and opposers have agreed to provide comments by February 28th. The next status conference with Referee Cowan will be on March 9, 2022.

LEGAL & ENGINEERING EXPENSES:

The Water Resource Division's outside legal and engineering expenses from January through December of 2021 totaled \$643,149, which is 99.7% of the total \$645,069 spent in 2020.

2021 Water Resources Legal and Engineering Costs

<u>1st quarter</u>	
Legal	\$34,979
Engineering	\$26,524
<i>Total</i>	<i>\$61,503</i>
<u>2nd quarter</u>	
Legal	\$91,445
Engineering	\$69,682
<i>Total</i>	<i>\$161,127</i>
<u>3rd quarter</u>	
Legal	\$50,956
Engineering	\$39,776
<i>Total</i>	<i>\$90,732</i>
<u>4th quarter</u>	
Legal	\$192,585
Engineering	\$137,202
<i>Total</i>	<i>\$329,787</i>
<i>Annual Total</i>	<i>\$643,149</i>

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X

NO ENCLOSURE

ITEM NUMBER: 10

TITLE: LEGAL REPORT

RECOMMENDATION: LEGAL REPORT

ADDITIONAL INFORMATION:

Legal Report
Greeley Water and Sewer Board Meeting
January 19, 2022

Statements of Opposition: Based on our review of the November, 2021 Water Court Resume, staff and water counsel do not recommend that the Water and Sewer Board file statements of opposition to any water court applications that would be due in the month of January, 2022.

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE _____ NO ENCLOSURE X

ITEM NUMBER: 11

TITLE: EXECUTIVE SESSION

RECOMMENDATION: TO BE DETERMINED

ADDITIONAL INFORMATION:

- Acquisition and Trade Agreement

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X

NO ENCLOSURE

ITEM NUMBER: 12

TITLE: APPROVE AND RECOMMEND TO CITY
 COUNCIL WATER RIGHTS TRADE
 AGREEMENT WITH LONGS PEAK DAIRY

RECOMMENDATION: APPROVE AND RECOMMEND TO CITY
 COUNCIL WATER RIGHTS TRADE
 AGREEMENT WITH LONGS PEAK DAIRY

ADDITIONAL INFORMATION:

Staff recommends the Water and Sewer Board approve the enclosed Water Rights Trade Agreement (“Agreement”) with Longs Peak Dairy, LLC (“LPD”). The Agreement contemplates the City of Greeley trading six shares of stock in the Larimer and Weld Irrigation Company (“LWIC”) and twelve shares of stock in the Windsor Reservoir and Canal Company (“WRCC”) for two shares of stock in the Water Storage and Supply Company (“WSSC”). Staff recommends the trade, among other reasons, because: 1) the market value of the two WSSC shares is \$1.0 million or more higher than the market value of the LWIC and WRCC shares; 2) yields from WSSC water rights are firm and well established; 3) WSSC shares include an allocation of trans-basin water that can be reused; and 4) changing WSSC rights from agricultural to municipal use in Water Court is relatively streamlined given precedents set in numerous prior WSSC cases.

Through a previous transaction, Greeley obtained a right of first refusal (ROFR) on seven WSSC shares owned by LPD. The two shares of WSSC subject to this Trade Agreement are included within that ROFR agreement with LPD. LPD has agreed to grant Greeley a second ROFR agreement to purchase two additional shares of WSSC, maintaining the total number of shares under a ROFR with Greeley at seven.

The Agreement includes a leaseback of the acquired WSSC shares to the LPD with an initial term of twenty years, which may be extended for up to five additional one-year terms. Four leases associated with the LWIC and WRCC shares will be terminated, three before the 2022 irrigation season and one after

Staff seeks approval of the Agreement along with approval and recommendation to City Council to dispose of the LWIC and WRCC rights. Included in the packet are the Agreement, the second ROFR agreement, dry-up covenants, revegetation covenants, the leaseback agreement with LPD, and an amended lease of LWIC and WRCC shares.



Water Rights Trade Agreement: Longs Peak Dairy Water Supply and Storage

January 19, 2022



Trade Agreement Overview

Longs Peak Dairy (LPD) gives Greeley

- 2 shares of Water Supply and Storage Company (WSSC)
- Associated lateral rights
- Dry-up and revegetation covenant
- Right of first refusal to 2 additional shares (replacement)

Greeley gives LPD:

- 6 shares of Larimer and Weld Irrigation Company (LWIC)
- 12 shares of Windsor Reservoir and Canal Company (WRCC)
- Associated lateral rights
- Dry-up and revegetation covenants
- Long-term lease of WSSC shares

Why Trade?

- Firm yield of WSSC shares is 94 acre-feet less than WRCC/LWIC shares; however:
 - WSSC shares are valued >\$1.0 million more than WRCC/LWIC shares
 - WSSC includes transbasin water
 - WSSC is known quantity; changing WRCC/LWIC entails significant risk
 - Trade increases WSSC shares in 2022 change case
 - WSSC prices have and are projected to escalate faster than WRCC/LWIC

Right of First Refusal (ROFR)

- The 2 WSSC shares will come from a ROFR Greeley already has with LPD
- LPD has 2 other WSSC shares under an option agreement, not part of Greeley's ROFR
- LPD has agreed to add the 2 optioned shares to Greeley's ROFR
 - ROFR effective if option is not executed
 - Option term is 1-year with 4, 1-year extensions
- Trade does not reduce total shares under ROFR*



Leases

- Leaseback of WSSC shares
 - 20 year primary lease
 - Lease may be extended for up to 5, 1-year terms by mutual agreement
- Current LWIC & WRCC leases
 - J&E Investments lease: terminated at the end of 2022 (amended lease included in packet)
 - 2370, LLC lease: terminate
 - Chalk & Associates/SRC Energy lease (includes New Cache shares): terminate and then reissue excluding WRCC shares
 - Longs Peak Dairy lease: terminate



Next Steps & Due Diligence

- LWIC & WRCC have a ROFR on all company shares
 - 30 days to match offer with equal offer
- 60 days due diligence
- Closing on or before 90 days of mutual execution of contract
- Longs Peak Dairy and Greeley will inspect water rights
 - Title review
 - Confirmation of dry-up adequacy
 - Historical consumptive use analysis
- City Council ordinance required to authorize disposition



Recommendation

- Staff recommends the acquisition of 2 shares of WSSC in exchange of 12 shares of WRCC and 6 shares of LWIC in accordance with the water acquisition strategies set forth in the Department's Master Plan and Future Water Account Plan
- Staff recommends the Water and Sewer Board approve and recommend to City Council the disposition of 12 shares of WRCC and 6 shares of LWIC





Questions?



WATER RIGHTS TRADE AGREEMENT
(Longs Peak Dairy, LLC)

This WATER RIGHTS TRADE AGREEMENT ("Agreement") is entered into as of the Effective Date by and between LONGS PEAK DAIRY, LLC, a Colorado limited liability company ("Longs Peak" or "Seller"), and THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation acting by and through its Water Enterprise ("Greeley") Longs Peak and Greeley are each referred to in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

A. Longs Peak owns those certain water rights represented by two (2) shares of capital stock in The Water Supply and Storage Company ("WSSC"), evidenced by Stock Certificate No. 6658, issued in the name of Seller ("WSSC Certificate"), which water rights have historically been delivered through the Larimer County Canal and its various laterals for irrigation.

B. Longs Peak also owns those certain lateral rights represented by two (2) shares of stock in The Collins Ditch Company ("Collins"), evidenced by Stock Certificate No. 851, issued in the name of Seller ("WSSC Lateral Certificate"), which lateral rights have historically been used to deliver the water rights represented by the WSSC Certificate for irrigation.

C. To the best of the Parties' knowledge and belief, the WSSC Certificate and the WSSC Lateral Certificate represent ownership of and the right to divert, deliver, and use water under and a proportional interest in the water rights described on Exhibit A (collectively "WSSC Water Rights").

D. Longs Peak also owns those certain water rights represented by two (2) shares of stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. 6480, which has been issued in the name of Seller ("ROFR Certificate"), and which water rights have also historically been delivered through the Larimer County Canal and its various laterals for irrigation.

E. To the best of the Parties' knowledge and belief, the ROFR Certificate represents ownership of and the right to divert and use water under a proportional interest in the water rights described on Exhibit A ("ROFR Water Rights").

F. Greeley owns those certain water rights represented by twelve (12) shares of capital stock in the Windsor Reservoir and Canal Company, evidenced by Stock Certificate No. 700 (as to two (2) shares), Stock Certificate No. 667 (as to one (1) share), Stock Certificate No. 662 (as to four (4) shares), and Stock Certificate No. 577 (as to five (5) shares) (collectively "Windsor Reservoir Water Rights").

G. Greeley also owns those certain water rights represented by six (6) shares of capital stock in the Larimer and Weld Irrigation Company, evidenced by Stock Certificate No. 6251 (as to two (2) shares) and Stock Certificate No. 6155 (as to four (4) shares) (collectively

“LWIC Water Rights”).

H. Greeley also owns those certain lateral rights represented by one (1) share of stock in the Roullard Lateral Company, evidenced by Stock Certificate No. 406, and eight (8) shares of stock in the Owl Creek Supply & Irrigation Company, evidenced by Stock Certificate No. 1900, which rights have historically been used to deliver certain of the Windsor Reservoir Rights and LWIC Water Rights for irrigation (collectively “Windsor and LWIC Lateral Rights”).

I. Longs Peak desires to convey to Greeley the WSSC Water Rights and the Longs Peak Covenants (collectively “Longs Peak Property”), and in exchange for such conveyance, Greeley desires to convey to Longs Peak the Windsor Reservoir Rights, the LWIC Rights, the Windsor and LWIC Lateral Rights, and the Greeley Covenants (collectively “Greeley Property”).

J. The Parties also desire to enter into an agreement at Closing by which Longs Peak will lease back the WSSC Water Rights, substantially in the form attached hereto as Exhibit B.

K. The Parties also desire to enter into an agreement at Closing that will grant Greeley a right of first refusal to purchase the ROFR Water Rights, substantially in the form attached hereto as Exhibit C.

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Longs Peak and Greeley agree as follows.

AGREEMENT

ARTICLE 1 DEFINITIONS

In addition to words and terms elsewhere defined in this Agreement, including the Recitals above, the following words and terms used in this Agreement have the following meanings:

1.1 “*2370 and J&E Covenants*” means the restrictive covenants that burden historically irrigated property for the benefit of a portion of the Windsor Reservoir Water Rights and LWIC Water Rights, and the owner of such water rights, which covenants are attached hereto as Exhibit D-1 and will be assigned to Longs Peak at Closing.

1.2 “*Agreement*” means this Water Rights Trade Agreement.

1.3 “*Chalk Covenants*” means the restrictive covenants that burden historically irrigated property for the benefit of two (2) shares of capital stock in the Windsor Reservoir and Canal Company (evidenced by Stock Certificate No. 700), and the owner of such water rights, which covenants are attached hereto as Exhibit D-2 and a partial interest in which will be assigned to Longs Peak at Closing.

- 1.4 *"Closing"* means the closing of this transaction.
- 1.5 *"Closing Date"* means the date upon which the Closing occurs.
- 1.6 *"City Council"* means the City of Greeley City Council.
- 1.7 *"Diligence"* has the meaning given in Section 4.1.C.
- 1.8 *"Dry-up Area"* has the meaning given in Section 3.5.
- 1.9 *"Effective Date"* means the date upon which the last signatory has executed this Agreement and the Agreement takes legal effect.
- 1.10 *"Governing Body Approvals"* has the meaning given in Section 5.1.
- 1.11 *"Greeley Covenants"* means the 2370 and J&E Covenants and the partial interest in the Chalk Covenants that will be assigned to Longs Peak at Closing.
- 1.12 *"Greeley Off-Record Documents"* has the meaning given in Section 3.4.C.
- 1.13 *"Greeley Property"* means the Windsor Reservoir Water Rights, the LWIC Water Rights, the Windsor and LWIC Lateral Rights, and the Greeley Covenants collectively, all of which Greeley will convey to Longs Peak at Closing.
- 1.14 *"Greeley Title Documents"* has the meaning given in Section 3.4.A.
- 1.15 *"Inspections"* has the meaning given in Sections 4.1.A. and 4.1.C.
- 1.16 *"Inspection Period"* means the 63-day period from the Effective Date during which the Parties may conduct their due diligence, as described in Section 4.1.A.
- 1.17 *"J&E Investments Lease"* means the lease described in Section 3.6.B.
- 1.18 *"Longs Peak Covenants"* means the restrictive covenants that Longs Peak will execute at Closing to burden the historically irrigated property for the benefit of the WSSC Water Rights and Greeley, substantially in the form attached hereto as Exhibit E.
- 1.19 *"Longs Peak Off-Record Documents"* has the meaning given in Section 3.1.D.
- 1.20 *"Longs Peak Property"* means the WSSC Water Rights and the Longs Peak Covenants collectively, all of which Longs Peak will convey to Greeley at Closing.
- 1.21 *"Longs Peak Title Documents"* has the meaning given in Section 3.1.A.
- 1.22 *"LWIC Water Rights"* means the water rights described in Recital G above.
- 1.23 *"Material Part"* means a portion of either the Greeley Property or the Longs Peak Property that would have a material adverse effect on the use of such property as determined by the acquiring Party in its sole good faith judgment, as described in Article 9 below.
- 1.24 *"Permitted Exceptions"* has the meaning given in Section 3.6.

1.25 “*ROFR Agreement*” the agreement by which Longs Peak will grant Greeley a right of first refusal to purchase the ROFR Water Rights, described in Recital K above and substantially in the form attached hereto as Exhibit C.

1.26 “*ROFR Certificate*” has the meaning given in Recital D above.

1.27 “*ROFR Water Rights*” has the meaning given in Recital E above.

1.28 “*Title Company*” means Land Title Guarantee Company, located at 4617 West 20th Street, Suite B, Greeley, Colorado 80634.

1.29 “*Water and Sewer Board*” means the City of Greeley Water and Sewer Board.

1.30 “*Water Lease*” means the Irrigation Water Lease Agreement by which Longs Peak will lease the WSSC Water Rights back from Greeley, described in Recital J above and substantially in the form attached hereto as Exhibit B.

1.31 “*Windsor and LWIC Lateral Rights*” means the lateral rights described in Recital H above.

1.32 “*Windsor Reservoir Water Rights*” means the Windsor Reservoir and Canal Company water rights described in Recital F above.

1.33 “*WSSC Certificate*” means the stock certificate described in Recital A above.

1.34 “*WSSC Lateral Certificate*” means the stock certificate described in Recital B above.

1.33 “*WSSC Water Rights*” means the water rights represented by the WSSC Certificate and WSSC Lateral Certificate and described in Recital C above.

ARTICLE 2

TRADE OF WATER RIGHTS AND EXECUTION OF AGREEMENTS

2.1 Conveyance of Longs Peak Property to Greeley. Longs Peak agrees to convey to Greeley, on the terms and conditions set forth in this Agreement, the WSSC Water Rights and the Longs Peak Covenants.

A. Exclusions. There are no exclusions from the Longs Peak Property.

2.2 Conveyance of Greeley Property to Longs Peak. Greeley agrees to convey to Longs Peak, on the terms and conditions set forth in this Agreement, the Windsor Reservoir Rights, the LWIC Rights, the Windsor and LWIC Lateral Rights, and the Greeley Covenants.

A. Exclusions. There are no exclusions from the Greeley Property.

2.3 Water Lease. Greeley and Longs Peak agree to enter into the Water Lease at Closing, subject to the terms and conditions set forth in this Agreement and substantially in the form attached hereto as Exhibit B.

2.4 ROFR Agreement. Greeley and Longs Peak agree to enter into the ROFR Agreement at Closing, subject to the terms and conditions set forth in this Agreement and substantially in the form attached hereto as Exhibit C.

ARTICLE 3
TITLE

3.1 Within fourteen (14) days after the Effective Date of this Agreement, Longs Peak shall provide the following to Greeley for review:

A. A commitment for an owner's policy of title insurance ("WSSC Title Commitment") issued by the Title Company to cover the real property historically irrigated by the WSSC Water Rights, with such WSSC Title Commitment setting forth the status of title to such historically irrigated real property and showing the Title Company's search results for all recorded liens, claims, encumbrances, easements, rights of way, encroachments, reservations, restrictions and other matters of record affecting title to such real property (the copies of all recorded documents in the WSSC Title Commitment are collectively referred to as the "Longs Peak Title Documents").

B. A fully executed historical consumptive use affidavit and questionnaire describing the historical use of (i) the WSSC Water Rights and (ii) the ROFR Water Rights, in the form of the affidavit and questionnaire attached hereto as Exhibit F.

C. To the extent the same exist, true and correct copies of all WSSC documents related to the WSSC Water Rights and the ROFR Water Rights, including but not limited to, delivery records and share traces. Longs Peak agrees that WSSC documents, including but not limited to the share traces, are a necessary component of Greeley's inspection activities. Longs Peak shall request such documents as soon as is reasonably possible after the Effective Date of this Agreement. The Parties acknowledge that these documents may not be available within fourteen days of the Effective Date of this Agreement. If the Company provides such documents less than seven (7) days before expiration of the Inspection Period, then the Inspection Period shall be automatically extended for an additional fourteen (14) days.

D. To the extent the same exist, true and correct copies of all: (i) documents that relate to the title, use, quantity, quality and condition of the WSSC Water Rights and the ROFR Water Rights, including, but not limited to, any deeds or other conveyances, assignments, permits, adjudications or court orders, any testing reports, and any records maintained by Longs Peak; (ii) contracts or other agreements relating to the development, operation, maintenance or leasing or otherwise affecting the WSSC Water Rights and the ROFR Water Rights and/or historically irrigated property; and (iii) any engineering, investigation or inspection documents or reports related to the WSSC Water Rights and the ROFR Water Rights and/or historically irrigated property, (collectively referred to as "Longs Peak Off-Record Documents").

3.2 Condition and Vesting of Title to the WSSC Water Rights; Conveyance. At Closing, Longs Peak shall convey the WSSC Water Rights to Greeley, free and clear of all liens and encumbrances, by a special warranty deed in the form attached hereto as Exhibit G.

3.3 Title Insurance for the Water Rights. The purpose of the WSSC Title Commitment and Windsor and LWIC Title Commitment is to enable Greeley and Longs Peak respectively to conduct the title review described in Article 4 below, and said title commitments shall be updated as necessary up to the Closing. However, neither Longs Peak nor Greeley shall have any obligation under this Agreement to purchase a title insurance policy after Closing. Either Greeley or Longs Peak may elect to acquire this insurance (limited to the restrictive covenants obtained) at their own expense.

3.4 Within fourteen (14) days after the Effective Date of this Agreement, Greeley shall provide the following to Longs Peak for review:

A. A commitment for an owner's policy of title insurance ("Windsor and LWIC Title Commitment") issued by the Title Company to cover the real property historically irrigated by the Windsor and LWIC Water Rights, with such Windsor and LWIC Title Commitment setting forth the status of title to such historically irrigated property and showing the Title Company's search results for all recorded liens, claims, encumbrances, easements, rights of way, encroachments, reservations, restrictions and other matters of record affecting title to such real property (the copies of all recorded documents in the Windsor and LWIC Title Commitment are collectively referred to as "Greeley Title Documents").

B. To the extent the same exist, true and correct copies of all Windsor Reservoir and Canal Company and Larimer and Weld Irrigation Company documents related to the Windsor and LWIC Water Rights, including but not limited to, delivery records and share traces. Greeley agrees that such documents, including but not limited to the share traces, are a necessary component of Longs Peak's inspection activities. Greeley shall request such documents as soon as is reasonably possible after the Effective Date of this Agreement. The Parties acknowledge that these documents may not be available within fourteen days of the Effective Date of this Agreement. If the companies provides such documents less than seven (7) days before expiration of the Inspection Period, then the Inspection Period shall be automatically extended for an additional fourteen (14) days.

C. To the extent the same exist, true and correct copies of all: (i) documents that relate to the title, use, quantity, quality and condition of the Windsor and LWIC Water Rights, including, but not limited to, any deeds or other conveyances, assignments, permits, adjudications or court orders, any testing reports, and any records maintained by Greeley; (ii) contracts or other agreements relating to the development, operation, maintenance or leasing or otherwise affecting the Windsor and LWIC Water Rights and/or historically irrigated property; and (iii) any engineering, investigation or inspection documents or reports related to the Windsor and LWIC Water Rights and/or historically irrigated property, (collectively referred to as "Greeley Off-Record Documents").

3.5 Survey of Historically Irrigated Property. Prior to the expiration of the Inspection Period, Greeley shall have prepared a survey of the portion of the real property historically irrigated by the WSSC Water Rights that will be burdened by the Longs Peak Covenants ("Dry-Up Area"). The Dry-Up Area shall include sufficient acreage historically irrigated by the WSSC Water Rights to enable Greeley to obtain judicial approval of a change of use of the WSSC Water Rights and to obtain full credit for the historical consumptive use of the WSSC Water Rights when such real property is subject to the Longs Peak Covenants. Upon completion of the survey, this Agreement shall be deemed automatically amended to incorporate the legal description and depiction of the Dry-Up Area on all relevant exhibits.

3.6 Condition and Vesting of Title to Windsor and LWIC Water Rights; Conveyance. At Closing, Greeley shall convey the Windsor and LWIC Water Rights to Longs Peak by a special warranty deed in the form attached hereto as Exhibit G, free and clear of all liens and encumbrances except the following Permitted Exceptions:

A. Any matters created by or through Longs Peak; and

B. The existing Irrigation Water Lease Agreement with J&E Investments, originally executed on February 29, 2012 ("J&E Investments Lease"), as amended and renewed for the 2022 irrigation season.

3.7 Disapproved Title Matters. Except for the Permitted Exceptions described above, Greeley or Longs Peak may disapprove of any exceptions to title ("Disapproved Matter") by delivering written notice of objection to other party either (i) prior to the expiration of the Inspection Period or (ii) if notice of such title exception is delivered after the expiration of the Inspection Period but prior to the Closing Date, then within ten days (10) days after receiving such notice from the other party or the Title Company. Any Disapproved Matter not objected to in writing prior to the expiration of the Inspection Period or within such ten (10) day period shall be deemed an additional Permitted Exception. Greeley or Longs Peak may elect (but shall not be obligated) to cure any Disapproved Matter by (i) removing or causing the Disapproved Matter to be removed or resolved at curing party's expense; (ii) by obtaining title insurance insuring against the effect of the Disapproved Matter; or (iii) by any other means acceptable to the other party (each a "Cure"). Within ten (10) days after receipt of such notice of a Disapproved Matter, the receiving party shall notify the other party in writing whether it elects to Cure such Disapproved Matter and, if it elects to do so, the method or means of the Cure. If the receiving party elects, but fails or is unable to Cure a Disapproved Matter prior to the Closing Date, then the other party may, on the date of Closing, deliver written notice to the receiving party that it objects to the condition of the Longs Peak Property or Greeley Property in accordance with the terms and conditions of Section 6.1.C. If Greeley elects not to Cure one (1) or more Disapproved Matter, then within (i) ten (10) days after Seller's receipt of Greeley's written notice regarding such election, or (ii) on the Closing Date, whichever occurs first in time, Seller may deliver written notice to Greeley that it objects to the Land in accordance with the terms and conditions of Article 4 below. If a Party does not exercise its rights pursuant to this Section 3.7, then it shall be deemed to have accepted any outstanding Disapproved Matters and the Parties shall proceed to Closing, subject to the provisions of this Agreement, without any change to the Purchase Price or other remedy.

ARTICLE 4
INSPECTION PERIOD

4.1 Inspections.

A. Inspection Period; Greeley Right to Inspect. During the period of time commencing upon the Effective Date and continuing until 4:00 p.m., Mountain Time, on the sixty-third (63rd) day thereafter ("Inspection Period"), unless automatically extended in accordance with Section 3.1.C. or 3.4.B. above, Greeley and its authorized agents, representatives and consultants shall be entitled to: (i) enter upon the property historically irrigated by the WSSC Water Rights and ROFR Water Rights at all reasonable times, to perform such tests or inspections, as Greeley deems desirable, to allow Greeley to evaluate the WSSC Water Rights and the ROFR Water Rights; (ii) contact and interview the managers, members, employees and agents of Longs Peak to assist Greeley in determining the historical use of the WSSC Water Rights and ROFR Water Rights; (iii) contact the officers, directors, attorneys, and shareholders of WSSC to inspect any company records and/or determine under what conditions WSSC will approve a change in the place of delivery or use, or the point of diversion, of the WSSC Water Rights and ROFR Water Rights and other WSSC shares obtained or to be obtained by Greeley, pursuant to the bylaws of the company or other applicable law (collectively referred to as "Inspections"). Longs Peak agrees to cooperate with Greeley to facilitate such interviews and/or the signing of any affidavits of use of the WSSC Water Rights and ROFR Water Rights by Longs Peak or to facilitate such contact and/or request for information or determination by WSSC. Greeley shall bear all costs of such Inspections. Longs Peak agrees to reasonably cooperate with any such Inspections made by or at Greeley's direction.

B. Conditions of Greeley's Access. Greeley and its authorized agents, representatives and consultants (i) shall not unreasonably interfere with the operation and maintenance of the property to be inspected; (ii) shall comply with all reasonable requirements imposed upon them in connection with such inspections by Longs Peak; (iii) shall not injure or otherwise cause bodily harm to Longs Peak, their agents, contractors or employees; (iv) shall promptly pay when due the costs of all Inspections done with regard to the property; (v) shall not permit any liens to attach to the property by reason of the exercise of its rights hereunder; and (vi) shall restore the property as nearly as practicable to substantially the same condition in which it was found before any such Inspections were undertaken. Notwithstanding anything in this Agreement to the contrary, Greeley shall not be permitted to perform any invasive tests on the property without Longs Peak's prior written consent, which consent may be withheld in Longs Peak's sole discretion.

C. Longs Peak Right to Inspect. During the Inspection Period, and any extension thereof, Longs Peak and its authorized agents, representatives and consultants shall be entitled to conduct the activities described as Inspections above with respect to the Greeley Property, as Longs Peak deems desirable, to allow Longs Peak to evaluate the condition and use of the Greeley Property (collectively referred to as "Diligence").

Seller shall bear all costs of the Diligence. Greeley agrees to reasonably cooperate with any such Diligence made by or at Longs Peak's direction. Notwithstanding the foregoing, Longs Peak acknowledges that the historically irrigated property is currently subject to the leases described in Section 3.6 above and Section 5.3.B. below. As such, Greeley agrees to assist Longs Peak in obtaining access to those properties to conduct such Diligence subject to the terms of the applicable lease, and Longs Peak agrees to abide by the same when accessing the properties.

D. Conditions of Longs Peak's Access. Longs Peak and its authorized agents, representatives and consultants (i) shall not unreasonably interfere with the operation and maintenance of the property inspected; (ii) shall comply with all reasonable requirements imposed upon them in connection with such Diligence by Greeley or Greeley's lessees; (iii) shall not injure or otherwise cause bodily harm to Greeley, their agents, contractors, employees or lessees; (iv) shall promptly pay when due the costs of all Diligence done with regard to the property inspected; (v) shall not permit any liens to attach to the property inspected by reason of the exercise of its rights hereunder; and (vi) shall restore the property inspected as nearly as practicable to substantially the same condition in which it was found before any such Diligence activities were undertaken. Notwithstanding anything in this Agreement to the contrary, Longs Peak shall not be permitted to perform any invasive tests without Greeley's prior written consent, which consent may be withheld in Greeley's sole discretion.

4.2 Objections.

A. Greeley's Objections. If during the Inspection Period, Greeley shall, for any reason, in Greeley's sole discretion, judgment and opinion, disapprove or be dissatisfied with any aspect of the Longs Peak Property or its Inspections relating thereto, Greeley shall be entitled to terminate this Agreement by giving written notice to Longs Peak on or before the expiration of the Inspection Period, whereupon all materials exchanged by the Parties shall be returned and all provisions of this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall terminate.

B. If during the Inspection Period, Longs Peak shall, for any reason, in Longs Peak's sole discretion, judgment and opinion, disapprove or be dissatisfied with any aspect of the Greeley Property or its Diligence relating thereto, Longs Peak shall be entitled to terminate this Agreement by giving written notice to Greeley on or before the expiration of the Inspection Period, whereupon all materials exchanged by the Parties shall be returned and all provisions of this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall terminate.

ARTICLE 5 CLOSING CONTINGENCIES; CLOSING

5.1 Closing Contingencies. Sections 5.1.A and 5.1.B are collectively referred to as the "Governing Body Approvals."

A. Board Approval of Transaction. Greeley's obligation to close on the acquisition of the Longs Peak Property and conveyance of the Greeley Property is contingent upon authorization of this transaction by the Board. In the event that the Board has not authorized closing this transaction prior to expiration of the Inspection Period, then, in such event, upon Greeley's written notice to Longs Peak, this Agreement shall terminate, whereupon all materials exchanged by the Parties shall be returned and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement.

B. City Council Authorization to Convey. Greeley's obligation to convey the Greeley Property is also subject to authorization by the City Council within the Inspection Period to convey the Greeley Property to Longs Peak. In the event City Council does not authorize the conveyance prior to expiration of the Inspection Period, then, in such event, upon Greeley's written notice to Longs Peak, this Agreement shall terminate, whereupon all materials exchanged by the Parties shall be returned and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement.

C. Larimer and Weld Right of First Refusal. The Parties acknowledge that conveyance of the LWIC Water Rights may be subject to the Right of First Refusal asserted by the Larimer and Weld Irrigation Company concerning its own shares, as is more particularly described in its Amended and Restated Bylaws dated May 4, 2018 ("LWIC ROFR"), and that Greeley's obligation to convey the LWIC Water Rights is contingent upon the Larimer and Weld Irrigation Company not exercising the LWIC ROFR. Greeley shall provide the written notice required by the LWIC ROFR no less than thirty (30) days prior to expiration of the Inspection Period. In the event that the Larimer and Weld Irrigation Company elects to exercise the LWIC ROFR, then, in such event, upon Greeley's written notice to Longs Peak, this Agreement shall terminate, whereupon all materials exchanged by the Parties shall be returned and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement.

5.2 Closing. The Closing shall occur at 1:30 p.m. at the Title Company, fourteen (14) days after the expiration of the Inspection Period, or by mutual agreement at an alternate date and time.

5.3 Transactions at Closing.

A. On or before the Closing Date, Longs Peak shall deliver or cause to be delivered to the Title Company, acting as escrow agent, the following documents duly executed and acknowledged where appropriate:

(1) A special warranty deed conveying the WSSC Water Rights free and clear of all liens and encumbrances, in the form attached as Exhibit G.

- (2) The original WSSC Certificate and WSSC Lateral Certificate.
- (3) Stock assignments transferring ownership of the WSSC Certificate and WSSC Lateral Certificate, and the WSSC Water Rights represented thereby, in the form attached as Exhibit H.
- (4) The Longs Peak Covenants, in the form attached as Exhibit E.
- (5) Assignment and Assumption of the J&E Investments Lease, in the form attached as Exhibit J.
- (6) A certificate of non-foreign status pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, together with any other certificates required pursuant to Colorado law.
- (7) A statement of authority.
- (8) A certificate as to Taxpayer Identification Number.
- (9) The Water Lease, in the form attached as Exhibit B.
- (10) The ROFR Agreement, in the form attached as Exhibit C.
- (11) A final closing settlement statement executed by Longs Peak.
- (12) Such other documents as may be reasonably necessary and appropriate to complete the Closing of the transaction contemplated herein.

B. On or before the Closing Date, Greeley shall deliver to the Title Company, acting as escrow agent, the following:

- (1) A special warranty deed conveying the Windsor Reservoir Water Rights, LWIC Water Rights, and Windsor and LWIC Lateral Rights free and clear of all liens and encumbrances except the Permitted Exceptions, in the form attached as Exhibit G.
- (2) The original stock certificates representing the Windsor Reservoir Water Rights, LWIC Water Rights, and Windsor and LWIC Lateral Rights.
- (3) Stock assignments transferring ownership of the Windsor Reservoir Water Rights, LWIC Water Rights, and Windsor and LWIC Lateral Rights, in the form attached as Exhibit H.
- (4) Assignment of the 2370 and J&E Covenants, in the form attached as Exhibit I.

(5) Partial assignment of the Chalk Covenants, in the form attached as Exhibit K.

(6) Assignment and Assumption of the J&E Investments Lease, in the form attached as Exhibit J.

(7) Copy of the written notice from Greeley to 2370, LLC that the Water Lease Agreement dated June 23, 2014, is terminated.

(8) Copy of the written notice from Greeley to Chalk & Associates, LLC and SRC Energy, Inc. that the Irrigation Water Lease Agreement dated June 2, 2015 is terminated as to the portion of the Windsor Reservoir Water Rights contained therein.

(9) The Water Lease, in the form attached as Exhibit B.

(10) The ROFR Agreement, in the form attached as Exhibit C.

(11) Documentation in such form as may be satisfactory to Longs Peak and the Title Company, evidencing Greeley's full authority and capacity close on this transaction.

(12) A final closing settlement statement executed by Greeley.

(13) Such other documents as may be reasonably necessary and appropriate to complete the Closing of the transaction contemplated herein.

ARTICLE 6 PRORATIONS; CLOSING COSTS

6.1 Ditch Assessments. Greeley agrees to fully pay and continue to pay any and all assessments, including special assessments, levied by the companies (or lateral or augmentation companies) associated with and accruing to Windsor Reservoir Water Rights, LWIC Water Rights, and Windsor and LWIC Lateral Rights up to and including the Closing Date. Longs Peak agrees to fully pay and continue to pay any and all assessments, including special assessments, levied by the companies (or lateral or augmentation companies) associated with and accruing to the WSSC Water Rights. Greeley and Longs Peak agree to assume any such future obligations for assessments associated with the rights respectively acquired by each Party and incurred after the Closing Date.

6.2 Closing Costs. Greeley shall pay for the cost of recording of the deed for the WSSC Water Rights and the Longs Peak Covenants, water stock transfer fees for the WSSC Water Rights, the cost of the title commitment described in Section 3.1.A. above, and one-half (1/2) of the Title Company closing and/or escrow costs. Longs Peak shall pay for the cost of recording the deed for the Windsor Reservoir Water Rights, LWIC Water Rights, and Windsor and LWIC Lateral Rights, and assignments of the Greeley Covenants, water stock transfer fees for the Windsor Reservoir Water Rights, LWIC Water Rights, and Windsor and LWIC Lateral Rights, the cost of the title commitment described in Section 3.4.A. above, and one-half (1/2) of the Title Company closing and/or escrow costs. Each Party shall pay its own attorneys' fees.

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

7.1 Longs Peak represents and warrants to Greeley as follows:

A. Ownership and Encumbrances. Longs Peak is now and will remain, until the conclusion of the Closing, the lawful owner of the Longs Peak Property. To the best of Long Peak's knowledge, the Longs Peak Property is free of any liens, encumbrances and third party claims except those of Greeley. From the Effective Date of this Agreement until the Closing, Longs Peak shall not encumber the Longs Peak Property or any interest therein in any way nor grant any property or contract right relating to the Longs Peak Property or any other interests without the prior written consent of Greeley.

B. Litigation. To Long Peak's current actual knowledge, there is no dispute, action or litigation pending or threatened respecting the ownership or use of the Longs Peak Property or other interests related thereto.

C. Contracts, Leases and Agreements. From the Effective Date of this Agreement until the Closing, unless accepted by Greeley in writing, Longs Peak shall not enter into any contracts, leases, licenses, commitments or undertakings respecting the use or maintenance of the Longs Peak Property by which Greeley would be obligated or liable to any third party.

D. Status. Longs Peak has all requisite legal power and authority to own and convey the Longs Peak Property and perform all of the terms of this Agreement.

E. No Abandonment. The WSSC Water Rights have not been abandoned by Longs Peak.

F. Compliance with Law. To the best of Longs Peak's current actual knowledge, Longs Peak has complied in all material respects with all laws, rules, regulations, ordinances, orders, judgments and decrees applicable to the WSSC Water Rights, and to Longs Peak's current actual knowledge there is no proposed order, judgment, decree, governmental taking or other proceeding applicable to Longs Peak which might adversely affect the WSSC Water Rights.

Longs Peak shall provide Greeley with a written certification at Closing confirming that the foregoing representations are true and correct as of the Closing Date.

7.2 Greeley represents and warrants to Seller as follows:

A. Ownership and Encumbrances. Greeley is now and will remain, until the conclusion of the Closing, the lawful owner of the Greeley Property. To the best of Greeley's knowledge, the Greeley Property is free of any liens, encumbrances and third party claims except the Permitted Exceptions and those of Longs Peak. From the Effective Date of this Agreement until the Closing, and except for the Permitted Exceptions, Greeley shall not encumber the Greeley Property or any interest therein in

any way nor grant any property or contract right relating to the Greeley Property or any other interests without the prior written consent of Longs Peak.

B. Litigation. To Greeley's current actual knowledge, there is no dispute, action or litigation pending or threatened respecting the ownership or use of the Greeley Property or other interests related thereto.

C. Contracts, Leases and Agreements. From the Effective Date of this Agreement until the Closing, unless accepted by Longs Peak in writing, Greeley shall not enter into any contracts, leases, licenses, commitments or undertakings respecting the use or maintenance of the Greeley Property by which Longs Peak would be obligated or liable to any third party.

D. Status. Greeley has all requisite legal power and authority to own and convey the Greeley Property and perform all of the terms of this Agreement.

E. Compliance with Law. To the best of Greeley's current actual knowledge, Greeley has complied in all material respects with all laws, rules, regulations, ordinances, orders, judgments and decrees applicable to the Greeley Property, and to Greeley's current actual knowledge there is no proposed order, judgment, decree, governmental taking or other proceeding applicable to Greeley which might adversely affect the Greeley Property.

Greeley shall provide Longs Peak with a written certification at Closing confirming that the foregoing representations are true and correct as of the Closing Date.

7.3 Water Rights Adjudication. The Parties acknowledge and agree that a change of the WSSC Water Rights and/or other water rights adjudications may be necessary to allow Greeley's use of the Longs Peak Property for its intended purpose. Unless this Agreement is terminated pursuant to the provisions herein, Longs Peak agrees that it shall not oppose, but shall cooperate with Greeley, in any actions Greeley files in Water Court or administrative or other proceedings for approval of the use of the WSSC Water Rights as part of an application for new water rights (including direct flow or storage rights), changes of water rights, exchanges or plans for augmentation or substitution or in connection with the WSSC Water Rights. Longs Peak agrees that Greeley may include the WSSC Water Rights in any such application before the Closing Date, provided that Greeley promptly withdraws the WSSC Water Rights from any such application if this Agreement is terminated and Closing does not occur. Longs Peak shall not be required to file briefs in support of Greeley's application or take any affirmative action other than to appear and testify honestly about the WSSC Water Rights and provide any documentation of use or other relevant historical use information. The terms and provisions set forth in this Section 7.3 and the covenants and obligations arising therefrom shall survive the Closing and shall not be deemed merged into the closing documents.

ARTICLE 8

CONDITIONS TO CLOSING; REMEDIES

8.1 Longs Peak Conditions. The obligation of Longs Peak to convey the Longs Peak Property under this Agreement is subject to the satisfaction of the following conditions precedent

or conditions concurrent (the satisfaction of which may be waived only in writing by Longs Peak):

A. Delivery and execution by Greeley of all monies, items, and other instruments required to be delivered by Greeley to the Closing.

B. All of the actions by Greeley required by this Agreement shall have been completed.

C. There shall be no uncured default by Greeley of any of its obligations under this Agreement.

8.2 Greeley Conditions. The obligation of Greeley to acquire the Longs Peak Property and convey the Greeley Property under this Agreement is subject to the satisfaction of the following conditions precedent or conditions concurrent (the satisfaction of which may be waived only in writing by Greeley):

A. Satisfaction of the closing contingencies in Article 5 above.

B. Delivery and execution by Longs Peak of all items and other instruments required to be delivered by Longs Peak to the Closing.

C. All of the actions by Longs Peak contemplated by this Agreement shall have been taken.

D. There shall be no uncured default by Longs Peak of any of its obligations under this Agreement.

E. The representations and warranties made by Longs Peak as specifically set forth herein shall be true and correct as of the Closing Date and shall not be deemed waived in the event Greeley elects to close pursuant to Section 8.3A(3) below.

8.3 Failure of Condition.

A. Except as set forth in Section 8.3B below, in the event of a failure of any condition contained in Section 8.2, Greeley may in its sole discretion:

(1) Terminate this Agreement by notice to Longs Peak, in which event all materials exchanged by the Parties shall be returned and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement.; or

(2) Greeley may waive such default or condition and close the transaction; or

(3) If the failure of condition consists of a default by Longs Peak which can be cured by action within the reasonable control of Longs Peak, Greeley may

elect to treat this Agreement as being in full force and effect and Greeley shall have the right to specific performance, damages, or both.

B. In the event of a failure of any condition contained in Section 8.1 above, Longs Peak may in its sole discretion:

(1) Terminate this Agreement by notice to Greeley, in which event all materials exchanged by the Parties shall be returned and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement; or

(2) Longs Peak may waive such default or condition and close the transaction.

C. Longs Peak hereby waives any rights it may have to specific performance in the event of a default by Greeley. Except for the giving of notices, time being of the essence, neither Party shall be deemed in default hereunder unless such Party fails to cure such default within seven (7) days of written notice of default from the other Party.

ARTICLE 9 CONDEMNATION

If prior to Closing all or a Material Part of the Longs Peak Property is subject to a proposed taking by any public authority, Longs Peak shall promptly notify Greeley of such proposed taking and Greeley may terminate this Agreement by notice to Longs Peak within fourteen (14) days after written notice thereof. If prior to Closing all or a Material Part of the Greeley Property is subject to a proposed taking by any public authority, Greeley shall promptly notify Longs Peak of such proposed taking and Longs Peak may terminate this Agreement by notice to Greeley within fourteen (14) days after written notice thereof. If either Party so elects to terminate pursuant to this Article 9, and following the return all materials exchanged by the Parties, this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall be of no further force and effect. If this Article 9 is triggered and a Party elects not to terminate this Agreement, or if the taking is as to a non-Material Part of the Property, that party shall accept title to the property subject to the taking without a reduction of modification to the consideration herein, and shall receive at Closing an assignment of all rights to any condemnation award. Such Party shall have the sole right after the Closing to negotiate and otherwise deal with the condemning authority in respect of such matter. A Material Part of the Property for purposes of this Article 9 shall mean a portion that would have a material adverse effect on use of the property by the acquiring Party, as determined by that Party in its sole good faith judgment.

ARTICLE 10 BROKERAGE

Longs Peak and Greeley hereby warrant to each other that there are no real estate agents or other brokers or finders involved in this transaction who are entitled to receive a brokerage or finder's fee. Longs Peak agrees to indemnify Greeley and hold Greeley harmless from any loss,

liability, damage, cost or expense (including, without limitation, reasonable attorneys' fees) paid or incurred by Greeley by reason of any claim to any broker's, finder's or other fee in connection with this transaction by any third party claiming by, through or under Longs Peak, excluding, however, any party claiming through Greeley, its successors or assigns. This obligation shall survive the Closing of this transaction.

ARTICLE 11
NOTICES

Any notice or other communication given by any of the Parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given by delivery to the respective addresses provided below, or such other address changed by the recipient by notice consistent with this Article: (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at such address; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at such address; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed to such address; or (iv) if an e-mail address is specified, on the date and at the time shown on the e-mail message if sent to the e-mail address specified below, with no bounce-back received within three (3) days:

If to Longs Peak: Longs Peak Dairy, LLC
 Attention: Wade Potberg
 45490 County Road 39
 Pierce, Colorado 80524
 Telephone: (970) 539-4651
 Email: wadepodtburg@gmail.com

With a copy to: Otis & Bedingfield, LLC
 Attention: Jeff Bedingfield
 2725 Rocky Mountain Avenue, Suite 320
 Loveland, Colorado 80538
 Telephone: 970-663-7300
 Email: jbedingfield@nocoattorneys.com

If to Greeley: City of Greeley Water and Sewer Department
 Attention: Water Resources Division
 1001 11th Avenue, 2nd Floor
 Greeley, Colorado 80631
 Telephone: (970) 350-9812
 Email: adam.jokerst@greeleygov.com
 cole.gustafson@greeleygov.com

With a copy to: City of Greeley City Attorney's Office
 Attention: Environmental and Water Resources

1100 10th Street, Suite 401
Greeley, Colorado 80631
Telephone: (970) 350-9757
Email: daniel.biwer@greeleygov.com
jerrae.swanson@greeleygov.com

ARTICLE 12
MISCELLANEOUS

12.1 No Waiver of Governmental Immunity/No Third Party Beneficiary. This Agreement shall not create any duty of care or liability with respect to any person or entity not a party to this Agreement, or waive any of the privileges or immunities Greeley or its officers, employees, successors and assigns may present pursuant to law, including, but not limited to, the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as amended.

12.2 Time. Time is of the essence as to each provision of this Agreement and the performance of each Party's obligations hereunder, except where explicitly described to the contrary.

12.3 Attorneys' Fees. If any legal action, arbitration or other proceeding is commenced to enforce or interpret any provision of this Agreement or to enforce any indemnity, the prevailing party shall be awarded its attorneys' fees and expenses, in addition to any other relief granted. The phrase "prevailing party" shall include a party who receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. This provision shall survive the termination of this Agreement.

12.4 No Waiver. No waiver by either Party of the performance or satisfaction of any covenant or condition of this Agreement is valid unless in writing and shall not be considered to be a waiver by such Party of any other covenant or condition.

12.5 Entire Agreement. This Agreement contains the entire agreement between the Parties regarding the subject matter herein and supersedes all prior agreements, whether written or oral, among the Parties regarding this transaction, excluding only the closing documents executed in connection therewith. This Agreement may only be modified by mutual written agreement duly authorized and executed by the Parties.

12.6 Survival of Representations and Warranties. All representations, obligations, liabilities, warranties, covenants, agreements and monetary obligations of Longs Peak and Greeley as set forth in this Agreement shall survive the Closing and consummation of this transaction contemplated by this Agreement until the complete discharge thereof. All warranties of title set forth in any deed or assignment delivered or made hereunder shall survive without limit.

12.7 Successors. Subject to Section 12.8 below, this Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

12.8 Assignment. This Agreement is not assignable by Longs Peak or Greeley without first obtaining the prior written approval of the other Party. No assignment shall relieve either of

the Parties from its respective obligations if such obligations are not properly discharged by the assignee of such Party.

12.9 Relationship of the Parties. The Parties acknowledge that neither Party is an agent for the other and that neither Party can bind or enter into agreements for the other.

12.10 Governing Law and Construction. This Agreement and the legal relations between the Parties hereto shall be governed by the laws of the State of Colorado. Longs Peak and Greeley acknowledge that each Party had the opportunity to consult with legal counsel, and that the Agreement should not be construed nor interpreted against a drafting Party.

12.11 Possession. Longs Peak shall deliver to Greeley possession of the Longs Peak Property, on the Closing Date, upon release from escrow of all items to be delivered by Greeley at Closing. Greeley shall deliver to Longs Peak possession of the Greeley Property, subject to the Permitted Exceptions, on the Closing Date, upon release from escrow of all items to be delivered by Longs Peak at Closing.

12.12 Calendar Days. In the event any time period set forth in this Agreement commences, expires or is determined from a date which falls on a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day, the date of such commencement, performance, expiration or determination shall automatically be extended to the next business day which is not a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day.

12.13 Counterparts. This Agreement may be executed in any number of counterparts each of which, when taken together, shall constitute one agreement. This Agreement shall only be effective when counterparts are signed by both Longs Peak and Greeley. Executed copies of this Agreement may be delivered by electronic means. The Parties agree to accept and be bound by signatures hereto delivered by electronic means.

12.14 Approval Required by Board and City Council. THE OBLIGATIONS OF GREELEY UNDER THIS AGREEMENT ARE EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS AGREEMENT BY THE CITY OF GREELEY WATER AND SEWER BOARD AND CITY COUNCIL.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set opposite their respective signatures below.

LONGS PEAK DAIRY, LLC
a Colorado limited liability company

By: Wade Podtburg

Date: 1-12-22

Name: Wade Podtburg

Title: Managing Partner

THE CITY OF GREELEY, COLORADO,
a Colorado home rule municipal corporation
acting by and through its Water Enterprise

By: _____
City Manager

Date: _____

As to Availability of Funds:

By: _____
Director of Finance

As to Legal Form:

By: _____
City Attorney

EXHIBIT A

EXHIBIT B Water Supply Storage Company Water Rights

<u>Name</u>	<u>Amount</u>		<u>Source</u>	<u>Location</u> <u>10 40 160 Sec Twn Rge</u>	<u>Appropriation</u> <u>Date</u>	<u>Adjudication</u> <u>Date</u>	<u>Judicial</u> <u>Proceeding</u>
<u>Direct-Flow(Dist.3)</u>							
Larimer County Canal	10.76	cfs	CLP ¹	SW SE SW 13-8N-70W	1862/03/01	1882/04/11	Case 320 Transfer (1423 TT)
Larimer County Canal	13.89	cfs	CLP	SW SE SW 13-8N-70W	1864/09/15	1882/04/11	Case 320 Original (1423 TT)
Larimer County Canal	2.00	cfs	CLP	SW SE SW 13-8N-70W	1868/03/15	1882/04/11	Case 320 Original (2406 TT)
Larimer County Canal	2.67	cfs	CLP	SW SE SW 13-8N-70W	1868/13/15	1882/04/11	Case 320 Original (2818 TT)
Larimer County Canal	4.00	cfs	CLP	SW SE SW 13-8N-70W	1873/03/20	1882/04/11	Case 320 Original (2406 TT)
Larimer County Canal (Henry Smith)	7.23	cfs	CLP	SW SE SW 13-8N-70W	1878/04/01	1882/04/11	Case 320 Original
Larimer County Canal	463.00	cfs	CLP	SW SE SW 13-8N-70W	1881/04/25	1882/04/11	Case 320 Original
Larimer County Canal	246.45	cfs	CLP	SW SE SW 13-8N-70W	1914/09/28	1945/12/18	Case 5362 (84CW204) Supp.
<u>Storage (Dist. 3)</u>							
Chambers Lake Reservoir	3080.0	AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1882/07/12	1886/10/12	Case 320 Original
WSSC Res. No. 2,3	689.0	AF	CLP	NE SE SW 14-8N-69W	1882/10/01	1904/12/09	Case 1591 Original
WSSC Res. No. 4	574.0	AF	WSSC Res. No. 2,3	SE NE SW 23-8N-69W	1882/10/01	1904/12/09	Case 1591 Original
WSSC Res. No. 1 (Rocky Ridge)	4726.0	AF	CLP	SW SE SW 11-8N-69W	1891/09/01	1904/12/09	Case 1591 Original
WSSC Res. No. 5 (Long Pond)	4037.0	AF	CLP	SW SE NW 31-8N-68W	1891/09/01	1904/12/09	Case 1591 Original
Lindemeier Lake	608.0	AF	Long Pond Res.	SW NW NE 6-7N-68W	1892/02/16	1904/12/09	Case 1591 Original
WSSC Res. No. 4	310.0	AF	Long Pond Res.	23-8N-69W	1892/02/16	1904/12/09	Case 1591 (W-7821-74) Original
WSSC Res. No. 4	422.0	AF	WSSC Res. No. 2,3	SE NE SW 23-8N-69W	1900/12/12	1904/12/09	Case 1951 Original
Black Hollow Res.	6458.0	AF	CLP	SE SE SE 34-8N-67W	1906/02/20	1922/04/22	Case 2031 Supp.
Chambers Lake Reservoir	3577.0	AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1910/05/28	1922/04/22	Case 2031 Supp.
Kluver Res.	1562.0	AF	CLP	SW NE NW 23-8N-69W	1911/05/01	1945/12/18	Case 5362 Supp.
Black Hollow Res.	2158.0	AF	CLP	SE SE SE 34-8N-67W	1918/10/05	1945/12/18	Case 5362 Supp.
Long Draw Res	4201.0	AF	Long Pond Res.	NE NW SE 11-6N-75W	1922/06/05	1945/12/18	Case 5362 Supp.

EXHIBIT A

EXHIBIT B Water Supply Storage Company Water Rights

<u>Name</u>	<u>Amount</u>		<u>Source</u>	<u>Location</u> <u>10 40 160 Sec Twn Rge</u>	<u>Appropriation</u> <u>Date</u>	<u>Adjudication</u> <u>Date</u>	<u>Judicial</u> <u>Proceeding</u>
Chambers Lake Reservoir	2197.0	AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1922/12/03	1945/12/18	Case 5362 Supp.
WSSC Res. No. 2,3	3615.0	AF	CLP	NE SE SW 14-8N-69W	1943/10/04	1953/09/10	Case 11217 Supp.
WSSC Res. No. 2,3	445.9	AF	CLP	NE SE SW 14-8N-69W	1943/10/04	1953/09/10	Case 11217 (W-112-74) Supp.
WSSC Res. No. 2,3	138.0	AF	CLP	NE SE SW 14-8N-69W	1943/10/04	1977/12/31	W-112-77 Supp.
Long Draw Res	6600.0	AF	CLP	NE NW SE 11-6N-75W	1965/08/31	1977/12/31	W-9322-78 (83CW126) Supp.
Trap Lake II	3800.0	AF	Trap Creek	NW NW SW 21-7N-75W	1982/06/16	1982/12/31	82CW289 Supp. - Cond.
<u>Transbasin</u>							
Chambers Lake Reservoir	11478.0	AF	Big Laramie River	6-7N-75W	1891/08/07	1896/10/30	Case 1247 Original
Laramie River Ditch (Skyline Ditch)	300.0	cfs	West Branch Laramie River	NE NE SW 14-8N-76W	1891/08/07	1896/10/30	Case 1247 Original (84CW204) Supp.
Cameron Pass Ditch	10.0	cfs	Michigan River	SE 2-6N-76W	1882/07/30	1902/04/23	Case 1519 Original
Cameron Pass Ditch	18.0	cfs	Michigan River	NW SE 2-7N-76W	1898/07/7	1902/05/23	Case 1519 Original
Grand River Ditch Alternate Point Alternate Point	524.6	cfs	Colorado River	NE SW NW 21-6N075W NW NE NW 28-5N-76W	1890/09/01	1906/08/11	Case 112 Original
Laramie River Tunnel ²	300.0	cfs	Big Laramie River	NW NE SE 29-6N-75W NE SW 7-8N-75W	1902/08/25	1914/02/20	Case 2725 Case 5993 (84CW204) Supp.
Rawah Ditch ²	225.0	cfs	Rawah Creek	NE NE SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Rawah and Lower Supply Ditch ²	275.0	cfs	Rawah Creek	SE SE SW 14-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
McIntyre Ditch ²	40.0	cfs	McIntyre Creek	SE NE NE 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 1 ^[2]	1050.0	AF	Rawah Creek	SE 7-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 2 ^[2]	1400.0	AF	Rawah Creek	SW 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 3 ^[2]	525.0	AF	Rawah Creek	NW 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 4 ^[2]	592.0	AF	Rawah Creek	SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 5 ^[2]	700.0	AF	Rawah Creek	NE 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.

EXHIBIT A

EXHIBIT B Water Supply Storage Company Water Rights

<u>Name</u>	<u>Amount</u>	<u>Source</u>	<u>Location</u> <u>10 40 160 Sec Twn Rge</u>	<u>Appropriation</u> <u>Date</u>	<u>Adjudication</u> <u>Date</u>	<u>Judicial</u> <u>Proceeding</u>	
Link Lake No. 6 ^[2]	300.0	AF	Rawah Creek	SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 7 ^[2]	440.0	AF	Rawah Creek	NE 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 8 ^[2]	2000.0	AF	Rawah Creek	SW 4-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 9 ^[2]	574.0	AF	Rawah Creek	NE 6-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 10 ^[2]	425.0	AF	McIntyre Creek	NE 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 11 ^[2]	1148.0	AF	McIntyre Creek	SW 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 12 ^[2]	138.0	AF	Rawah Creek	NW 4-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 13 ^[2]	597.0	AF	Rawah Creek	NE 29-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 14 ^[2]	597.0	AF	Spring Creek	NE 29-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Laramie Lake	340.0	AF	Drainage	SE NW 32-8N-75W	1890/07/01	1944/09/11	Case 5993 Supp.
Lost Lake	288.0	AF	Drainage	SW SE 31-8N-75W	1890/07/02	1944/09/11	Case 5993 Supp.
Lily Lake	178.0	AF	Drainage	SE NW 29-8N-78W	1912/07/01	1944/09/11	Case 5993 Supp.
<u>Seepage</u>							
Lind Reservoir ^[2]	54.9	AF	Seepage	SE NE SE 35-8N-68W	1881/04/21	1972/12/31	W-1748 W-1877 Supp.
WSSC Seepage A	2.0	cfs	Seepage	NE NE NW 20-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage B	2.0	cfs	Seepage	SE SE SE 17-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 1	5.0	cfs	Seepage	SW NW SW 4-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2	12.0	cfs	Seepage	SW NW NE 3-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2A	4.0	cfs	Seepage	NE NE SW 3-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2b	2.0	cfs	Seepage	NW SW SE 17-8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 3	20.0	cfs	Seepage	NE SW NW 14-8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 4	1.0	cfs	Seepage	NE NW SW 14-8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 6	2.0	cfs	Seepage	NW NW SW 31-8N-67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7	2.0	cfs	Seepage	NW SW SE 6-7N-67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7a	0.1	cfs	Seepage	SW NE SW 8-7N-67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7b	0.3	cfs	Seepage	SW SW SE 8-7N-67W	1881/04/21	1972/12/31	W-1877 Supp.

EXHIBIT A

EXHIBIT B Water Supply Storage Company Water Rights

<u>Name</u>	<u>Amount</u>		<u>Source</u>	<u>Location</u> <u>10 40 160 Sec Twn Rge</u>	<u>Appropriation</u> <u>Date</u>	<u>Adjudication</u> <u>Date</u>	<u>Judicial</u> <u>Proceeding</u>
WSSC Seepage 7c	2.0	cfs	Seepage	NW NW SW 13-7N-67W	1960/06/01	1972/12/31	W-1877 Supp.
WSSC Seepage 8	0.6	cfs	Seepage	NE SE SE 5-7N-66W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 9	1.0	cfs	Seepage	SE NE SE 5-7N-66W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 10	0.9	cfs	Seepage	SW NW SW 4-7N-66W	1881/04/21	1972/12/31	W-1877 Supp.

-
1. Cache la Poudre River
 2. Partial Ownership

Attachment to Order - 2007CW190

EXHIBIT B
FORM - DO NOT EXECUTE

IRRIGATION WATER LEASE AGREEMENT
(Longs Peak Dairy - WSSC Rights)

This IRRIGATION WATER LEASE AGREEMENT ("Agreement") is entered into this ____ day of _____ 2022, by and between the CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11th Avenue, Second Floor, Greeley, Colorado 80631 ("Greeley"), and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80650 ("Lessee").

RECITALS

WHEREAS, Greeley owns those certain water rights, including the transmountain return flows associated with such rights, represented by two (2) shares of capital stock in The Water Supply and Storage Company, previously evidenced by Stock Certificate No. 6658 and two (2) shares of stock in The Collins Ditch Company, previously evidenced by Stock Certificate No. 851 (collectively "Water Rights"); and

WHEREAS, Lessee desires to lease the Water Rights from Greeley for agricultural irrigation on certain parcels of real property consisting of approximately ____ acres and more particularly described on Exhibit A, attached hereto and incorporated herein by reference ("Property"); and

WHEREAS, Lessee also desires to utilize the transmountain return flows associated with the Water Rights to augment out-of-priority depletions, as is allowed and more particularly described by the 2003CW089 decree entered by the District Court, Water Division No. 1, on January 14, 2009 ("LOMAC Decree"); and

WHEREAS, Greeley is willing to lease the Water Rights to Lessee for agricultural irrigation on the Property and augmentation of out-of-priority depletions in accordance with the LOMAC Decree;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Greeley and Lessee agree as follows.

AGREEMENT

1. Water Rights Lease. Greeley hereby leases to Lessee, and Lessee hereby leases from Greeley, the above-described Water Rights for the purpose of agricultural irrigation on the Property and augmentation of out-of-priority depletions in accordance with the LOMAC Decree.

2. Term of Lease. The term of this Agreement begins on the date of mutual execution and ends after a period of twenty (20) years ("Initial Term"). At the end of this Initial Term, this Agreement shall renew automatically on an annual basis for five (5) subsequent terms of one (1) year each ("Renewal Terms"), unless Greeley or Lessee transmits written notice of nonrenewal on or before November 1 of the preceding calendar year. Lessee may terminate this Agreement during the Initial Term, prior to any irrigation season, for any reason by delivering two years' advance written notice to Greeley. Greeley may terminate this Agreement during the Initial Term, prior to any irrigation season, by delivering advance written notice to Lessee on or before November 1 of the preceding calendar year, if Greeley determines in its sole discretion that the Water Rights are needed for any municipal purpose, or if Greeley is required to cease irrigation with the Water Rights by the terms and conditions of a water court decree. Refer to Section 12 for provisions relating to termination for cause, and to Section 14 regarding good faith negotiations to renew after this Agreement expires.

3. Annual Lease Amount and Administrative Fee. Lessee shall pay to Greeley an Annual Lease Amount equal to all assessments, charges, and other expenses due and attributable to the Water Rights paid by Greeley to The Water Supply and Storage Company. Lessee is entitled to use of the transmountain return flows

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associated with the Water Rights under this Agreement, but the Annual Lease Amount shall not be reduced to reflect rebates or other credits attributable to leasing the transmountain return flows associated with the Water Rights. Lessee shall also pay to Greeley an Annual Administrative Fee equal to ten percent of that year's Annual Lease Amount, provided, however, that the Annual Administrative Fee shall not exceed five-hundred dollars (\$500.00). Greeley will provide an invoice of the Annual Lease Amount and Annual Administrative Fee to Lessee, and Lessee shall deliver payment of that total amount to Greeley no later than (i) May 15 of the then current irrigation year, or (ii) within fifteen days of receipt of such invoice from Greeley. Lessee shall also remit to Greeley an additional charge equal to fifteen percent of the Annual Lease Amount for every thirty days that payment required under this Agreement is late.

4. Use of Water Rights. Lessee shall use the water delivered pursuant to the Water Rights only for agricultural irrigation on the Property and augmentation of out-of-priority depletions in accordance with the LOMAC Decree. Lessee shall not use the Water Rights for any other uses. Lessee shall not use the water delivered pursuant to the Water Rights on any land other than the Property. Lessee shall use the Water Rights in accordance with all rules, regulations, bylaws and policies of The Water Supply and Storage Company, Collins Ditch Company, and Lone Tree Lateral Company. Lessee shall comply with Title 20 (or any successor section) of the Greeley Municipal Code, and all rules, regulations, and laws of the State of Colorado pertaining to use of the Water Rights. Lessee shall take and use the water delivered pursuant to the Water Rights to the fullest extent possible, and shall undertake no action that could be construed as abandonment of the Water Rights or could cause in part or in whole a reduction in the use of the Water Rights. Lessee shall provide advance written notice to Greeley of at least thirty days if they no longer intend to irrigate the entirety of the Property with the Water Rights. Absent written consent from Greeley, Lessee shall not use any water, water rights, ditches, ditch rights, wells, well rights, well permits, carriage rights, reservoirs, or reservoir rights to irrigate the Property, other than water yielded pursuant to the Water Rights.

5. Affidavit of Beneficial Use and Water Court Proceedings. Lessee agrees to deliver to Greeley, on or before May 15 of each calendar year, a completed Beneficial Use Affidavit and Questionnaire, in the form attached hereto as Exhibit B. Lessee acknowledges that Greeley may file an application to change the use of the Water Rights with the Division 1 Water Court for the State Colorado during the term of this Agreement. Lessee agrees to cooperate with Greeley and its agents or representatives in the review and analysis of the historical use of the Water Rights. Upon request from Greeley, Lessee shall provide information regarding use of the Water Rights and reasonable access to the Property during and in preparation for any proceeding before the Division 1 Water Court.

6. Restriction on Sublease and Assignment. Lessee shall not rent, sublet, or otherwise convey the right to use the Water Rights. Lessee shall not assign this Agreement, except to a successive owner or operator of the Property for agricultural irrigation of the Property, and only with written consent from Greeley. Lessee shall request consent from Greeley prior to any purported assignment of this Agreement by advance written notice of at least thirty days. Such consent may be given or withheld in the sole discretion of Greeley.

7. No Vested Interest in Shares or Joint Venture. This Agreement is made expressly subject to Section 17-4 of the Charter of the City of Greeley. Greeley grants no interest in the Water Rights to the Lessee other than as explicitly set forth in this Agreement. Lessee shall make no claim to any rights, title, or interest in the Water Rights other than as explicitly set forth in this Agreement. This Agreement does not create a partnership or joint venture of any kind between the parties, and the Lessee shall bear the entirety of any loss, cost, or expense incurred through their use of the Water Rights on the Property.

8. No Guarantee of Yield. Lessee is entitled to receive the amount of water yielded by the Water Rights, subject to the terms and conditions in this Agreement. Greeley makes no warranty, guarantee, or representation of any kind regarding the quality or physical yield of water to be delivered pursuant to the Water

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Rights. Lessee shall not hold Greeley liable for any failure in delivery of the water pursuant to the Water Rights, including, but not limited to, that caused by force of nature or failure of water supply infrastructure.

9. Maintenance of Infrastructure. Lessee shall maintain the lateral ditches, headgates, and other personal property necessary to deliver water pursuant to the Water Rights at Lessee's own cost and expense. Lessee shall make all repairs and restorations necessary to keep the lateral ditches, headgates, and other personal property in good working condition during the term of this Agreement.

10. Indemnification; Immunity. Lessee agrees to exercise Lessee's rights under this Agreement at Lessee's own risk. Lessee shall indemnify and hold harmless Greeley from and against any cost, expense, or liability arising out of or relating to Lessee's exercise of its rights or obligations under this Agreement, including, without limitation, the use of the Water Rights. Nothing in this Agreement is intended to constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as applicable now or hereafter amended.

11. Notice. All notices to be given under this Agreement shall be (1) sent by certified or registered mail, return receipt requested, or (2) hand-delivered at the addresses set forth above. Lessee shall provide written notice to Greeley if the appropriate contact information changes.

12. Default and Termination. If either Greeley or Lessee fails to comply with a term or condition herein, such failure constitutes a default of this Agreement. The non-defaulting party may declare the default by providing written notice to the defaulting party in accordance with Paragraph 11 above. Upon receipt of this notice of default, the defaulting party will have fifteen days within which to cure the default. If, in the sole discretion of the non-defaulting party, the default remains uncured after the aforementioned fifteen-day cure period, or after any written extension thereof mutually agreed upon by the parties, the non-defaulting party may declare the Agreement terminated by written notice in accordance with Paragraph 11 above.

(a) Notwithstanding the above, failure by the Lessee to comply with the terms and conditions of Paragraphs 3, 4 or Paragraph 6 of this Agreement constitutes a material breach. In the event that the Lessee commits a material breach, Greeley may immediately terminate this Agreement by written notice to Lessee.

(b) The failure of either party to declare a default or material breach does not establish a precedent or constitute an implied waiver of any subsequent breach of the terms and conditions in this Agreement.

13. Cessation of Irrigation. Upon expiration or termination of this Agreement, Lessee shall immediately cease agricultural irrigation of the Property with the Water Rights.

14. Good Faith Negotiation of Lease Renewal upon Expiration. Greeley acknowledges that it will be open to discussing new or renewal leases in good faith after the expiration of the Initial Term and all subsequent Renewal Terms, if the Water Rights are available for continued irrigation use at that time. Lessee understands and acknowledges that this representation is non-binding, but intended to represent the desire of Greeley and Lessee to negotiate a new or renewal lease in good faith after this Agreement expires. Nothing in this paragraph shall be interpreted to create an obligation on the part of Greeley or Lessee to renew this Agreement after its expiration or termination.

15. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any parties other than Lessee and Greeley, or their respective permissible successors in interest.

16. Recovery of Costs and Fees. In addition to any remedies otherwise available, a party that is successful in a legal action commenced against the other due to a default or material breach of this Agreement may

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recover from the defaulting party reasonable costs and attorneys' fees incurred during the course of such legal action.

17. Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. Proper venue for any action arising out of this Agreement is the District Court for Weld County, Colorado, or the Division 1 Water Court for the State of Colorado.

18. Severability. In the event a provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding will not invalidate any other provision herein, and the remainder of the Agreement should be interpreted in accordance with the intent of the parties.

19. Integration. This Agreement constitutes a complete integration of the understanding and agreement between Greeley and Lessee with respect to the subject matter herein, and supersedes all other lease agreements regarding the Water Rights. No representations, negotiations, or warranties, express or implied, exist between Greeley and Lessee except as explicitly set forth in this Agreement. This Agreement may only be modified in a written form duly authorized, approved, and executed by Greeley and Lessee.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Executed copies of this Agreement may be delivered by electronic means. The parties agree to accept and be bound by signatures hereto delivered by electronic means.

21. Recording. Lessee shall not record this Agreement in the real property records of any jurisdiction. This Agreement is not intended to run with the land as a covenant burdening real property.

IN WITNESS WHEREOF, the undersigned parties have executed this Irrigation Water Lease Agreement on the date first set forth above.

LESSEE
LONGS PEAK DAIRY, LLC

By: _____

Date: _____

Name: _____

Title: _____

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CITY OF GREELEY,
a Colorado home rule municipal corporation
acting by and through its Water Enterprise

By: _____
Mayor

Date: _____

ATTEST

By: _____
City Clerk

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 2022
by _____, as _____ of the Lessee, Longs Peak Dairy, LLC.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT B
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EXHIBIT A
IRRIGATION WATER LEASE AGREEMENT
(Description of the Property)

STATE OF COLORADO)
) ss.
COUNTY OF)

EXHIBIT B
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The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by _____.

Witness my hand and official seal.

Notary Public

My commission expires: _____

QUESTIONNAIRE REGARDING USE OF WATER SHARES

*The person completing this questionnaire need not necessarily be the Lessee,
but must have personal knowledge of the information provided*

1. Name: _____
Mailing Address: _____

Telephone: _____
Facsimile: _____
Email Address: _____

2. The information provided below pertains to _____ shares of the _____ Company, represented by Certificate No. _____ (hereinafter "Shares").

3. Did you use the Shares pursuant to a Lease Agreement? _____
Date of the Lease: _____
Name of Lessee (if different from Question 1): _____
Name of Lessor: _____

4. The information in this questionnaire relates to my use of the Shares during the [20__] irrigation season (hereinafter "Lease Year").

5. Do you still own the farm or parcel irrigated by these Shares? _____

6. Was your use of the Shares during the Lease Year consistent with all terms and conditions of the Lease Agreement and with the bylaws, rules, regulations, and policies of the ditch company? _____

7. What is the legal description of the farm or parcel on which these Shares were used?

8. What is the total size of the farm or parcel? _____ acres.

9. What is the size of the area(s) on the farm or parcel that was irrigated? _____ acres.

10. What is the size of the area(s) on the farm or parcel that was irrigated using water from the Shares? _____ acres.

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FORM - DO NOT EXECUTE

11. Please provide the following information regarding how the water from these Shares is delivered.

- Location and ID Number of the head gate at the main ditch: _____
_____.
- Name and general location of any lateral(s) delivering the water to the land historically irrigated:
_____.
- Identification of any carrier or lateral ditch stock required to deliver these rights:
_____.
- Approximate location of pumps, if used: _____
_____.
- Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used:
_____.

12. How was water applied during the Lease Year? Sprinkler _____ Furrow _____ Flood _____
Other/Combination (Describe): _____.

13. What was the irrigation season for the Lease Year? Start Date: _____ Stop Date: _____

14. During the Lease Year, did you divert and irrigate with all water available under the Shares? _____.
If no, please explain the reason why all water was not taken, approximately how much was not taken, and for how long: _____

_____.

15. Other than the Shares leased, was any other water (including other shares that are in the same Company as the Shares that are the subject of this questionnaire) used to irrigate the farm or parcel on which the Shares are/were used during the Lease Year? If so, please provide the following information.

- Number of shares: _____
- Ditch Company: _____
- Number of any Irrigation Wells: _____
- Identification and Permit No. of any Irrigation Wells: _____
_____.
- Capacity of Irrigation Wells: _____
- Approximate location of Irrigation Wells: _____
_____.
- Any other water used: _____

16. Describe how the water has been used, including the estimated percentage of the total irrigation supply provided by such water: _____
_____.

17. During the Lease Year, what crops were grown on the land irrigated by the Shares?

1. Crop: _____ Percentage: _____ Location: _____
2. Crop: _____ Percentage: _____ Location: _____

EXHIBIT B
FORM - DO NOT EXECUTE

3. Crop: _____ Percentage: _____ Location: _____
4. Crop: _____ Percentage: _____ Location: _____
5. Crop: _____ Percentage: _____ Location: _____
6. Crop: _____ Percentage: _____ Location: _____

18. Were the lands on which the Shares were used subirrigated? Yes _____ No _____

19. If possible, please provide a map, sketch, or aerial photograph showing locations of (*check if included*):

_____ Farm or Parcel
_____ Areas irrigated by the Shares during the Lease Year
_____ Areas irrigated with other water
_____ Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

Signature: _____ Date: _____

EXHIBIT C
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SECOND AGREEMENT FOR RIGHT OF FIRST REFUSAL

This SECOND AGREEMENT FOR RIGHT OF FIRST REFUSAL ("Agreement") is entered into this ____ day of _____ 2022, by and between the CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11th Avenue, Second Floor, Greeley, Colorado 80631 ("Greeley"), and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80650 ("Longs Peak").

Recitals

WHEREAS, Greeley has acquired from Longs Peak certain water rights represented by two (2) shares of capital stock in The Water Supply and Storage Company and the associated lateral companies, pursuant to the Water Rights Trade Agreement executed by and between the parties on _____ ("Trade Agreement"); and

WHEREAS, those water rights acquired by Greeley pursuant to the Trade Agreement were included in and subject to that certain Agreement for Rights of First Refusal, executed by and between the parties on September 9, 2021; and

WHEREAS, Longs Peak did not receive a bona fide offer on the rights in advance of conveying them to Greeley pursuant to the Trade Agreement; and

WHEREAS, in addition to those water rights conveyed to Greeley pursuant to the Trade Agreement, Longs Peak also owns those certain water rights represented by two (2) shares of capital stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. 6480 ("Additional Greeley ROFR Water Rights"); and

WHEREAS, Greeley and Longs Peak agreed, as is more particularly described in the Trade Agreement, to execute an agreement by which Longs Peak would grant to Greeley a right of first refusal to purchase the Additional Greeley ROFR Water Rights; and

WHEREAS, Greeley and Longs Peak have reached an agreement regarding the right of first refusal on the Additional Greeley ROFR Rights as described above, and desire to reduce that agreement to writing; and

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Greeley and Longs Peak agree as follows.

Agreement

1. Incorporation of Recitals. Greeley and Longs Peak acknowledge that the foregoing recitals are true, correct, binding, and incorporated into this Agreement as though restated in their entireties.

2. Term of Agreement. The term of this Agreement begins on the date of mutual execution and expires (a) after a period of thirty (30) years, or (b) after the right of first refusal granted herein has been exhausted by Greeley against the Additional Greeley ROFR Water Rights in their entireties, whichever occurs sooner.

3. Greeley Right of First Refusal. Longs Peaks hereby grants to Greeley a right of first refusal to purchase the Additional Greeley ROFR Water Rights upon the receipt by Longs Peak of any written bona fide purchase offer for the Additional Greeley ROFR Water Rights. Upon its receipt of such an offer, Longs Peak shall notify Greeley of the offer within seven (7) days. Longs Peak shall provide such notice in writing and include a copy of the offer with the notice. Upon receipt of notice from Longs Peak that it received such an offer to purchase the Additional Greeley ROFR Water Rights, Greeley shall have a vested option to purchase the subject Additional Greeley ROFR Water Rights, and respond in writing within thirty-five (35) days to indicate whether it will purchase

EXHIBIT C
FORM - DO NOT EXECUTE

the Additional Greeley ROFR Water Rights for the price listed in the offer, on the terms and substantially in the form of the purchase agreement attached hereto as Exhibit A. The failure of Greeley to respond within thirty-five (35) days shall be deemed an election not to exercise its right of first refusal.

4. Scope of Right of First Refusal. Greeley and Longs Peak acknowledge that the right of first refusal granted by this Agreement is intended to apply to all or any portion of the Additional Greeley ROFR Water Rights, and that the right of first refusal may be triggered and exercised on multiple occasions if separate offers are received for portions of the Additional Greeley ROFR Water Rights. The failure by Greeley to exercise its right of first refusal as to a portion of the Additional Greeley ROFR Water Rights does not constitute a precedent nor a waiver of its right of first refusal as to any other portion of the Additional Greeley ROFR Water Rights.

5. Right of First Refusal Subject to Option Agreement. Greeley acknowledges that Longs Peak previously granted to a third party an irrevocable option to purchase the Additional Greeley ROFR Water Rights, which option expires on September 15, 2022, but may be extended for an additional four (4) years in annual renewal periods of twelve (12) months each ("Option Agreement"). Greeley acknowledges that this Agreement is subject to the Option Agreement in its current form. Longs Peak shall notify Greeley within fourteen (14) days after the expiration or termination of the Option Agreement.

6. Notice. All notices to be given under this Agreement shall be sent both by (a) certified or registered mail, return receipt requested, or hand-delivered, and (b) electronic mail, using the addresses set forth below. Greeley and Longs Peak shall promptly notify the other party if the appropriate contact information for notice changes.

If to the City of Greeley:	City of Greeley Water and Sewer Department Attention: Director of Water and Sewer 1001 11 th Avenue, 2nd Floor Greeley, Colorado 80631 Telephone: (970) 350-9812 Email: WSAdmin@greeleygov.com
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With a copy to:	City of Greeley City Attorney's Office Attention: Environmental and Water Resources 1100 10 th Street, Suite 401 Greeley, Colorado 80631 Telephone: (970) 350-9757 Email: CityAttorney@greeleygov.com
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If to Longs Peak Dairy, LLC:	Longs Peak Dairy, LLC, Attention: Wade Potberg 45490 County Road 39 Pierce, Colorado 80524 Telephone: (970) 539-4651 Email: wadepodtburg@gmail.com
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With a copy to:	Otis & Bedingfield, LLC Attention: Jeff Bedingfield 2725 Rocky Mountain Avenue, Suite 320 Loveland, CO 80538 Telephone: 970-663-7300 Email: jbedingfield@nocoattorneys.com
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7. Restriction on Assignment. Neither Greeley nor Longs Peak shall assign any right or interest in this Agreement without the prior written consent of the other party.

8. Binding on Successors and Assigns. Subject to the restriction set forth in paragraph 6 above, this Agreement is binding upon the successors in interest and permissible assigns of Greeley and Longs Peak.

9. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any parties other than Greeley and Longs Peak, or their respective permissible successors in interest.

10. Default by Longs Peak; Remedies. In the event that Longs Peak fails to comply with paragraph 3 above, such failure constitutes a default of this Agreement and Greeley shall be entitled to, in its sole discretion:

(a) Purchase all remaining Additional Greeley ROFR Water Rights not conveyed by Longs Peak in the defaulting transaction, at one-half (½) of the price per share agreed to by Longs Peak in the defaulting transaction, on the terms and substantially in the form of the purchase agreement attached hereto as Exhibit A; or

(b) Terminate this Agreement with immediate effect and seek any and all available remedies, including, without limitation, damages and specific performance; or

(c) If Longs Peak conveys all remaining Additional Greeley ROFR Water Rights in a defaulting transaction, terminate this Agreement with immediate effect and receive liquidated damages in the amount of twenty percent (20%) of the total compensation paid for the Additional Greeley ROFR Water Rights in the defaulting transaction. Greeley and Longs Peak acknowledge that damages would be difficult to determine in such an event, and that this percentage is a reasonable estimate of damages.

11. Recovery of Costs and Fees; Waiver. In addition to such remedies otherwise available, a party that is successful in a legal action commenced against the other due to a default of this Agreement may recover from the defaulting party reasonable costs and attorneys' fees incurred during the course of such legal action. The failure by either party to declare a default does not establish precedent or constitute an implied waiver of any subsequent breach of the terms and conditions in this Agreement. Any such waiver must be made explicitly in a duly authorized writing.

12. Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. Proper venue for any action arising out of this Agreement is the District Court for Weld County, Colorado.

13. Severability. In the event a provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate any other provision herein, and the remainder of the Agreement should be interpreted in accordance with the intent of the parties, unless such interpretation would frustrate the purpose of the Agreement.

14. Integration and Amendment. This Agreement constitutes a complete integration of the understanding and agreement between Greeley and Longs Peak with respect to the Additional Greeley ROFR Rights. No representations, negotiations, or warranties, express or implied, exist between Greeley and Longs Peak concerning the Additional Greeley ROFR Rights except as explicitly set forth in this Agreement. This Agreement may only be modified in a written form duly authorized, approved, and executed by Greeley and Longs Peak.

15. Counterparts; Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

EXHIBIT C
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Executed copies of this Agreement may be delivered by electronic means. The parties agree to accept and be bound by electronic signatures.

IN WITNESS WHEREOF, the undersigned parties have executed this Second Agreement for Right of First Refusal on the date first set forth above.

CITY OF GREELEY,
a Colorado home rule municipal corporation
acting by and through its Water Enterprise

By: _____
Sean Chambers
Director of Water and Sewer

Date: _____

LONGS PEAK DAIRY, LLC
a Colorado limited liability company

By: _____
Name: _____
Title: _____

Date: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____ 2022
by _____, as _____ of Longs Peak Dairy, LLC.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT C
EXHIBIT A
FORM - DO NOT EXECUTE
Second Agreement for Right of First Refusal

PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(Longs Peak Dairy, LLC)

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered into as of the Effective Date (as defined in Section 1.2 below) by and between LONGS PEAK DAIRY, LLC, a Colorado limited liability company (“Seller”), and THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, acting by and through its WATER ENTERPRISE (“Greeley”) (Seller and Greeley each being a “Party” and collectively the “Parties”).

RECITALS

A. Seller owns real property located in Weld County, Colorado, legally described on Exhibit “A-1” and depicted on Exhibit “A-2”, attached hereto and incorporated herein by reference (“Land”);

B. Seller is the sole owner of water and water rights represented by [] shares of stock in The Water Supply and Storage Company (the “Ditch Company”), evidenced by Stock Certificate No. [] issued in the name of Seller (the “Certificate”), which have historically been delivered through the Larimer County Canal;

C. To the best of the Parties’ knowledge and belief, said Certificate represents ownership of and the right to divert and use water under and a proportional interest in the water rights listed below (the “Water Rights”); and

Appropriation Date	Amount (c.f.s.)	Source	Case No.	Adjudication Date

D. Seller desires to sell, and Greeley desires to purchase, the Property (defined below).

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, Seller and Greeley hereby agree as follows:

EXHIBIT C
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AGREEMENT

ARTICLE 1
DEFINITIONS

In addition to words and terms elsewhere defined in this Agreement, including the recitals hereto, the following words and terms used in this Agreement shall have the following meanings:

- 1.1 “*Agreement*” means this purchase and sale agreement.
- 1.2 “*Board*” means the Greeley Water and Sewer Board.
- 1.3 “*Certificate*” has the meaning given in Recital B.
- 1.4 “*Closing*” means the closing of this transaction.
- 1.5 “*Closing Date*” means the date of the Closing.
- 1.6 “*Company*” means The Water Supply and Storage Company.
- 1.7 “*Covenants*” means the Restrictive Covenants-No Irrigation and Revegetation, in the form of Exhibit B attached hereto and incorporated herein.
- 1.8 “*Effective Date*” means the date upon which the last party hereunder signs this Agreement in accordance with Sections 13.15 and 13.16 below.
- 1.9 “*Deposit*” has the meaning given in Section 3.2.
- 1.10 “*Governmental Approval Period*” has the meaning given in Section 6.1.A.
- 1.11 “*Inspections*” has the meaning given in Section 5.1.A.
- 1.12 “*Inspection Period*” has the meaning given in Section 5.1.A.
- 1.13 “*Land*” means the real property defined under Recital A above.
- 1.14 “*Material Part*” means a portion of the Property that would have a material adverse effect on Greeley’s use of the Property as determined by Greeley in its good faith judgment.
- 1.15 “*Off-Record Documents*” has the meaning given in Section 4.1.C.
- 1.16 “*Property*” means the Water Rights, together with Covenants on the Land.
- 1.17 “*Purchase Price*” has the meaning given in Section 3.1.
- 1.18 “*Specified Sum*” has the meaning given in Section 9.4.

EXHIBIT C
FORM - DO NOT EXECUTE

1.19 “*Title Commitment*” means a commitment for an owner’s policy of title insurance.

1.20 “*Title Company*” means Land Title Guarantee Company.

1.21 “*Title Documents*” has the meaning given in Section 4.1.A.

1.22 “*Water Rights*” has the meaning given in Recital B. above.

ARTICLE 2
SALE OF PROPERTY

2.1 Seller agrees to sell, and Greeley agrees to buy, on the terms and conditions set forth in this Agreement, the Property.

2.2 Exclusions. The Property does not include, and Seller expressly excepts and reserves, the following:

ARTICLE 3
PURCHASE PRICE

3.1 Purchase Price. The total purchase price for the Property (“Purchase Price”) shall be _____ dollars [**\$0,000.00**].

3.2 Deposit and Release of Deposit. Within fourteen (14) days following the Effective Date of this Agreement, Greeley shall transfer and deposit with the Title Company _____ dollars [**\$0,000.00**] (“Deposit”). The Deposit shall be fully refundable to Greeley at any time prior to the expiration of the Inspection Period (defined below) if Greeley is not satisfied with the Property and shall be subject to return to Greeley either prior to or after the expiration of the Inspection Period upon termination of this Agreement pursuant to Section 5.2, Section 6.1, Section 9.3 and 10 below. The Deposit shall be deducted from the Purchase Price at Closing as provided in Section 3.3 below.

3.3 Closing. The Purchase Price (i) minus the Deposit; (ii) plus any other amounts required to be paid by Greeley at Closing; and (iii) plus or minus any prorations or credits, shall be paid at Closing by cashier's check, wire transfer or other immediately available funds.

ARTICLE 4
TITLE

4.1 Within fourteen (14) days after the Effective Date of this Agreement, Seller shall provide the following to Greeley for review:

A. A commitment for an owner’s policy of title insurance (“Title Commitment”) issued by the Title Company covering the Land in the amount of the Purchase Price, with such Title Commitment setting forth the status of title to the Land and showing the Title Company’s search results for all recorded liens, claims, encumbrances, easements, rights of way, encroachments, reservations, restrictions and other matters of record affecting title to the

EXHIBIT C
FORM - DO NOT EXECUTE

Land (the copies of all recorded documents in the Title Commitment are collectively referred to as “Title Documents”).

B. A fully executed historical consumptive use affidavit and questionnaire in the form of Exhibit “C” attached hereto and incorporated herein.

C. To the extent the same exist, request true and correct copies of all Company documents related to the Water Rights, including but not limited to, the delivery records and share trace. Seller agrees that Company documents, including but not limited to the share trace, are a necessary component of Greeley’s inspection activities. If the Company provides such documents less than seven (7) days before the Inspection Period (defined below), then the Inspection Period shall be automatically extended for an additional fourteen (14) days.

D. To the extent the same exist, true and correct copies of all: (i) documents that relate to the title, use, quantity, quality and condition of the Water Rights, including, but not limited to, any deeds or other conveyances, assignments, permits, adjudications or court orders, any testing reports, and any records maintained by Seller; (ii) contracts or other agreements relating to the development, operation, maintenance or leasing or otherwise affecting the Water Rights and/or Land; and (iii) any engineering, investigation or inspection document or reports related to the Water Rights and/or Land, (collectively referred to as “Off-Record Documents”).

4.2 Condition and Vesting of Title. At Closing, Seller shall convey the Water Rights to Greeley by special warranty deed, in the form attached as Exhibit “D” free and clear of all liens and encumbrances.

4.3 Title Insurance. The purpose of the Title Commitment is to enable Greeley to conduct the title review described in Article 5 below, and said Title Commitment shall be updated as necessary up to the Closing; however, neither Seller nor Greeley shall have any obligation under this Agreement to purchase a title insurance policy after Closing. Greeley may elect to acquire this insurance (limited to the Covenants attached hereto as Exhibit “B”) at its expense.

ARTICLE 5
INSPECTION PERIOD

5.1 Inspections.

A. Inspection Period; Right to Inspect. During a period of time commencing upon the Effective Date and continuing until 4:00 p.m., Mountain Time, on the sixty-third (63rd) day thereafter (“Inspection Period”), unless automatically extended in accordance with Section 4.1.C. above, Greeley and its authorized agents, representatives and consultants shall be entitled to: (i) enter upon the Land at all reasonable times, to perform such tests or inspections, as Greeley deems desirable, to allow Greeley to evaluate the Water Rights and the condition and use of the Property; (ii) contact and interview the managers, members, employees and agents of Seller to assist Greeley in determining the historical use of the Water Rights; (iii) contact the officers, directors, attorneys, and shareholders of the Company to inspect any Company records and/or determine under what conditions the Company will approve a change in the place of delivery or use, or the point of diversion, of the Water Rights and other Company shares obtained or to be

EXHIBIT C
FORM - DO NOT EXECUTE

obtained by Greeley, pursuant to the bylaws of the Company or other applicable law (collectively referred to as “Inspections”). Seller agrees to cooperate with Greeley to facilitate such interviews and/or the signing of any affidavits of use of the Water Rights by Seller or to facilitate such contact and/or request for information or determination by the Company. Greeley shall bear all costs of the Inspections. Seller agrees to reasonably cooperate with any such Inspections made by or at Greeley’s direction.

B. Conditions of Access. Greeley and its authorized agents, representatives and consultants (i) shall not unreasonably interfere with the operation and maintenance of the Land; (ii) shall comply with all reasonable requirements imposed upon them in connection with such inspection by Seller; (iii) shall not injure or otherwise cause bodily harm to Seller, their agents, contractors or employees; (iv) shall promptly pay when due the costs of all Inspections done with regard to the Property; (v) shall not permit any liens to attach to the Land by reason of the exercise of its rights hereunder; and (vi) shall restore the Land as nearly as practicable to substantially the same condition in which the Land was found before any such Inspections were undertaken. Notwithstanding anything in this Agreement to the contrary, Greeley shall not be permitted to perform any invasive tests on the Land without Seller’s prior written consent, which consent may be withheld in Seller’s sole discretion.

C. Deadlines. The table below contains a non-exclusive list of the dates and deadlines for this Agreement.

Section	Deadline	Date
§ 3.2	Deposit	Fourteen (14) days following the Effective Date
§ 4.1	Title Documents	Fourteen (14) days following the Effective Date
§ 4.1	Off-Record Documents	Fourteen (14) days following the Effective Date
§ 5.1	Inspection Period	Sixty-third (63rd) day following the Effective Date unless automatically extended in accordance with Section 4.1.C.
§ 5.2	Objections	On or before the expiration of the Inspection Period
§ 6.1.A	Governing Body Approval	Twenty-eight (28) days after the expiration of the Inspection Period (“ <u>Governmental Approval Period</u> ”)
§ 6.2	Closing Date	Fourteen (14) days after the expiration of the Governmental Approval Period
§ 9.3.C.	Default Cure Period	Within seven (7) days of written notice of default from the other Party
§10	Condemnation	Within fourteen (14) days after written notice

5.2 Objections. If during the Inspection Period, Greeley shall, for any reason, in Greeley’s sole discretion, judgment and opinion, disapprove or be dissatisfied with any aspect of the Property or its Inspections relating thereto, including, but not limited to, the following items, Greeley shall be entitled to terminate this Agreement by giving written notice to Seller on or before the expiration of the Inspection Period, whereupon the Deposit shall be returned to Greeley and all provisions of this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall terminate:

EXHIBIT C
FORM - DO NOT EXECUTE

A. Matters disclosed in (i) the Title Documents or (ii) the Off-Record Documents.

B. Greeley's ability to change the Water Rights for municipal use.

If written notice of termination is not given by Greeley to the Seller prior to the expiration of the Inspection Period, the Deposit shall not be refunded to the Greeley if, for any reason other than as a result of a default by Seller or pursuant to Section 6.1, Section 9.3 or Article 10, the Closing of this transaction does not occur.

ARTICLE 6
CLOSING

CLOSING CONTINGENCIES; CLOSING

6.1 Closing Contingencies. The obligations of Greeley to purchase the Property are subject to satisfaction of the following contingencies:

A. Governing Body Approval. The Board's authorization to close on the Property is contingent upon approval given within twenty-eight (28) days after the expiration of the Inspection Period ("Governmental Approval Period"). In the event that the Board has not authorized Closing on the Property prior to the expiration of the Governmental Approval Period, then, in such event, upon written notice by Greeley to Seller, this Agreement shall terminate, whereupon the Deposit shall be returned to Greeley and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement.

6.2 Closing. The Closing shall occur at 1:30 p.m. at the Title Company, or at such other time and place as may be mutually agreed upon by the Parties, fourteen (14) days after the expiration of the Governmental Approval Period or by mutual agreement at an earlier date.

6.3 Transactions at Closing.

A. On or before the Closing Date, Seller shall deliver or cause to be delivered to the Title Company, acting as escrow agent, the following documents duly executed and acknowledged where appropriate:

(1) A special warranty deed conveying the Water Rights free and clear of all liens and encumbrances in the form of Exhibit D.

(2) The original Certificate.

(3) A stock assignment(s) transferring ownership of the Certificate and the Water Rights in the form of Exhibit E.

(4) The Covenants.

EXHIBIT C
FORM - DO NOT EXECUTE

(5) A certificate of non-foreign status pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, together with any certificates required pursuant to Colorado law.

(6) A statement of authority designating the persons who are authorized to execute the special warranty deed, the stock assignments and all other applicable documents on behalf of the Seller.

(7) A certificate as to Taxpayer Identification Number as required by law.

(8) A closing statement executed by Seller.

(9) Such other documents as may be reasonably necessary and appropriate to complete the Closing of the transaction contemplated herein.

B. On or before the Closing Date, Greeley shall deliver to the Title Company, acting as escrow agent, the following:

(1) The Purchase Price, subject to credits and adjustments as herein provided, and such additional sums as are necessary to pay Greeley's share of closing costs, prorations and any fees as more particularly set forth herein.

(2) Documentation in such form as may be satisfactory to Seller and the Title Company, evidencing Greeley's full authority and capacity to purchase the Property.

(3) A closing statement executed by Greeley.

(4) Such other documents as may be reasonably necessary and appropriate to complete the Closing of the transaction contemplated herein.

ARTICLE 7
PRORATIONS; CLOSING COSTS

7.1 Ditch Assessments. Seller agrees to fully pay and continue to pay any and all assessments, including special assessments, levied by the Company associated with and accruing to the Certificates and Water Rights up to and including the Closing Date. At Closing, Greeley agrees to assume any such future obligations for assessments incurred after the Closing Date.

7.2 Closing Costs. Greeley shall pay for the cost of recording of the deed, the Covenants, water stock transfer fees and one-half (1/2) of the Title Company closing costs. Seller shall pay one-half (1/2) of the Title Company closing costs. Each Party shall pay its own attorneys' fees and Greeley shall be solely responsible for the payment of any escrow fees to the Title Company.

EXHIBIT C
FORM - DO NOT EXECUTE

ARTICLE 8
REPRESENTATIONS AND WARRANTIES.

8.1 Seller represents and warrants to Greeley as follows:

A. Ownership and Encumbrances. Seller is now and will remain, until the conclusion of the Closing, the lawful owner of the Water Rights. To the best of Seller's knowledge, the Water Rights are free of any liens, encumbrances and third party claims except those of Greeley. From the Effective Date of this Agreement until the Closing, and except for the Permitted Exceptions defined herein, Seller shall not encumber the Water Rights or any interest in any way nor grant any property or contract right relating to the Property or any other interests without the prior written consent of Greeley.

B. Litigation. To Seller's current actual knowledge, there is no dispute, action or litigation pending or threatened respecting the ownership or use of the Water Rights or other interests related thereto.

C. Contracts, Leases and Agreements. From the Effective Date of this Agreement until the Closing, unless accepted by Greeley in writing, Seller shall not enter into any contracts, leases, licenses, commitments or undertakings respecting the use or maintenance of the Water Rights by which Greeley would be obligated or liable to any third party.

D. Status. Seller has all requisite legal power and authority to own and convey the Property and perform all of the terms of this Agreement.

E. No Abandonment. The Water Rights have not been abandoned by Seller.

F. Compliance with Law. To the best of Seller's current actual knowledge, Seller has complied in all material respects with all laws, rules, regulations, ordinances, orders, judgments and decrees applicable to the Water Rights, and to Seller's current actual knowledge there is no proposed order, judgment, decree, governmental taking or other proceeding applicable to Seller which might adversely affect the Water Rights.

Seller shall provide Greeley with a written certification at Closing confirming that the foregoing representations are true and correct as of the Closing Date.

8.2 Water Rights Adjudication. The Parties acknowledge and agree that a change of Water Rights and/or other water rights adjudications may be necessary to allow Greeley's use of the Property for its intended purpose. Unless this Agreement is terminated pursuant to the provisions herein, Seller agrees that it shall not oppose, but shall cooperate with Greeley, in any actions Greeley files in Water Court or administrative or other proceedings for approval of the use of the Water Rights as part of an application for new water rights (including direct flow or storage rights), changes of water rights, exchanges or plans for augmentation or substitution or in connection with the Water Rights. Seller shall not be required to file briefs in support of Greeley's application or take any affirmative action other than to appear and testify honestly about the Water Rights and provide any documentation of use or other relevant historical use information. The terms and provisions set forth in this Section 8.2. and the covenants and

EXHIBIT C
FORM - DO NOT EXECUTE

obligations arising therefrom shall survive the Closing and shall not be deemed merged into the closing documents.

ARTICLE 9
CONDITIONS TO CLOSING; REMEDIES

9.1 Seller's Conditions. The obligation of Seller to sell and convey the Property under this Agreement is subject to the satisfaction of the following conditions precedent or conditions concurrent (the satisfaction of which may be waived only in writing by Seller):

A. Delivery and execution by Greeley of all monies, items, and other instruments required to be delivered by Greeley to the Closing.

B. All of the actions by Greeley required by this Agreement shall have been completed.

C. There shall be no uncured default by Greeley of any of their obligations under this Agreement.

9.2 Greeley's Conditions. The obligation of Greeley to acquire the Property under this Agreement is subject to the satisfaction of the following conditions precedent or conditions concurrent (the satisfaction of which may be waived only in writing by Greeley):

A. The appropriation of funds by the Greeley City Council for the Purchase Price.

B. Satisfaction of the closing contingencies under Section 6.1.

C. Delivery and execution by Seller of all items and other instruments required to be delivered by Seller to the Closing.

D. All of the actions by Seller contemplated by this Agreement shall have been taken.

E. There shall be no uncured default by Seller of any of its obligations under this Agreement.

F. The representations and warranties made by Seller as specifically set forth herein shall be true and correct as of the Closing Date and shall not be deemed waived in the event Greeley shall elect to close pursuant to Section 9.3A(3) below.

9.3 Failure of Condition.

A. Except as set forth in Section 9.3B below, in the event of a failure of any condition contained in Section 9.2, Greeley may in its sole discretion:

(1) Terminate this Agreement by notice to Seller, in which event:
(a) all funds deposited by Greeley under this Agreement as of such date shall be immediately

EXHIBIT C
FORM - DO NOT EXECUTE

returned to Greeley; and (b) all documents deposited by Greeley or delivered to Seller by Greeley shall be immediately returned to Greeley, and all documents deposited by Seller or delivered to Greeley by Seller shall be immediately returned to Seller; or

(2) Greeley may waive such default or condition and close the transaction; or

(3) If the failure of condition consists of a default by Seller which can be cured by action within the reasonable control of Seller, Greeley may elect to treat this Agreement as being in full force and effect and Greeley shall have the right to specific performance, damages, or both.

B. In the event of a failure of any condition contained in Section 9.1 above, Seller may in its sole discretion:

(1) Terminate this Agreement by notice to Greeley, in which event Seller shall retain the Deposit as liquidated damages and all documents deposited by Greeley or delivered to Seller by Greeley shall be immediately returned to Greeley, and all documents deposited by Seller or delivered to Greeley by Seller shall be immediately returned to Seller; or

(2) Seller may waive such default or condition and close the transaction.

C. The Seller hereby waives any rights it may have to specific performance in the event of a default by Greeley. Except for the giving of notices or the delivery of the Deposit or the Purchase Price, time being of the essence, neither Party shall be deemed in default hereunder unless such Party fails to cure such default within seven (7) days of written notice of default from the other Party.

9.4 Liquidated Damages. If Greeley defaults in any of its obligations under this Agreement, Seller shall be entitled to terminate this Agreement and retain the amount of the Deposit described in Section 3.2 ("Specified Sum"), as liquidated damages. SELLER AND GREELEY ACKNOWLEDGE THAT THE SELLER'S DAMAGES WOULD BE DIFFICULT TO DETERMINE AND THAT THE SPECIFIED SUM IS A REASONABLE ESTIMATE OF THE SELLER'S DAMAGES.

ARTICLE 10
CONDEMNATION

If prior to Closing all or a "Material Part" (defined below) of the Property and/or Land is subject to a proposed taking by any public authority, Seller shall promptly notify Greeley of such proposed taking and Greeley may terminate this Agreement by notice to Seller within fourteen (14) days after written notice thereof. If Greeley so elects, and following the return to Greeley of the Deposit, this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall be of no further force and effect. If Greeley does not terminate this Agreement, or if the taking is as to a non-Material Part of the Property, Greeley shall accept title to the Property subject to the taking without a reduction in the Purchase Price and shall receive at Closing an assignment of all of Seller's rights to any

EXHIBIT C
FORM - DO NOT EXECUTE

condemnation award and Greeley shall have the sole right after the Closing to negotiate and otherwise deal with the condemning authority in respect of such matter. A Material Part of the Property for purposes of this Article 10 shall mean a portion that would have a material adverse effect on Greeley's use of the Property as determined by Greeley in its good faith judgment.

ARTICLE 11
BROKERAGE

Seller and Greeley hereby warrant to each other that there are no real estate agents or other brokers or finders involved in this transaction who are entitled to receive a brokerage or finder's fee. Seller agrees to indemnify Greeley and hold Greeley harmless from any loss, liability, damage, cost or expense (including, without limitation, reasonable attorneys' fees) paid or incurred by Greeley by reason of any claim to any broker's, finder's or other fee in connection with this transaction by any third party claiming by, through or under Seller, excluding, however, any party claiming through Greeley, its successors or assigns. This obligation shall survive the Closing of this transaction.

ARTICLE 12
NOTICES

Any notice or other communication given by any of the Parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given by delivery to the respective addresses provided below, or such other address changed by the recipient by notice consistent with this Article: (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at such address; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at such address; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed to such address; or (iv) if an e-mail address is specified, on the date and at the time shown on the e-mail message if sent to the e-mail address specified below, with no bounce-back received within three (3) days:

EXHIBIT C
FORM - DO NOT EXECUTE

If to Seller:

Longs Peak Dairy, LLC,
Attention: Wade Potberg
45490 County Road 39
Pierce, Colorado 80524
Telephone:
Email: wadepodtburg@gmail.com

With a copy to:

Otis & Bedingfield, LLC
Attention: Jeff Bedingfield
2725 Rocky Mountain Avenue, Suite 320
Loveland, CO 80538
Telephone: 970-663-7300
Email: jbedingfield@nocoattorneys.com

If to Greeley:

City of Greeley
Attention: Director, Water and Sewer
1001 11th Street, 2nd Floor
Greeley, CO 80631
Telephone: (970) 350-9812
Email:

With a copy to:

City of Greeley
Attention: City Attorney
1100 10th Street, Ste. 401
Greeley, CO 80631
Telephone: (970) 350-9757
Email:

ARTICLE 13
MISCELLANEOUS

13.1 No Waiver of Governmental Immunity/No Third Party Beneficiary. This Agreement shall not create any duty of care or liability with respect to any person or entity not a party to this Agreement, or waive any of the privileges or immunities Greeley or its officers, employees, successors and assigns may present pursuant to law, including, but not limited to, the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as amended.

EXHIBIT C
FORM - DO NOT EXECUTE

13.2 Time. Time is of the essence as to each provision of this Agreement and the performance of each Party's obligations hereunder.

13.3 Attorneys' Fees. If any legal action, arbitration or other proceeding is commenced to enforce or interpret any provision of this Agreement or to enforce any indemnity, the prevailing party shall be awarded its attorneys' fees and expenses, in addition to any other relief granted. The phrase "prevailing party" shall include a party who receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. This provision shall survive the termination of this Agreement.

13.4 No Waiver. No waiver by any Party of the performance or satisfaction of any covenant or condition shall be valid unless in writing and shall not be considered to be a waiver by such Party of any other covenant or condition hereunder.

13.5 Entire Agreement. This Agreement contains the entire agreement among the Parties regarding the Property and supersedes all prior agreements, whether written or oral, among the Parties regarding the same subject, excluding only the Easement Purchase Agreement and the closing documents executed in connection therewith. This Agreement may only be modified by mutual written agreement duly authorized and executed by the parties.

13.6 Survival of Representations and Warranties. All representations, obligations, liabilities, warranties, covenants, agreements and monetary obligations of Seller and Greeley as set forth in this Agreement shall survive the Closing and consummation of this transaction contemplated by this Agreement until the complete discharge thereof. All warranties of title set forth in any deed or assignment delivered or made hereunder shall survive without limit.

13.7 Successors. Subject to Section 13.8, this Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

13.8 Assignment. This Agreement is not assignable by Seller or Greeley without first obtaining the prior written approval of the other Party. No assignment shall relieve either of the Parties from its respective obligations hereunder if such obligations are not properly discharged by the assignee of such Party.

13.9 Relationship of the Parties. The Parties acknowledge that neither Party is an agent for the other Party, and that neither Party shall or can bind or enter into agreements for the other Party.

13.10 Governing Law and Construction. This Agreement and the legal relations between the Parties hereto shall be governed by and construed in accordance with the laws of the State of Colorado. The Parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

13.11 Possession. Seller shall deliver to Greeley possession of the Property, subject to the Permitted Exceptions on the Closing Date, upon release from escrow of all items to be delivered by Greeley to the Closing, including, without limitation, the Purchase Price.

EXHIBIT C
FORM - DO NOT EXECUTE

13.12 Review by Counsel. The Parties acknowledge that each Party and its legal counsel have reviewed and approved this Agreement.

13.13 Calendar Days. In the event any time period set forth in this Agreement commences, expires or is determined from a date which falls on a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day, the date of such commencement, performance, expiration or determination shall automatically be extended to the next business day which is not a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day.

13.14 Counterparts. This Agreement may be executed in any number of counterparts each of which, when taken together, shall constitute one agreement. This Agreement shall only be effective when counterparts are signed by both Seller and Greeley.

13.15 Water and Sewer Board Approval Required. GREELEY'S OBLIGATIONS UNDER THIS AGREEMENT ARE EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS AGREEMENT BY THE GREELEY WATER AND SEWER BOARD.

13.16 Acceptance. Upon execution and delivery of this Agreement by Seller and Greeley, as approved by the Board, this Agreement shall constitute an agreement to purchase the Property on the terms and conditions set forth herein. IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set opposite their respective signatures below.

LONGS PEAK DAIRY, LLC, a Colorado
Limited Liability Company

Date: _____

Name: _____

Title: _____

EXHIBIT C
FORM - DO NOT EXECUTE

THE CITY OF GREELEY, COLORADO,
a Colorado home rule municipal
corporation

Date: _____

By _____

Name: _____

Title: Water and Sewer Board Chairman

APPROVED AS TO SUBSTANCE:

APPROVED AS TO LEGAL FORM:

By _____
City Manager

By _____
City Attorney

AVAILABILITY OF FUNDS:

By _____
Director of Finance

EXHIBIT C
EXHIBIT A
FORM - DO NOT EXECUTE
Second Agreement for Right of First Refusal

EXHIBIT "A-1" TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

EXHIBIT C
FORM - DO NOT EXECUTE

EXHIBIT “A-2” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY

(SELLER)

(See attached Survey of the Land)

EXHIBIT C
FORM - DO NOT EXECUTE

EXHIBIT “B” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY

(SELLER)

(See attached Restrictive Covenant – No Irrigation and Revegetation)

EXHIBIT C
FORM - DO NOT EXECUTE

EXAMPLE DO NOT EXECUTE

RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation (the "Greeley"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by Greeley and described in Exhibit "1" attached hereto and made a part hereof (the "Water Rights"), _____ (the "Declarant"), agrees, warrants and covenants, and the undersigned leaseholder and lienholder, if any, acknowledge and approve, on Declarant's own behalf and on behalf of all successors in interest, that upon notice from Greeley, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit "2" attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from Greeley, thereafter Declarant and Declarant's successor in interest shall not irrigate the Land. These covenants shall not prohibit Declarant or Declarant's successor in interest from irrigating the Land (i) with other water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water rights applications filed by the City or a successor in interest to the Water Rights; (ii) with water from an existing well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider ("Alternate Water Rights").

Unless so irrigated, then within two and one half (2½) years from the date Declarant ceases to irrigate the Land or any portion thereof with Alternate Water Rights, Declarant or Declarant's successors in interest shall establish, at Declarant's or Declarant's successors in interest's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the previously irrigated portions of the Land to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5). Here, "previously irrigated portions of the Land" means portions of the Land not occupied by roads, buildings, or other structures, which was cultivated with crops in accordance with these covenants. Declarant, or Declarant's successors in interest, shall provide notice to Greeley when such revegetation of the Land has been established. Declarant agrees the Land subject to these covenants shall not be planted with crops which are capable of extending roots into the underlying groundwater, including but not limited to the growing of alfalfa.

Should Declarant or Declarant's successor in interest fail to comply with its obligations hereunder, Greeley shall have the right to come upon the Land and take all measures necessary to accomplish the Declarant's obligations hereunder, including but not limited to revegetation

EXHIBIT C
FORM - DO NOT EXECUTE

and/or noxious weed management on the Land, provided that Greeley shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successor in interest. Any and all fees and costs incurred in any necessary action to enforce these Restrictive Covenants by City, including reasonable attorney fees, shall be paid by Declarant. Additionally, Greeley shall have the right to come upon the Land to verify Declarant's compliance with its obligations hereunder, with any such inspections being at the sole expense of Greeley. All rights to enter upon the Land granted herein shall terminate upon a final determination by the District Court for Water Division No. 1, State of Colorado, under the court's retained jurisdiction, that no further actions will be necessary in order to satisfy Declarant's revegetation obligations.

The foregoing covenants shall burden, attach to, and run with the Land and shall be binding upon Declarant and Declarant's successors, assigns and any other person who acquires an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to, and run with the Water Rights and shall inure to the benefit of Greeley's successors, assigns, and any other person who acquire an ownership interest in the Water Rights. Declarant warrants and represents such covenants shall entitle Greeley to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by Greeley or its successors in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of Greeley or its successors in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at: _____.

IN WITNESS WHEREOF, the Declarant have executed this instrument on the ____ day of _____, 20__.

Declarant:

By: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 20__ by _____.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT C
FORM - DO NOT EXECUTE

EXHIBIT “1” TO RESTRICTIVE COVENANT (NO IRRIGATION AND REVEGETATION)
(Description of the Water Rights)

EXHIBIT C
FORM - DO NOT EXECUTE

EXHIBIT "2" TO RESTRICTIVE COVENANT (NO IRRIGATION AND REVEGETATION)
(Description of the Land)

EXHIBIT C
FORM - DO NOT EXECUTE

EXHIBIT “C” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

(See attached Historical Use Affidavit and Questionnaire)

EXHIBIT C
FORM - DO NOT EXECUTE

AFFIDAVIT OF HISTORICAL USE OF WATER RIGHTS

DESCRIPTION OF WATER RIGHTS:

Ditch or Reservoir Company: _____
Shares or Interest: _____

Name and address of owner and user of water rights:

Owner(s): _____

User(s): _____

Year water rights were used as described: _____

DESCRIPTION OF HISTORICALLY IRRIGATED LAND:

Legal description and size/acreage of land irrigated by above-mentioned water rights:

Name and address of owner(s) of above-mentioned irrigated land if different from owner or user of the water rights: _____.

I have not intended to abandon the aforementioned water rights during my period of use. I state that the information contained here and in the attached Questionnaire Regarding Use of Water Shares, which is incorporated herein by reference, is known to me and is correct.

The undersigned _____, having personal knowledge of the irrigation of the above described lands by virtue of being the owner and/or person who has farmed and irrigated those lands, being first duly sworn, hereby states that the information provided in this statement is true and accurate.

Signed and dated this _____ day of _____, 20__.

[SELLER]

By:_____

[illegible]

EXHIBIT C
FORM - DO NOT EXECUTE

The foregoing Affidavit of Historical Use of Water Rights was acknowledged before me
this _____ day of _____, 20__ by _____.

Witness my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT C
FORM - DO NOT EXECUTE

QUESTIONNAIRE REGARDING USE OF WATER SHARES

The person completing this questionnaire must have personal knowledge of the information provided

1. Name: _____
Mailing Address: _____

Telephone: _____
Facsimile: _____
Email Address: _____

2. The information provided below pertains to _____ shares of the _____ Company, represented by Certificate No. _____ (hereinafter "Shares").

- Did you use the Shares pursuant to a Lease Agreement? _____
- Date of the Lease: _____
- Name of Lessee (if different from above): _____
- Name of Lessor: _____

3. The information in this questionnaire relates to my use of the Shares from _____ to _____ ("Ownership Period").

4. Do you still own the farm or parcel irrigated by these Shares? _____

5. Was your use of the Shares during the Ownership Period consistent with the bylaws, rules, regulations, and policies of the ditch company? _____

6. What is the legal description of the farm or parcel on which these Shares were used?

7. What is the total size of the farm or parcel? _____ acres.

8. What is the size of the area(s) on the farm or parcel that was irrigated? _____ acres.

9. What is the size of the area(s) on the farm or parcel that was irrigated using water from the Shares? _____ acres.

10. Please provide the following information regarding how the water from these Shares is delivered:

- Location and ID Number of the head gate at the main ditch: _____
_____.

EXHIBIT C
FORM - DO NOT EXECUTE

- Name and general location of any lateral(s) delivering the water to the land historically irrigated:_____.
- Identification of any carrier or lateral ditch stock required to deliver these rights:_____.
- Approximate location of pumps, if used: _____.
- Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used: _____.
- How was water applied during the Ownership Period? Sprinkler ____ Furrow ____
Flood ____
- Other/Combination (Describe): _____.

11. During the Ownership Period, did you divert and irrigate with all water available under the Shares?_____. If no, please explain the reason why all water was not taken, approximately how much was not taken, and for how long: _____

_____.

12. Other than the Shares, was any other water (including other shares that are in the same Company as the Shares that are the subject of this questionnaire) used to irrigate the farm or parcel on which the Shares are/were used during the Ownership Period? If so, please provide the following information.

- Number of shares: _____
- Ditch Company: _____
- Number of any Irrigation Wells: _____
- Identification and Permit No. of any Irrigation Wells: _____
_____.
- Capacity of Irrigation Wells: _____
- Approximate location of Irrigation Wells: _____
_____.
- Any other water used: _____

13. Describe how the water has been used, including the estimated percentage of the total irrigation supply provided by such water: _____
_____.

14. During the Period of Ownership, what crops were grown on the land irrigated by the Shares?

1. Crop: _____ Percentage: _____ Location: _____

EXHIBIT C
FORM - DO NOT EXECUTE

2. Crop: _____	Percentage: _____	Location: _____
3. Crop: _____	Percentage: _____	Location: _____
4. Crop: _____	Percentage: _____	Location: _____
5. Crop: _____	Percentage: _____	Location: _____
6. Crop: _____	Percentage: _____	Location: _____

15. Were the lands on which the Shares were used subirrigated? Yes _____ No _____

16. If possible, please provide a map, sketch, or aerial photograph showing locations of
(*check if included*):

_____	Farm or Parcel
_____	Areas irrigated by the Shares during the Lease Year
_____	Areas irrigated with other water
_____	Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

Signature: _____ Date: _____

EXHIBIT C
FORM - DO NOT EXECUTE

EXHIBIT “D” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

[See attached Special Warranty Deed]

EXHIBIT C
FORM - DO NOT EXECUTE

EXAMPLE DO NOT EXECUTE

WHEN RECORDED RETURN TO:

SPECIAL WARRANTY DEED
(Water Rights)

THIS DEED, made this ____ day of _____, 202_, between [NAME OF GRANTOR], whose address is _____ (“Grantor”), and THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, whose address, for purposes of this Deed, is 1001 11th Avenue, 2nd Floor, Greeley, Colorado, 80631 (“Grantee”).

WITNESSETH, that Grantor, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto Grantee, Grantee’s heirs and assigns forever all of the water rights described below (the “Water Rights”):

(a) The water rights represented by [NUMBER OF SHARES] share in the [NAME OF MUTUAL DITCH COMPANY] evidenced by Stock Certificate No. [____] (the “Shares”) and the water derived therefrom.

(b) All beneficial right, title and interest, if any, in all water, water rights, ditches, ditch rights, reservoirs, reservoir rights, canals, canal rights, headgates and all other assets, rights, title or interests represented by said Shares, and in addition, and in no way limited by the foregoing, any and all other right, title or interest in the [NAME OF MUTUAL DITCH COMPANY] represented by said Shares.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained Water Rights, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said Water Rights above bargained and described with the appurtenances, unto the Grantee, the Grantee's heirs and assigns forever. And the Grantor, for the Grantor, the Grantor’s successors and assigns, does covenant and agree that Grantor shall WARRANT AND FOREVER DEFEND the above-bargained Water Rights in the quiet and peaceable possession of the Grantee, the Grantee’s successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor.

EXHIBIT C
FORM - DO NOT EXECUTE

IN WITNESS WHEREOF, the Grantor has executed this deed on the ____ day of _____, 20__.

Grantor:

By:_____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 20__ by _____, whose signature appear above as the Grantor.

Witness my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT C
FORM - DO NOT EXECUTE

EXHIBIT “E” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

[See attached Stock Assignments]

EXHIBIT C
FORM - DO NOT EXECUTE

EXAMPLE DO NOT EXECUTE

ASSIGNMENT OF SHARES

(Stock Certificate No. ____)

For value received, the receipt, adequacy and sufficiency of which are hereby acknowledged, the undersigned, [SELLER], ("Assignor") hereby sell, assign, and transfer unto the CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation ("Assignee"), _____[X] share(s) of the capital stock, [**MAY NEED TO SPECIFY COMMON OR PREFERRED**] of [COMPANY] which stock is standing in the name of the undersigned on the books and records of the corporation represented by Certificate No. [____], free and clear of all liens, encumbrances and past-due assessments.

Assignors hereby authorize and empower the secretary of [COMPANY] to transfer said certificate, and to effectuate this assignment and transfer on the books of the [COMPANY].

[SELLER]

Dated: _____ By: _____
Name: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, by _____.

Witness my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT D-1**RESTRICTIVE COVENANTS (REVEGETATION)**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated Feb. 29, 2012, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S." The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.

EXHIBIT D-1

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

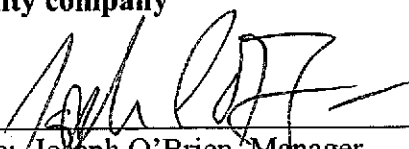
The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the 28th day of February, 2012.

Declarant:

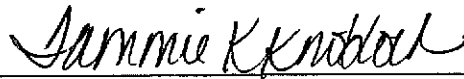
J & E Investments, LLC, a Colorado limited liability company

By: 

Name: Joseph O'Brien, Manager

Subscribed under oath before me on 2-29, 2012 by Joseph O'Brien, Manager, J&E Investments, LLC, a Colorado limited liability company.

My commission expires: 12-2-14



Notary Public



EXHIBIT D-1

**EXHIBIT A TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights.

EXHIBIT D-1

**EXHIBIT B TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.

EXHIBIT D-1**RESTRICTIVE COVENANTS (NO IRRIGATION)**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Upon receipt of 12-month prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

EXHIBIT D-1

the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

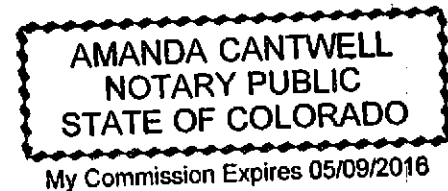
IN WITNESS WHEREOF, the Declarant and current Leaseholder has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 20 day of JUNE, 2014.

DECLARANT:

2370, LLC, a Colorado Limited Liability Company.

By: [Signature]
Todd Bean, MANAGER

STATE OF COLORADO)
)
COUNTY OF WELD) ss.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

Witness my hand and official seal.

My commission expires: 5/9/16

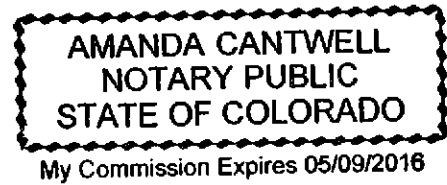
[Signature]
Notary Public

EXHIBIT D-1

CURRENT LEASEHOLDER:

By: Gary Boxberger
Gary Boxberger.

STATE OF COLORADO)
)
COUNTY OF WELD) ss.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Gary Boxberger.

Witness my hand and official seal.

My commission expires: 5/9/16

Amanda Cantwell
Notary Public

EXHIBIT D-1**EXHIBIT A TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

EXHIBIT D-1

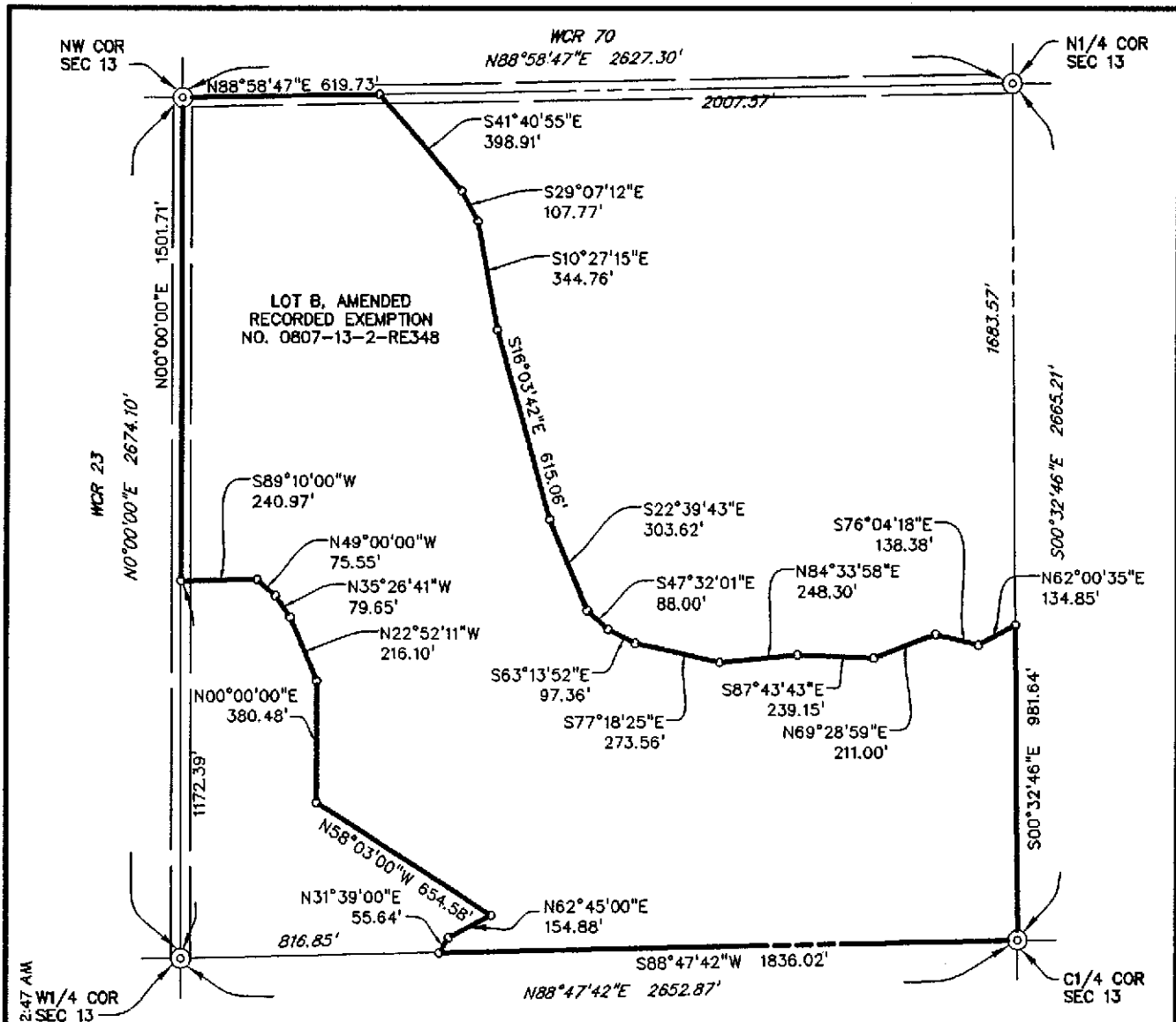
**EXHIBIT B TO
RESTRICTIVE COVENANTS (NO IRRIGATION)
Legal Description of the Land**

The Land shall include the real property legally described as follows:

Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6th P.M.

EXHIBIT D-1

**EXHIBIT C TO
RESTRICTIVE COVENANTS (NO IRRIGATION)
Survey of the Land**

EXHIBIT D-1

**EXHIBIT MAP OF LOT B, AMENDED
RECORDED EXEMPTION NO.
0807-13-2-RE348 LOCATED IN THE NW1/4
OF SECTION 13, T6N, R67W OF THE 6TH
P.M., COUNTY OF WELD, STATE OF
COLORADO**



SCALE 1" = 500'

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN
IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS
MAP IS TO GRAPHICALLY SHOW THE LOCATION OF
THE TRACT OF LAND DESCRIBED IN THE
ACCOMPANYING LEGAL DESCRIPTION.

IN ACCORDANCE WITH CRS 13-80-105;

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED
UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH
DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE
COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

Drexel, Barrell & Co.

Engineers/Surveyors

1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338



COLORADO SPRINGS, COLORADO (719) 260-0887

GRAND JUNCTION, COLORADO (970) 287-1350

STEAMBOAT SPRINGS, COLORADO (970) 879-1623

Revisions - Date	Date	Drawn By	Job No.
	4/21/14	SDS	18642-02
	Scale	Checked By	Drawing No.
	1"=500'	MES	IN FILE

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EXHIBIT D-1

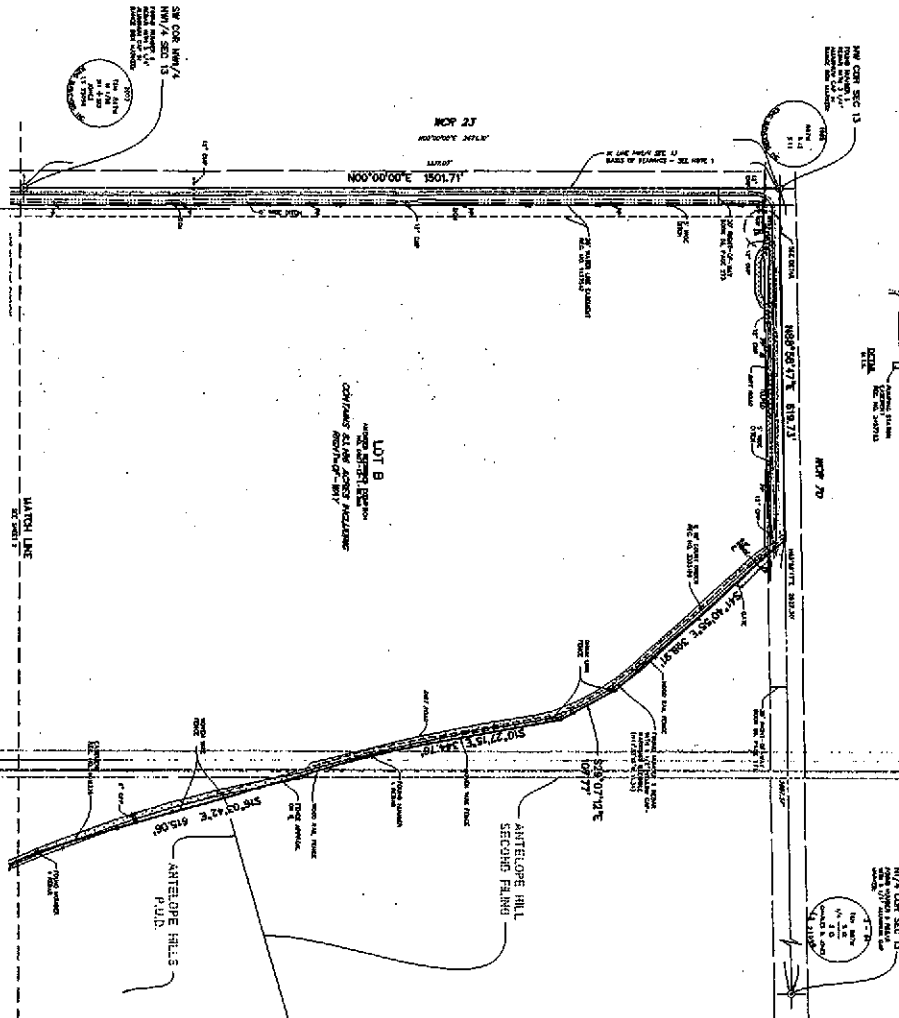


Table with 2 columns: Description, and Value/Unit. The table lists various survey data points and measurements.

DESCRIPTION	VALUE/UNIT
1. TOTAL AREA OF LOT B	1.00 AC.
2. TOTAL AREA OF ANTELOPE HILLS PLAID	10.00 AC.
3. TOTAL AREA OF SECTION 13	100.00 AC.
4. TOTAL AREA OF SECTION 14	100.00 AC.
5. TOTAL AREA OF SECTION 15	100.00 AC.
6. TOTAL AREA OF SECTION 16	100.00 AC.
7. TOTAL AREA OF SECTION 17	100.00 AC.
8. TOTAL AREA OF SECTION 18	100.00 AC.
9. TOTAL AREA OF SECTION 19	100.00 AC.
10. TOTAL AREA OF SECTION 20	100.00 AC.

1. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

2. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

3. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

4. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

5. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

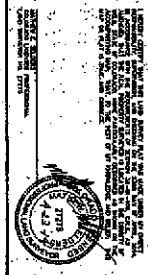
6. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

7. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

8. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

9. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.

10. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE COUNTY OF WELD, COLORADO, AND HAS FOUND THAT THE SURVEY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE COLORADO SURVEYING ACT, CHAPTER 12, C.R.S.



LAND SURVEY PLAT OF LOT B OF AMENDED RECORDED EXEMPTION NO. 0807-13-2-RE346, LOCATED IN THE NW1/4 OF SECTION 13, T8N, R57W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO FOR OSPREY PROPERTY GROUP, LLC

18642-02

086-91

SHEET 2 OF 2

[illegible]

LAND SURVEY PLAT OF LOT B OF
AMENDED RECORDED EXEMPTION NO.
0807-13-2-RE4E, LOCATED IN THE
NW1/4 OF SECTION 13, T6N, R67W OF
THE 6TH P.M., COUNTY OF WELD, STATE
OF COLORADO
FOR: OSPREY PROPERTY GROUP, LLC




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EXHIBIT D-1**RESTRICTIVE COVENANTS (NO IRRIGATION)**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in **Exhibit A** attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in **Exhibit B** attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

EXHIBIT D-1

the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

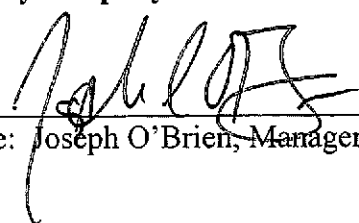
Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

IN WITNESS WHEREOF, the Declarant has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 28th day of February, 2012.

Declarant:

J & E Investments, LLC, a Colorado limited liability company

By: 

Name: Joseph O'Brien, Manager

STATE OF COLORADO)

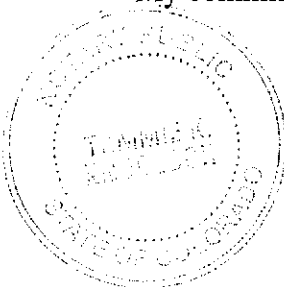
COUNTY OF Larimer)

ss.

The foregoing instrument was acknowledged before me this 29th day of February, 2012, by Joseph O'Brien, as Manager of J & E Investments, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 12-2-14




Notary Public

EXHIBIT D-1

**EXHIBIT A TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

EXHIBIT D-1

**EXHIBIT B TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.

EXHIBIT D-1**RESTRICTIVE COVENANTS (REVEGETATION)**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated June 23, 2014, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S.'" The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.

EXHIBIT D-1

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

IN WITNESS WHEREOF, the Declarant and current Leaseholder has executed this instrument on the 20 day of JUNE, 2014.

DECLARANT:

2370, LLC, a Colorado Limited Liability Company

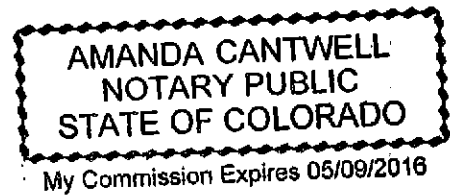
By: Todd Bean, manager

Todd Bean, manager

STATE OF COLORADO)

COUNTY OF WELD)

SS.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

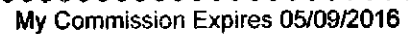
Witness my hand and official seal.

My commission expires: 5/9/16

Amanda Cantwell

Notary Public

By: Gary Boxberger
Gary Boxberger.



My commission expires: 5/9/10

Manda Cartmell
Notary Public

EXHIBIT D-1**EXHIBIT A TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

EXHIBIT D-1

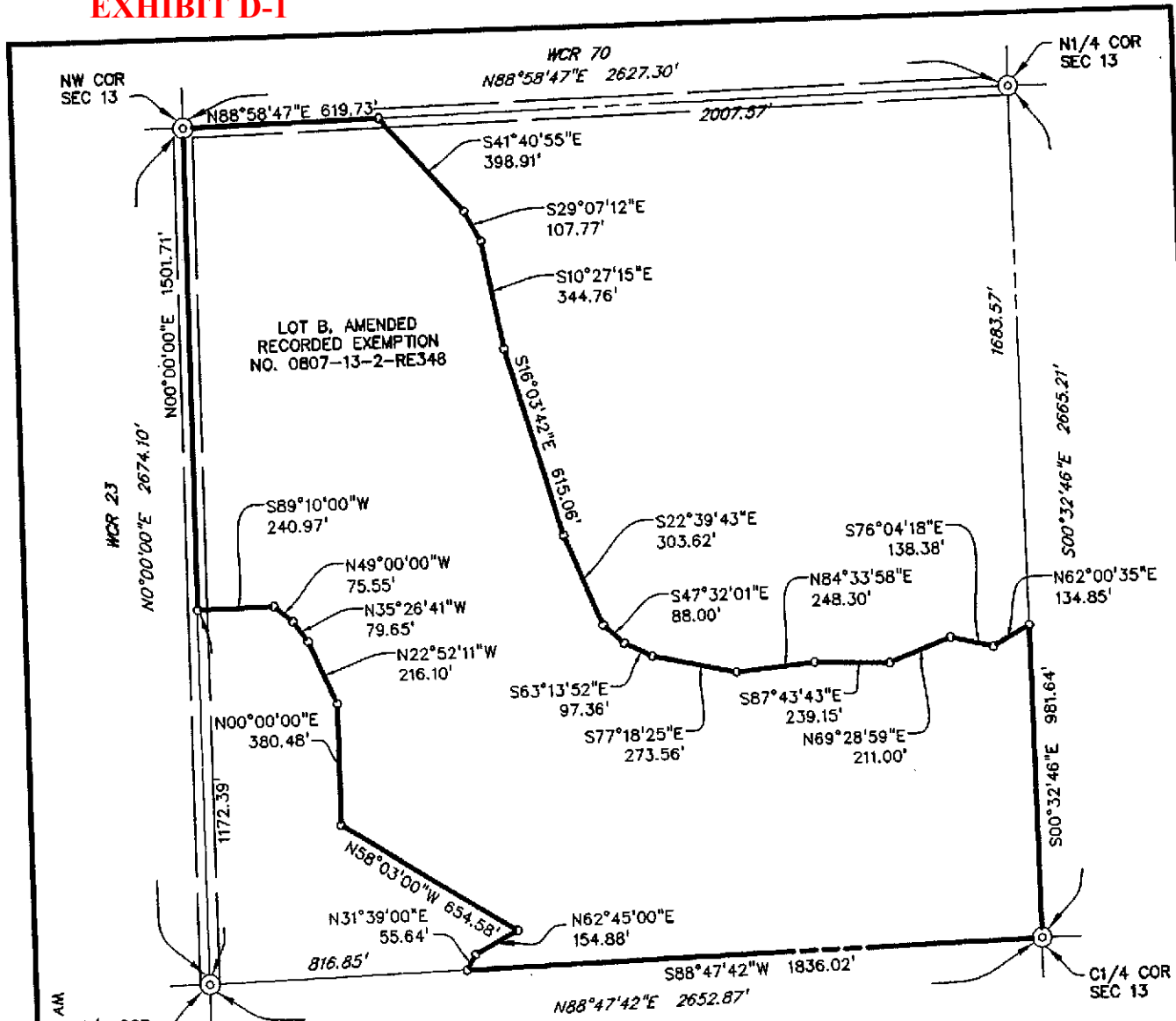
**EXHIBIT B TO
RESTRICTIVE COVENANTS (REVEGETATION)
Legal Description of the Land**

The Land shall include the real property legally described as follows:

Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6th P.M.

EXHIBIT D-1

**EXHIBIT C TO
RESTRICTIVE COVENANTS (REVEGETATION)
Survey of the Land**

EXHIBIT D-1

SCALE 1" = 500'

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF THE TRACT OF LAND DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

EXHIBIT MAP OF LOT B, AMENDED RECORDED EXEMPTION NO. 0807-13-2-RE348 LOCATED IN THE NW1/4 OF SECTION 13, T6N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

IN ACCORDANCE WITH CRS 13-80-105:

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

Drexel, Barrell & Co.

Engineers/Surveyors

1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338

COLORADO SPRINGS, COLORADO (719) 260-0887

GRAND JUNCTION, COLORADO (970) 267-1560

STEAMBOAT SPRINGS, COLORADO (970) 679-1523



Revisions - Date

Date

Drawn By

Job No.

4/21/14

SDS

18642-02

Scale

Checked By

Drawing No.

1"=500'

MES

IN FILE

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 2ND 1ST-DEED WAY
 2ND 1ST-DEED WAY

- XRAY FILM
SECOND FILM-ASTEL-OPPE HRL.
P.B.B.[illegible]

PLANNING & OUTREACH PROGRAM
PROPERTY CODES

CONFIDENTIAL

_____ X _____ POWER LINE
 _____ OF _____ TELEPHONE EXCHANGE LINE

***** PARTIAL PAGES FOR

***** TELEPHONE RECORDS
***** THE POST *****

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ORIGINAL SCALE: 1"=100'

Figure 2

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Age Group	Percentage of respondents
18-29	~65%
30-49	~75%
50-69	~85%
70+	~88%

Age Group	1970	1980	1990	2000	2010	2020
0-14	25	22	18	15	12	10
15-24	18	16	14	12	10	8
25-34	12	10	8	6	4	3
35-44	8	7	6	5	4	3
45-54	5	4	3	2	1	1
55-64	3	2	1	1	1	1
65-74	2	2	2	2	2	2
75+	5	6	7	8	12	25

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LAND SURVEY PLAT OF LOT 8 OF
AMENDED RECORDED EXEMPTION NO.
0807-13-2-RE348, LOCATED IN THE
NW1/4 OF SECTION 13, T8N, R67W OF
THE 6TH P.M., COUNTY OF WELD, STATE
OF COLORADO.
FOR: OSPREY PROPERTY GROUP, LLC

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

PROJECTS REPORT

FOR RESULTS ONLY/Phase 1/1/00

10/1/00

ALL PRODUCTS ON THE EAST-WEST TRADE SHOWS HAVE BEEN APPROVED BY THE U.S. CUSTOMS SERVICE. ALL THE PRODUCTS ARE MADE IN THE U.S. AND ARE OF THE HIGHEST QUALITY. ALL THE PRODUCTS ARE MADE IN THE U.S. AND ARE OF THE HIGHEST QUALITY. ALL THE PRODUCTS ARE MADE IN THE U.S. AND ARE OF THE HIGHEST QUALITY.

IT IS REQUESTED THAT YOU ADVISE THE FBI OF ANY INFORMATION THAT MAY BE OBTAINED FROM YOUR SOURCE THAT COULD BE OF ASSISTANCE TO THE FBI IN THE INVESTIGATION OF THIS MATTER.

VERY TRULY YOURS,
JAMES H. MOHR
Special Agent in Charge

ADMINISTRATIVE: ADVISE BUREAU OF THE RESULTS OF THIS INTERVIEW.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 08-20-2008 BY 60322 UCBAW/SJS

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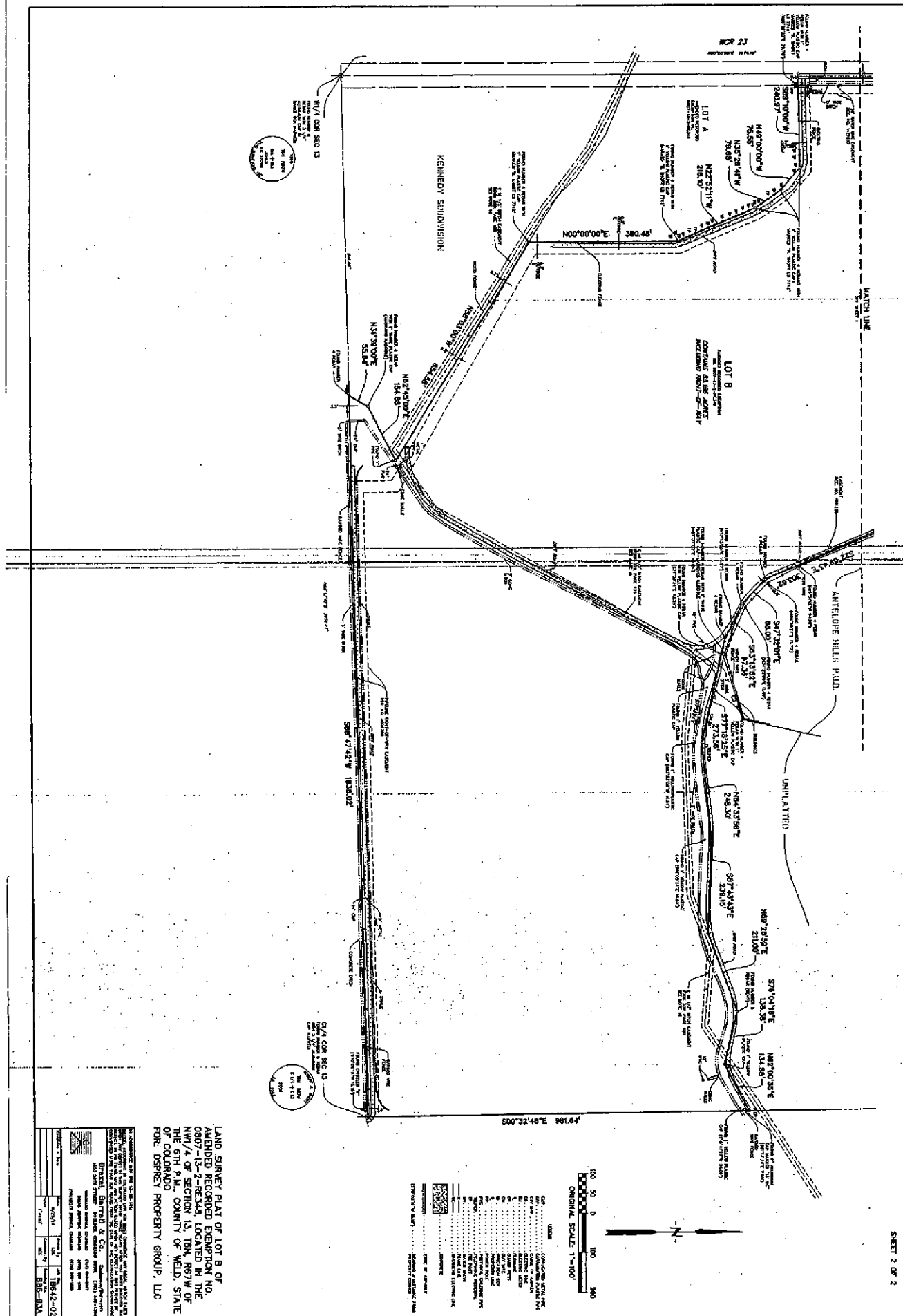
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1. I have been thinking about you a lot lately. I hope you are doing well. I have been thinking about you a lot lately. I hope you are doing well.

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SHEET 1 OF 2

EXHIBIT D-1



RESTRICTIVE COVENANTS (NO IRRIGATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. These covenants shall not prohibit Declarant or Declarant's successors in interest from irrigating the Land (i) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (ii) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or nonirrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at: 1650 Thistle Ridge Road, Highlands Ranch, Colorado 80126.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the 2nd day of June, 2015.

DECLARANT:
CHALK & ASSOCIATES, LLC
a Colorado Limited Liability Company,

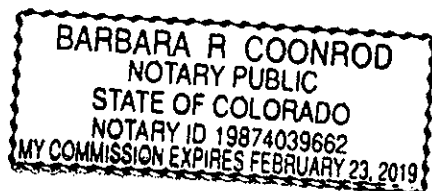
By: Thomas A. Chalk
Thomas A. Chalk, Manager

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 2nd day of June 2015, by Thomas A. Chalk, as Manager of Chalk & Associates, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.



Barbara R. Coonrod
Notary Public
My commission expires: _____

**EXHIBIT A TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights

**EXHIBIT B TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

RESTRICTIVE COVENANTS (REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated 6/2/2015, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest shall establish, at Declarant's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5).

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the

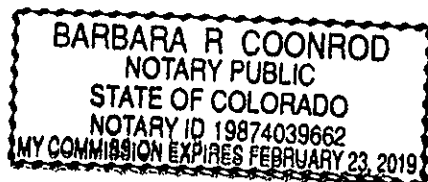
IN WITNESS WHEREOF, the Declarant has executed this instrument on the 29th day of June, 2015.

By: Thomas A. Chalk
Thomas A. Chalk, Manager

The foregoing instrument was acknowledged before me this 27th day of June 2015, by Thomas ^AChalk, as Manager of Chalk & Associates, LLC, a Colorado Limited Liability Company

Barbara R. Conrad

My commission expires: _____



**EXHIBIT A TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights

**EXHIBIT B TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

EXHIBIT E
FORM - DO NOT EXECUTE

RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the CITY OF GREELEY, a Colorado home rule municipal corporation ("Greeley"), with the maximum benefit available from the present and future use of water pursuant to the water rights described in Exhibit 1 attached hereto and incorporated herein ("Water Rights"), LONGS PEAK DAIRY, LLC, a Colorado limited liability company ("Declarant"), agrees, warrants and covenants on Declarant's own behalf and on behalf of all successors in interest, that upon notice from Greeley, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit 2 attached hereto and incorporated herein ("Land").

Upon receipt of one hundred and eighty (180) days prior written notice from Greeley (the "Notice"), thereafter Declarant and Declarant's successors in interest shall not irrigate all or a portion of the Land, as indicated in the Notice. Without limiting Greeley's absolute discretion to issue the Notice, Greeley may determine not to issue the Notice if cessation of irrigation of the Land is not required as a condition of Greeley obtaining approval to change the Water Rights for other uses. These covenants shall not prohibit Declarant or Declarant's successors in interest from irrigating the Land (i) with other water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water rights applications filed by Greeley or a successor in interest to the Water Rights; (ii) with water from an existing well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider ("Alternate Water Rights").

Unless so irrigated, then within two and one half (2½) years from the date Declarant ceases to irrigate the Land or any portion thereof with Alternate Water Rights, Declarant or Declarant's successors in interest shall also establish, at Declarant's or Declarant's successors in interest's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the previously irrigated portions of the Land to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by Greeley, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5). Previously irrigated portions of the Land means portions of the Land not occupied by roads, buildings, or other structures, which land was cultivated with crops in accordance with these covenants. Declarant, or Declarant's successors in interest, shall provide notice to Greeley when such revegetation of the Land has been established. Declarant agrees the Land subject to these covenants shall not be planted with crops that are capable of extending roots into the underlying groundwater, including, but not limited to, alfalfa.

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, Greeley shall have the right to come upon the Land and take all measures necessary to accomplish the Declarant's obligations hereunder, including but not limited to revegetation and/or noxious weed management on the Land, provided that Greeley shall also have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successor in interest. Any and all fees and costs incurred in any necessary action to enforce these covenants by Greeley, including reasonable attorney fees, shall be paid by Declarant. Additionally, Greeley shall have the right to come upon the Land to verify Declarant's compliance with its obligations hereunder, with any such inspections being at the sole expense of Greeley. All rights to enter upon the Land granted herein shall terminate upon a final determination by the District Court for Water Division No. 1, State of Colorado, under the court's retained jurisdiction, that no further actions will be necessary in order to satisfy Declarant's revegetation obligations.

The foregoing covenants shall burden, attach to, and run with the Land and shall be binding upon Declarant and Declarant's successors, assigns and any other person who acquires an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to, and run with the Water Rights and shall inure to the

EXHIBIT E
FORM - DO NOT EXECUTE

benefit of Greeley's successors, assigns, and any other person who acquires an ownership interest in the Water Rights. Declarant warrants and represents such covenants shall entitle Greeley to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by Greeley or its successors in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of Greeley or its successors in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at: 45490 County Road 39, Pierce, Colorado 80650.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the ____ day of _____ 2022.

DECLARANT
Longs Peak Dairy, LLC,
a Colorado limited liability company

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____
2022 by _____, as an authorized representative of Longs Peak Dairy, LLC.

Witness my hand and official seal.

Notary Public

My commission expires: _____

When recorded return to:

City of Greeley Water and Sewer Department
Attn: Water Resources Division
1001 11th Avenue, 2nd Floor
Greeley, Colorado 80631

EXHIBIT E
FORM - DO NOT EXECUTE

EXHIBIT 1
RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

(Description of the Water Rights)

All water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and all other rights and interests represented by two (2) shares of capital stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. _____.

EXHIBIT E
FORM - DO NOT EXECUTE

EXHIBIT 2
RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

(Description of the Land)

Lot C of Recorded Exemption No. 0551-29-4 RE 3265, according to the plat recorded September 6, 2002 at Reception No. 2985642, being located in the SE $\frac{1}{4}$ of Section 29, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado;

also known by street and number as: 43245 Weld County Road 41, Pierce, Colorado 80650.

EXHIBIT F
FORM - DO NOT EXECUTE

ANNUAL AFFIDAVIT OF BENEFICIAL USE OF WATER RIGHTS

DESCRIPTION OF WATER RIGHTS:

Ditch or Reservoir Company: _____
Shares or Interest: _____

Name and address of owner and user of water rights:

Owner: City of Greeley
Water and Sewer Department
1001 11th Avenue, Second Floor
Greeley, Colorado 80631

User(s): _____

Year water rights were used as described: _____

DESCRIPTION OF IRRIGATED LAND:

Legal description and size/acreage of land irrigated by above-mentioned water rights:

_____.

Name and address of owner(s) of above-mentioned irrigated land if different from owner or user of the water rights:_____.

I have not intended to abandon the aforementioned water rights during my period of use. I state that the information contained here and in the attached Questionnaire Regarding Use of Water Shares, which is incorporated herein by reference, is known to me and is correct.

The undersigned _____, having personal knowledge of the irrigation of the above described lands by virtue of being the owner and/or person who has farmed and irrigated those lands, being first duly sworn, hereby states that the information provided in this statement is true and accurate.

Signed and dated this ____ day of _____, 20__.

[AFFIANT]

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 20__ by _____.

EXHIBIT F
FORM - DO NOT EXECUTE

Witness my hand and official seal.

Notary Public

My commission expires: _____

QUESTIONNAIRE REGARDING USE OF WATER SHARES

*The person completing this questionnaire need not necessarily be the Lessee,
but must have personal knowledge of the information provided*

1. Name: _____
Mailing Address: _____

Telephone: _____
Facsimile: _____
Email Address: _____

2. The information provided below pertains to _____ shares of the
_____ Company, represented by Certificate No. _____ (hereinafter "Shares").

3. Did you use the Shares pursuant to a Lease Agreement? _____
Date of the Lease: _____
Name of Lessee (if different from Question 1): _____
Name of Lessor: _____

4. The information in this questionnaire relates to my use of the Shares during the [20__] irrigation season (hereinafter "Lease Year").

5. Do you still own the farm or parcel irrigated by these Shares? _____

6. Was your use of the Shares during the Lease Year consistent with all terms and conditions of the Lease Agreement and with the bylaws, rules, regulations, and policies of the ditch company? _____

7. What is the legal description of the farm or parcel on which these Shares were used?

8. What is the total size of the farm or parcel? _____ acres.

9. What is the size of the area(s) on the farm or parcel that was irrigated? _____ acres.

10. What is the size of the area(s) on the farm or parcel that was irrigated using water from the Shares?
_____ acres.

11. Please provide the following information regarding how the water from these Shares is delivered.

- Location and ID Number of the head gate at the main ditch: _____

EXHIBIT F
FORM - DO NOT EXECUTE

- _____.
- Name and general location of any lateral(s) delivering the water to the land historically irrigated: _____.
 - Identification of any carrier or lateral ditch stock required to deliver these rights: _____.
 - Approximate location of pumps, if used: _____.
 - Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used: _____.

12. How was water applied during the Lease Year? Sprinkler _____ Furrow _____ Flood _____
Other/Combination (Describe): _____.

13. What was the irrigation season for the Lease Year? Start Date: _____ Stop Date: _____

14. During the Lease Year, did you divert and irrigate with all water available under the Shares? _____.
If no, please explain the reason why all water was not taken, approximately how much was not taken, and for how long: _____

_____.

15. Other than the Shares leased, was any other water (including other shares that are in the same Company as the Shares that are the subject of this questionnaire) used to irrigate the farm or parcel on which the Shares are/were used during the Lease Year? If so, please provide the following information.

- Number of shares: _____
- Ditch Company: _____
- Number of any Irrigation Wells: _____
- Identification and Permit No. of any Irrigation Wells: _____
_____.
- Capacity of Irrigation Wells: _____
- Approximate location of Irrigation Wells: _____
_____.
- Any other water used: _____

16. Describe how the water has been used, including the estimated percentage of the total irrigation supply provided by such water: _____
_____.

17. During the Lease Year, what crops were grown on the land irrigated by the Shares?

1. Crop: _____ Percentage: _____ Location: _____
2. Crop: _____ Percentage: _____ Location: _____
3. Crop: _____ Percentage: _____ Location: _____
4. Crop: _____ Percentage: _____ Location: _____
5. Crop: _____ Percentage: _____ Location: _____

EXHIBIT F
FORM - DO NOT EXECUTE

6. Crop: _____ Percentage: _____ Location: _____

18. Were the lands on which the Shares were used subirrigated? Yes _____ No _____

19. If possible, please provide a map, sketch, or aerial photograph showing locations of (*check if included*):

_____ Farm or Parcel

_____ Areas irrigated by the Shares during the Lease Year

_____ Areas irrigated with other water

_____ Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

Signature: _____ Date: _____

EXHIBIT G
FORM - DO NOT EXECUTE

Exempt from State Documentary Fee
C.R.S. § 39-13-104(a)

SPECIAL WARRANTY DEED
(Water Rights)

This SPECIAL WARRANTY DEED is made this ____ day of _____ 2022 by _____, a _____, whose address is _____
("Grantor"), to _____, a _____, whose address is _____
_____ ("Grantee").

WITNESSETH, that Grantor, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does hereby grant, bargain, sell, convey, and confirm unto the Grantee, its successors and assigns forever, the water rights and other rights identified in Exhibit A attached hereto and incorporated herein by this reference ("Water Rights"), associated with or previously used upon portions of the lands identified and described in Exhibit B attached hereto and incorporated herein by this reference, all located in the County of _____, State of Colorado.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the Water Rights, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the Water Rights with the appurtenances, unto the Grantee, its successors and assigns, forever. The Grantor, for itself, successors and assigns, does covenant and agree that it shall and will warrant and forever defend the Water Rights in the quiet and peaceable possession of the Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through, or under the Grantor.

IN WITNESS WHEREOF, the Grantor has executed and delivered this Special Warranty Deed as of the day and year first set forth above.

[GRANTOR]

By: _____

STATE OF _____)
COUNTY OF _____) ss.

Acknowledged before me this ____ day of _____ 2022, by _____, as _____ and authorized representative of _____.

Notary Public
My Commission Expires: _____

EXHIBIT G
FORM - DO NOT EXECUTE

EXHIBIT A
TO SPECIAL WARRANTY DEED

Description of Water Rights

Any and all water and water rights, ditches and ditch rights, reservoirs and reservoir rights, rights to receive water, and other rights and interests of any kind represented by ____ (__) shares of capital stock in The _____ Company (evidenced by Stock Certificate No. ____). The Water Rights covered by this provision shall also include all of the Grantors' rights, title, and interest in and to any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the shares described above.

EXHIBIT G
FORM - DO NOT EXECUTE

EXHIBIT B
TO SPECIAL WARRANTY DEED

Description of Land

EXHIBIT H
FORM - DO NOT EXECUTE

ASSIGNMENT OF SHARES
(Stock Certificate No. ____)

For value received, the receipt, adequacy and sufficiency of which are hereby acknowledged, the undersigned, _____, a _____, ("Assignor") hereby sells, assigns, and transfers unto _____, a _____, ("Assignee"), _____(____) shares of capital stock in The _____ Company, which stock is standing in the name of the undersigned on the books and records of the corporation and represented by Stock Certificate No. _____, free and clear of all liens, encumbrances and past-due assessments.

Assignor hereby authorizes and empowers the secretary of The _____ Company to transfer said certificate, and to effectuate this assignment and transfer on the books of The _____ Company.

[ASSIGNOR]

a _____

By: _____

Name: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, by _____.

Witness my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT I
FORM - DO NOT EXECUTE

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Restrictive Covenants)

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is made this ____ day of _____ 2022 by and between THE CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11th Avenue, 2nd Floor, Greeley, Colorado 80631 ("Assignor") and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80524 ("Assignee").

RECITALS

WHEREAS, the Assignor has this day conveyed to the Assignee those certain water rights represented by ten (10) shares of capital stock in the Windsor Reservoir and Canal Company, evidenced by Stock Certificate No. 667 (as to one (1) share), Stock Certificate No. 662 (as to four (4) shares), and Stock Certificate No. 577 (as to five (5) shares), and six (6) shares of capital stock in the Larimer and Weld Irrigation Company, evidenced by Stock Certificate No. 6251 (as to two (2) shares) and Stock Certificate No. 6155 (as to four (4) shares), which water rights are more particularly described on Exhibit A, attached hereto and incorporated herein by reference (collectively "Water Rights"); and

WHEREAS, the Assignor owns an interest in those certain restrictive covenants for the benefit of the Water Rights and the owner thereof. The aforementioned covenants are more particularly described on Exhibit B, attached hereto and incorporated herein by reference ("Restrictive Covenants"); and

WHEREAS, the Assignor accordingly desires to convey to the Assignee all of its right, title, and interest in the benefits of the Restrictive Covenants, as part of the Assignee's acquisition of the Water Rights from the Assignor.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Assignor and the Assignee agree as follows.

ASSIGNMENT AND ASSUMPTION

1. Assignment of Restrictive Covenants. Assignor hereby assigns, transfers and conveys to the Assignee all of its right, title, and interest in and to the Restrictive Covenants, including, without limitation, all benefits and rights of the Assignor associated with ownership of the Water Rights.

2. Assumption of Restrictive Covenants. Assignee hereby assumes and agrees to be bound by the provisions of the Restrictive Covenants. The obligations and burdens of the Restrictive Covenants remain with the owner(s) of the land historically irrigated by the Water Rights.

3. Warranties of the Assignor. Assignor hereby represents and warrants (a) that the Restrictive Covenants are valid, in full force and effect, and have not been amended; (b) that, to the best of Assignor's knowledge, Assignor is not in default under the Restrictive Covenants; and (c) that the rights and interests of the Assignor under the Restrictive Covenants are free and clear of any other encumbrance, assignment, or other conveyance to third parties.

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been entered into by the City of Greeley and Longs Peak Dairy, LLC, as of the date first set forth above.

EXHIBIT I
FORM - DO NOT EXECUTE

ASSIGNOR
THE CITY OF GREELEY, COLORADO

Attest:

By: _____
Mayor

By: _____
City Clerk

ASSIGNEE
LONGS PEAK DAIRY, LLC

By: _____

Name: _____

Title: _____

WHEN RECORDED RETURN TO:

Longs Peak Dairy, LLC
Attn: Wade Podtburg
45490 County Road 39
Pierce, Colorado 80524

EXHIBIT I
FORM - DO NOT EXECUTE

EXHIBIT A
Description of the Water Rights

All water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and all other rights represented by ten (10) shares of capital stock in the Windsor Reservoir and Canal Company (evidenced by Stock Certificate No. 667 (as to one (1) share), Stock Certificate No. 662 (as to four (4) shares), and Stock Certificate No. 577 (as to five (5) shares)), and six (6) shares of capital stock in the Larimer and Weld Irrigation Company (evidenced by Stock Certificate No. 6251 (as to two (2) shares) and Stock Certificate No. 6155 (as to four (4) shares)).

EXHIBIT I
FORM - DO NOT EXECUTE

EXHIBIT B
Restrictive Covenants

RESTRICTIVE COVENANTS (REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated Feb. 29, 2012, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S.'" The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.

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Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

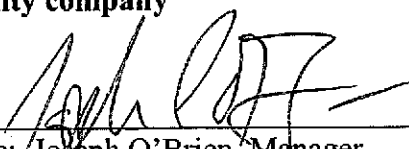
The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the 28th day of February, 2012.

Declarant:

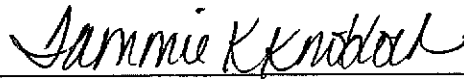
J & E Investments, LLC, a Colorado limited liability company

By: 

Name: Joseph O'Brien, Manager

Subscribed under oath before me on 2-29, 2012 by Joseph O'Brien, Manager, J&E Investments, LLC, a Colorado limited liability company.

My commission expires: 12-2-14



Notary Public



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**EXHIBIT A TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights.

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**EXHIBIT B TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.

EXHIBIT Pages: 9 Rec Fee: \$51.00**FORM - DO NOT EXECUTE**

Steve Moreno Clerk and Recorder, Weld County, CO

RESTRICTIVE COVENANTS (NO IRRIGATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Upon receipt of 12-month prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

FORM - DO NOT EXECUTE

the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

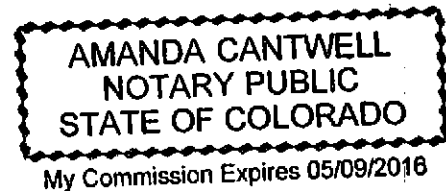
IN WITNESS WHEREOF, the Declarant and current Leaseholder has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 20 day of JUNE, 2014.

DECLARANT:

2370, LLC, a Colorado Limited Liability Company.

By: Todd Bean, Manager
Todd Bean, MANAGER

STATE OF COLORADO)
)
COUNTY OF WELD) ss.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

Witness my hand and official seal.

My commission expires: 5/9/16

Amanda Cantwell
Notary Public

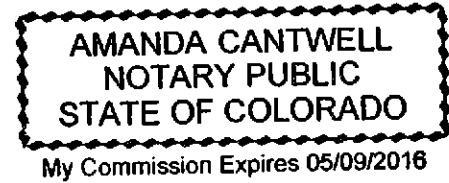
FORM - DO NOT EXECUTE**CURRENT LEASEHOLDER:**

By: Gary Boxberger
Gary Boxberger.

STATE OF COLORADO)

COUNTY OF WELD)

SS.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Gary Boxberger.

Witness my hand and official seal.

My commission expires: 5/9/16

Amanda Cantwell
Notary Public

FORM - DO NOT EXECUTE**EXHIBIT A TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

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**EXHIBIT B TO
RESTRICTIVE COVENANTS (NO IRRIGATION)
Legal Description of the Land**

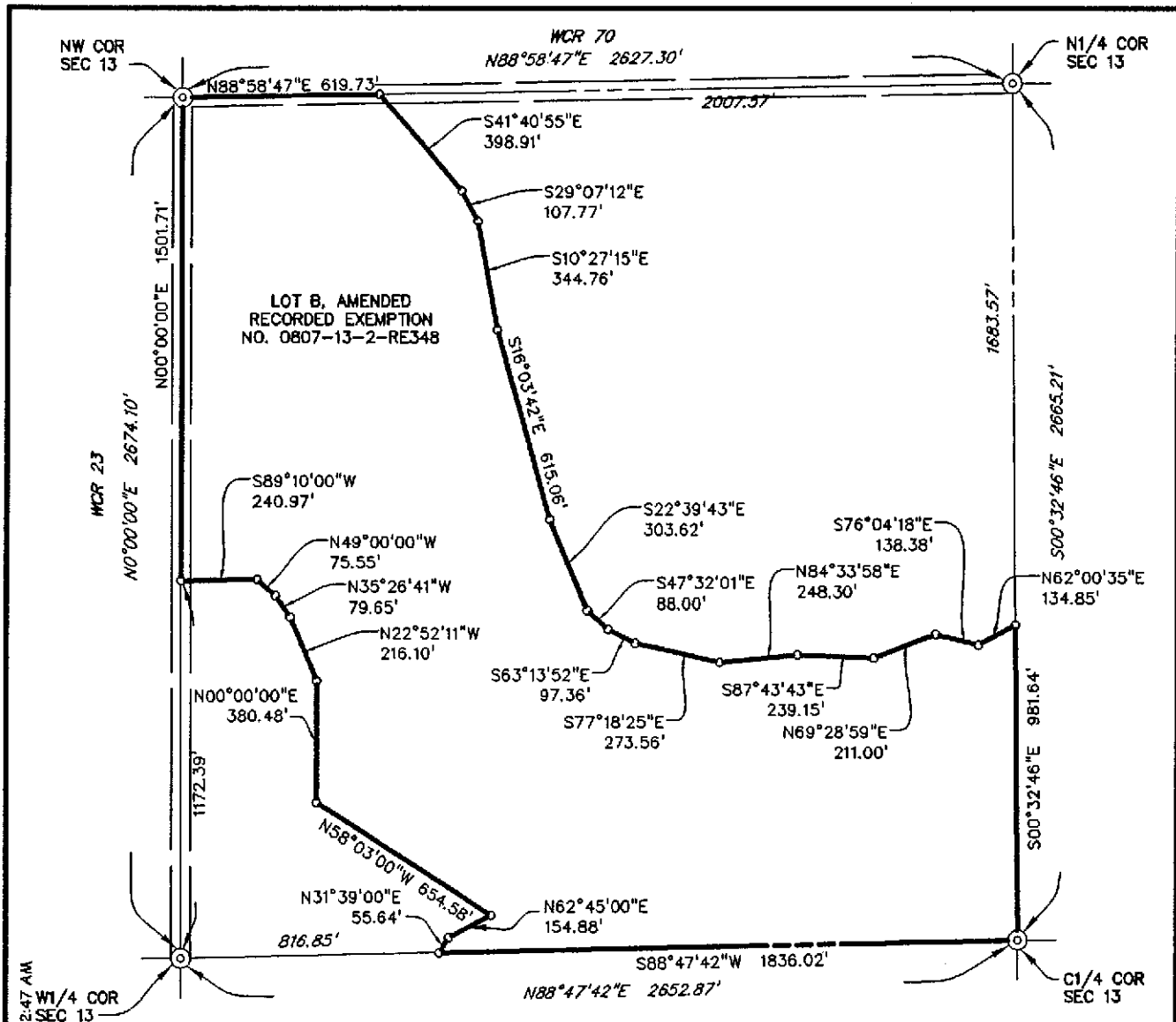
The Land shall include the real property legally described as follows:

Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6th P.M.

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**EXHIBIT C TO
RESTRICTIVE COVENANTS (NO IRRIGATION)
Survey of the Land**

FORM - DO NOT EXECUTE



SCALE 1" = 500'

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF THE TRACT OF LAND DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

EXHIBIT MAP OF LOT B, AMENDED RECORDED EXEMPTION NO. 0807-13-2-RE348 LOCATED IN THE NW1/4 OF SECTION 13, T6N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

IN ACCORDANCE WITH CRS 13-80-105;

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

Drexel, Barrell & Co.

Engineers/Surveyors

1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338



COLORADO SPRINGS, COLORADO (719) 260-0887

GRAND JUNCTION, COLORADO (970) 287-1350

STEAMBOAT SPRINGS, COLORADO (970) 879-1623

Revisions - Date

Date

Drawn By

Job No.

SDS

Scale

Checked By

Drawing No.

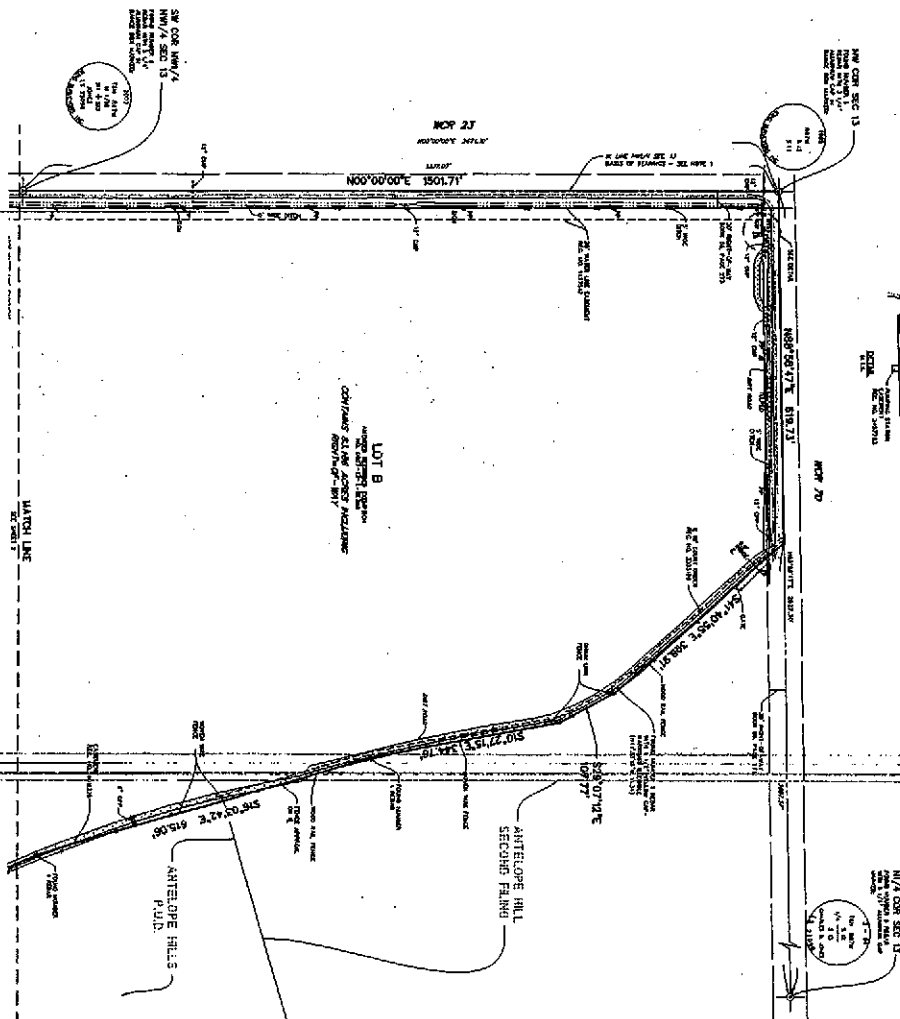
1"=500'

MES

IN FILE

18642-02

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ORIGINAL SCALE 1"=400'

LEGEND

1. BOUNDARY LINE
2. EASEMENT
3. RIGHT-OF-WAY
4. ADJACENT PROPERTY
5. ADJACENT ROAD
6. ADJACENT RAILROAD
7. ADJACENT WATERWAY
8. ADJACENT AIRPORT
9. ADJACENT PARK
10. ADJACENT SCHOOL
11. ADJACENT CHURCH
12. ADJACENT HOSPITAL
13. ADJACENT GOVERNMENT BUILDING
14. ADJACENT INDUSTRIAL BUILDING
15. ADJACENT RESIDENTIAL BUILDING
16. ADJACENT COMMERCIAL BUILDING
17. ADJACENT OFFICE BUILDING
18. ADJACENT FACTORY BUILDING
19. ADJACENT WAREHOUSE
20. ADJACENT GARAGE
21. ADJACENT DRIVE
22. ADJACENT WALKWAY
23. ADJACENT FENCE
24. ADJACENT GATE
25. ADJACENT SIGN
26. ADJACENT LIGHT
27. ADJACENT SOUND
28. ADJACENT VIBRATION
29. ADJACENT EMISSION
30. ADJACENT INTERFERENCE

NOTES

1. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

2. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

3. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

4. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

5. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

6. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

7. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

8. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

9. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

10. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

11. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

12. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

13. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

14. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

15. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

16. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

17. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

18. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

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21. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

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25. The survey was made by the undersigned on the 1st day of July, 2014, at the place shown on the map.

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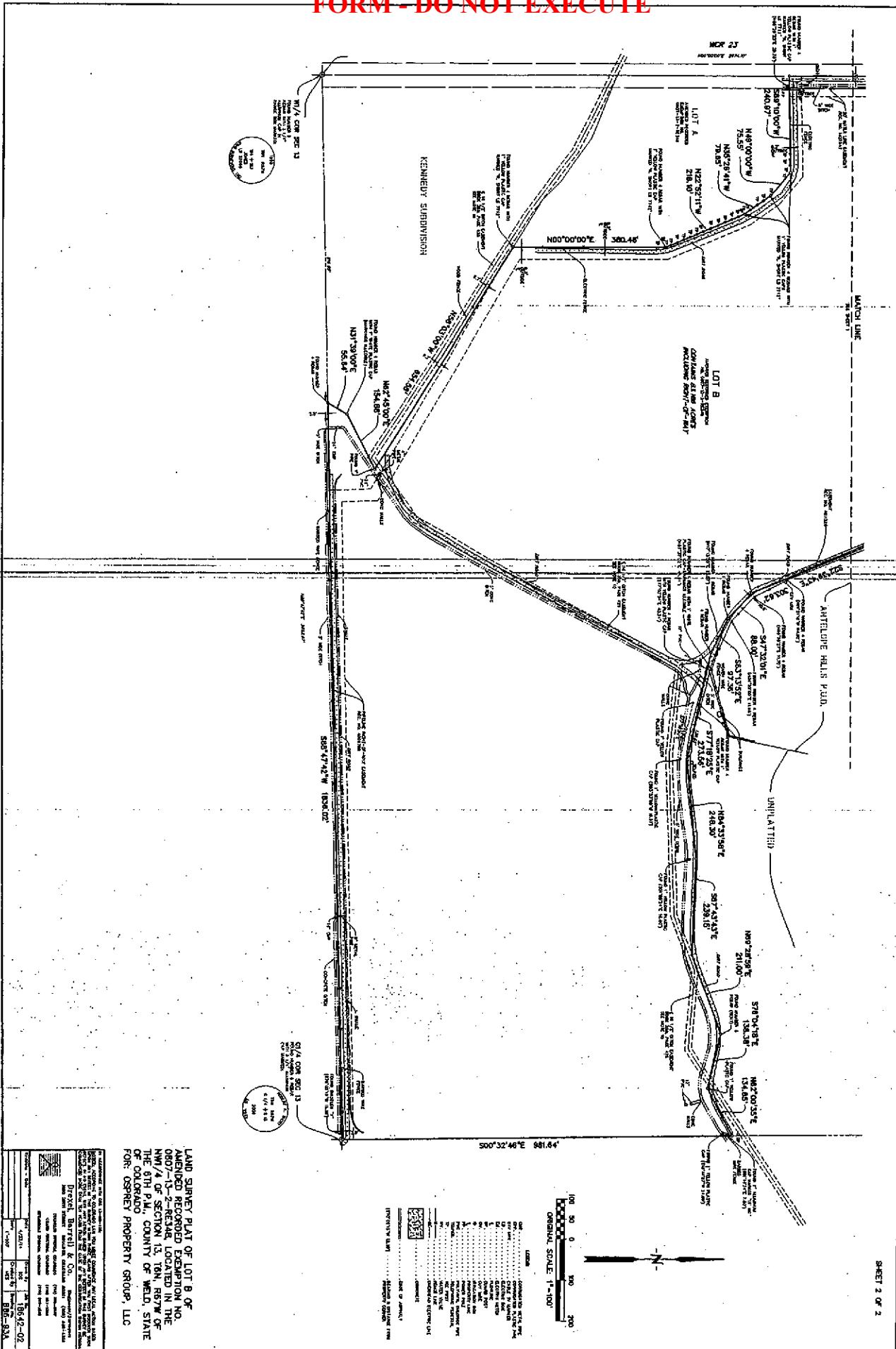
LAND SURVEY PLAT OF LOT B OF AMENDED RECORDED EXEMPTION NO. 0807-13-2-RE348, LOCATED IN THE NW 1/4 OF SECTION 13, T8N, R57W OF THE 6TH P.M. COUNTY OF WELD, STATE OF COLORADO FOR OSPREY PROPERTY GROUP, LLC

PREPARED BY: [Name]
DATE: [Date]
SCALE: 1"=400'

RECORDING INFORMATION:
RECORDED IN BOOK [Number] OF RECORDS IN THE OFFICE OF THE COUNTY CLERK OF WELD COUNTY, COLORADO, ON [Date].

WELD COUNTY, COLORADO
COUNTY CLERK
[Signature]
[Name]
[Address]
[Phone Number]
[Email Address]

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RESTRICTIVE COVENANTS (NO IRRIGATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in **Exhibit A** attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in **Exhibit B** attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

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the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

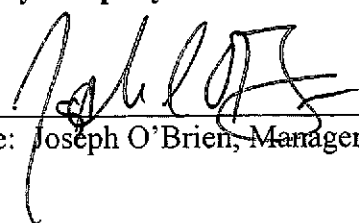
Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

IN WITNESS WHEREOF, the Declarant has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 28th day of February, 2012.

Declarant:

J & E Investments, LLC, a Colorado limited liability company

By: 

Name: Joseph O'Brien, Manager

STATE OF COLORADO)

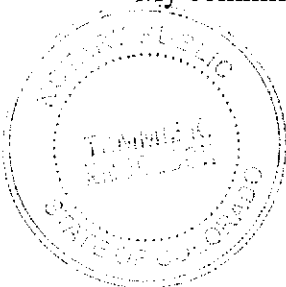
COUNTY OF Larimer)

ss.

The foregoing instrument was acknowledged before me this 29th day of February, 2012, by Joseph O'Brien, as Manager of J & E Investments, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 12-2-14




Notary Public

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**EXHIBIT A TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

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**EXHIBIT B TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.

RESTRICTIVE COVENANTS (REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated June 23, 2014, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S.'" The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.

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Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

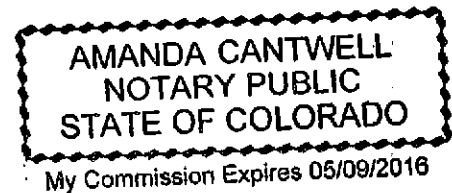
IN WITNESS WHEREOF, the Declarant and current Leaseholder has executed this instrument on the 20 day of JUNE, 2014.

DECLARANT:

2370, LLC, a Colorado Limited Liability Company

By: Todd Bean, manager
 Todd Bean, manager

STATE OF COLORADO)
)
 COUNTY OF WELD) SS.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

Witness my hand and official seal.

My commission expires: 5/9/16

Amanda Cantwell

FORM - DO NOT EXECUTE

Notary Public

CURRENT LEASEHOLDER:

Gary Boxberger

By: Gary Boxberger
Gary Boxberger.

My Commission Expires 05/09/2016

STATE OF COLORADO)
)
COUNTY OF WELD) ss.The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Gary Boxberger.

Witness my hand and official seal.

My commission expires: 5/9/16Amanda Cantwell
Notary Public

FORM - DO NOT EXECUTE**EXHIBIT A TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

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**EXHIBIT B TO
RESTRICTIVE COVENANTS (REVEGETATION)
Legal Description of the Land**

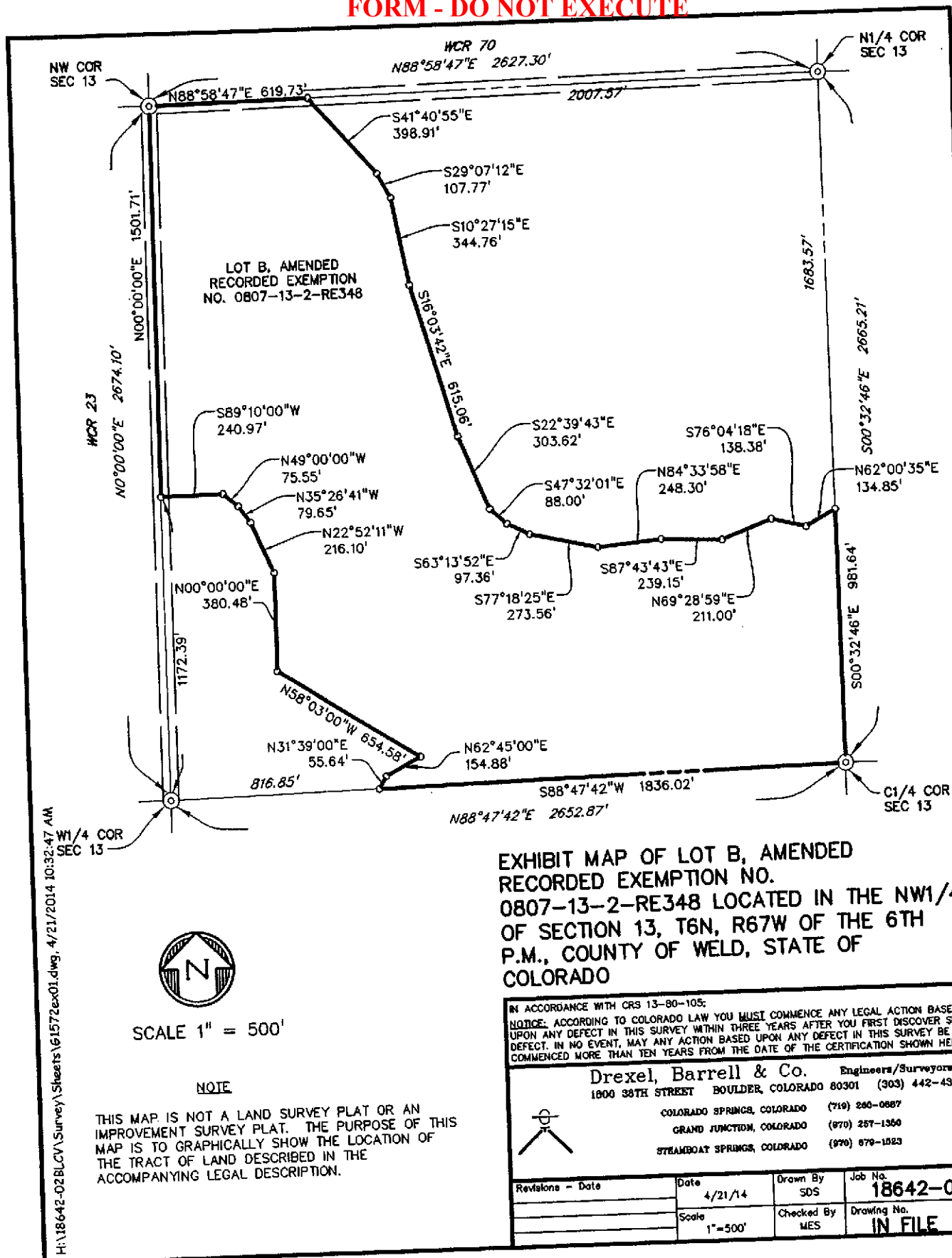
The Land shall include the real property legally described as follows:

Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6th P.M.

FORM - DO NOT EXECUTE

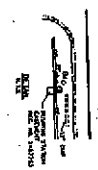
**EXHIBIT C TO
RESTRICTIVE COVENANTS (REVEGETATION)
Survey of the Land**

FORM - DO NOT EXECUTE



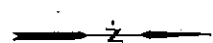
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CONCRETE
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LAND SURVEY PLAT OF LOT B OF
AMENDED RECORDED EXEMPTION NO.
0887-13-2-RE348, LOCATED IN THE
NW1/4 OF SECTION 13, T8N, R67W OF
THE 6TH P.M., COUNTY OF WELD, STATE
OF COLORADO
FOR: OSPREY PROPERTY GROUP, LLC

SHEET 1 OF 2

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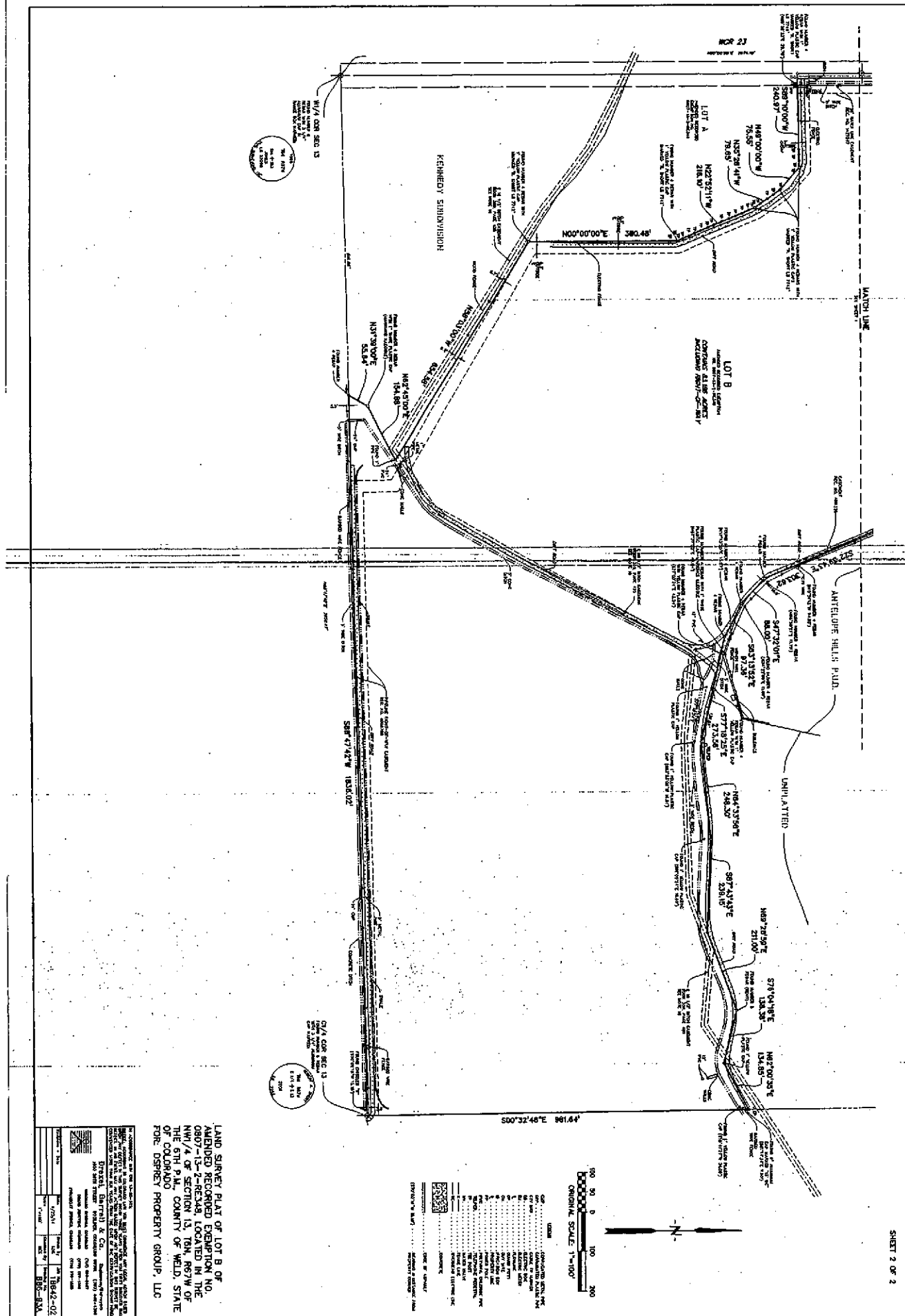


EXHIBIT J
FORM - DO NOT EXECUTE

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Water Lease Agreement – J&E Investments, LLC)

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is made this ____ day of _____ 2022 by and between THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11th Avenue, 2nd Floor, Greeley, Colorado 80631 (“City”) and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80650 (“Assignee”).

RECITALS

WHEREAS, the City has conveyed to the Assignee those certain water rights represented by five (5) shares of capital stock in The Windsor Reservoir and Canal Company (currently evidenced by Stock Certificate No. 577) and four (4) shares of capital stock in the Larimer and Weld Irrigation Company (currently evidenced by Stock Certificate No. 6155) (collectively “Water Rights”); and

WHEREAS, the City previously entered into that certain Water Lease Agreement with J&E Investments, LLC, originally executed on February 29, 2012, amended to extend on _____, 2022, and attached hereto as Exhibit A (“J&E Lease”), pursuant to which lease J&E Investments, LLC has leased from the City the Water Rights and the lateral shares necessary to deliver the Water Rights to the land irrigated thereunder; and

WHEREAS, the City accordingly desires to convey to the Assignee all of its right, title, and interest in and to the J&E Lease related to the Water Rights, in conjunction with the Assignee’s acquisition of the Water Rights from the City.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and the Assignee agree as follows.

ASSIGNMENT AND ASSUMPTION

1. Assignment of J&E Lease. The City hereby assigns, transfers and conveys to the Assignee all of its right, title, and interest in and to the J&E Lease related to the Water Rights, including, without limitation, all of the benefits and rights of the City and subject to all of the obligations and burdens of the City thereunder. A copy of the J&E Lease is attached hereto as Exhibit A and incorporated herein by reference.

2. Assumption of J&E Lease. The Assignee hereby assumes and agrees to be bound by the provisions of the J&E Lease related to the Water Rights, and hereby assumes each and every of the City’s obligations and burdens thereunder related to the Water Rights, as of the date first set forth above.

3. Warranties of the City. The City hereby represents and warrants (a) that the J&E Lease is valid and in full force and effect; (b) that, to the best of the City’s knowledge, the City is not in default under the J&E Lease; and (c) that the rights and interests of the City under the J&E Lease are free and clear of any other encumbrance, assignment, or other conveyance to third parties.

4. Reservation of Interest. The City hereby retains all of its right, title, and interest in and to the eight (8) shares of capital stock in The Owl Creek Supply and Irrigation Company (currently evidenced by Stock Certificate No. 1900) that are also included in the J&E Lease, but acknowledge that such shares

EXHIBIT J
FORM - DO NOT EXECUTE

may continue to be used by the lessee through December 31, 2022, in accordance with the terms of the J&E Lease.

IN WITNESS WHEREOF, this Assignment and Assumption of Agreement has been entered into by the City of Greeley and Longs Peak Dairy, LLC, as of the date first set forth above.

THE CITY OF GREELEY, COLORADO,
A Colorado home rule municipal corporation,
Acting by and through its Water Enterprise

By: _____

ASSIGNEE
Longs Peak Dairy, LLC,
a Colorado limited liability company

By: _____

STATE OF _____ }
COUNTY OF _____ } ss.

Acknowledged before me this ____ day of _____ 2022, by _____, as
_____ and authorized representative of Longs Peak Dairy, LLC.

Notary Public
My Commission Expires: _____

EXHIBIT K
FORM - DO NOT EXECUTE

PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT
(Restrictive Covenants)

This PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is made this ____ day of _____ 2022 by and between THE CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11th Avenue, 2nd Floor, Greeley, Colorado 80631 ("Assignor") and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80524 ("Assignee").

RECITALS

WHEREAS, the Assignor has this day conveyed to the Assignee those certain water rights represented by two (2) shares in The Windsor Reservoir and Canal Company, which water rights are more particularly described on Exhibit A, attached hereto and incorporated herein by reference ("Water Rights"); and

WHEREAS, the Assignor owns an interest in those certain restrictive covenants for the benefit of the Water Rights and the owner thereof. The aforementioned covenants are more particularly described on Exhibit B, attached hereto and incorporated herein by reference ("Restrictive Covenants"); and

WHEREAS, the Assignor accordingly desires to convey to the Assignee the portion of its right, title, and interest in the benefits of the Restrictive Covenants that is associated with the Water Rights, as part of the Assignee's acquisition of the Water Rights from the Assignor.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Assignor and the Assignee agree as follows.

ASSIGNMENT AND ASSUMPTION

1. Partial Assignment of Restrictive Covenants. Assignor hereby assigns, transfers and conveys to the Assignee all of its right, title, and interest in and to the Restrictive Covenants as to the _____ acres more particularly described on Exhibit C, including, without limitation, all benefits and rights of the Assignor associated with ownership of the Water Rights. Assignor hereby retains all of its right, title, and interest in and to the Restrictive Covenants as to the remaining acreage, as is also shown on Exhibit C.

2. Partial Assumption of Restrictive Covenants. Assignee hereby assumes and agrees to be bound by the provisions of the Restrictive Covenants as to the acreage described on Exhibit C. The obligations and burdens of the Restrictive Covenants remain with the owner(s) of the land historically irrigated by the Water Rights.

3. Warranties of the Assignor. Assignor hereby represents and warrants (a) that the Restrictive Covenants are valid, in full force and effect, and have not been amended; (b) that, to the best of Assignor's knowledge, Assignor is not in default under the Restrictive Covenants; and (c) that the rights and interests of the Assignor under the Restrictive Covenants are free and clear of any other encumbrance, assignment, or other conveyance to third parties.

IN WITNESS WHEREOF, this Partial Assignment and Assumption Agreement has been entered into by the City of Greeley and Longs Peak Dairy, LLC, as of the date first set forth above.

EXHIBIT K
FORM - DO NOT EXECUTE

ASSIGNOR
THE CITY OF GREELEY, COLORADO

Attest:

By: _____
Mayor

By: _____
City Clerk

ASSIGNEE
LONGS PEAK DAIRY, LLC

By: _____

Name: _____

Title: _____

WHEN RECORDED RETURN TO:

Longs Peak Dairy, LLC
Attn: Wade Podtburg
45490 County Road 39
Pierce, Colorado 80524

EXHIBIT K
FORM - DO NOT EXECUTE

EXHIBIT A
Description of the Water Rights

All water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and all other rights represented by two (2) shares of capital stock in The Windsor Reservoir and Canal Company evidenced by Certificate No. 700.

EXHIBIT K
FORM - DO NOT EXECUTE

EXHIBIT B
Restrictive Covenants

RESTRICTIVE COVENANTS (NO IRRIGATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. These covenants shall not prohibit Declarant or Declarant's successors in interest from irrigating the Land (i) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (ii) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or nonirrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at: 1650 Thistle Ridge Road, Highlands Ranch, Colorado 80126.

FORM - DO NOT EXECUTE

IN WITNESS WHEREOF, the Declarant has executed this instrument on the 2nd day of June, 2015.

DECLARANT:
CHALK & ASSOCIATES, LLC
 a Colorado Limited Liability Company,

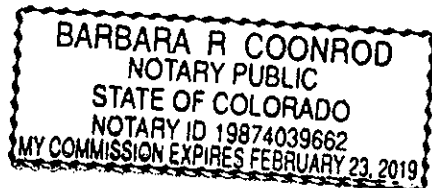
By: Thomas A. Chalk
 Thomas A. Chalk, Manager

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
 COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 2nd day of June 2015, by Thomas A. Chalk, as Manager of Chalk & Associates, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.



Barbara R. Coonrod
 Notary Public
 My commission expires: _____

FORM - DO NOT EXECUTE**EXHIBIT A TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights

FORM - DO NOT EXECUTE

**EXHIBIT B TO
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

RESTRICTIVE COVENANTS (REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated 6/2/2015, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest shall establish, at Declarant's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5).

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the

FORM - DO NOT EXECUTE**EXHIBIT A TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights

FORM - DO NOT EXECUTE

**EXHIBIT B TO
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

EXHIBIT K
FORM - DO NOT EXECUTE

EXHIBIT C
Acreage to be Assigned

FIRST AMENDMENT TO WATER LEASE AGREEMENT
(J & E Investments, LLC)

This FIRST AMENDMENT TO WATER LEASE AGREEMENT ("First Amendment") is entered into this ____ day of January 2022, by and between J & E INVESTMENTS, LLC, a Colorado limited liability company ("J & E Investments") and THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation acting by and through its Water Enterprise ("City" or "Greeley").

Recitals

WHEREAS, the City and J & E Investments entered into that certain Water Lease Agreement dated February 29, 2012, by which J & E leased certain water rights represented by shares in the Windsor Reservoir and Canal Company, Larimer and Weld Irrigation Company, and Owl Creek Supply and Irrigation Company ("J & E Water Lease"); and

WHEREAS, the J & E Water Lease expired by its terms on October 31, 2021, and the City and J&E Investments desire to amend and renew the J & E Water Lease on the terms and conditions herein;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and J & E Investments agree as follows.

Agreement

1. **Amendments.** The J & E Water Lease is hereby amended as follows.

a. **Description of Water Rights.** The portion of the Recitals from the J & E Water Lease that describes the Water Rights is hereby amended as set forth below, to reflect the current stock certificate numbers. Each and every reference to the defined term "Water Rights" in the J & E Water Lease shall mean the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company ("WRCC") represented by WRCC Stock Certificate No. 577, four (4) shares of the Larimer and Weld Irrigation Company ("LWIC") represented by LWIC Stock Certificate No. 6155, and eight (8) shares of the capital stock of the Owl Creek Supply and Irrigation Company ("OCSIC") represented by OSCIC Stock Certificate No. 1900.

b. **Paragraph 2 of the J & E Water Lease is amended and replaced in its entirety as follows.**

2. TERM OF LEASE. This lease of the Water Rights shall commence on the date it is mutually executed and expire on December 31, 2022, unless terminated earlier pursuant to the terms of this Agreement. The obligations of the Lessor hereunder are made expressly subject to the City of Greeley City Charter Section 17-4, a copy of which is attached hereto as Exhibit B.

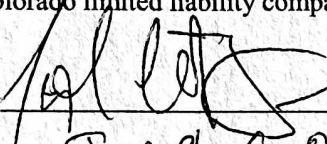
c. **Paragraph 10 of the J & E Water Lease is amended and replaced in its entirety as follows.**

10. ASSIGNMENT OF AGREEMENT. The Lessee shall not assign this Agreement except to the purchaser or transferee of the real property described in Exhibit A. Notice of any such assignment shall be provided to Lessor no less than thirty (30) days in advance of such assignment. The Lessor may assign this Agreement to a purchaser of the Water Rights. Notice of any such assignment shall be provided to Lessee no less than thirty (30) days in advance of such assignment.

2. Remainder in Full Force and Effect. Except as explicitly modified in this First Amendment, all other terms and conditions of the J & E Water Lease are renewed and remain in full force and effect.

IN WITNESS WHEREOF, J & E Investments, LLC and the City of Greeley, Colorado have authorized and executed this First Amendment to Water Lease Agreement, effective as of the date first written above.

J & E INVESTMENTS, LLC,
a Colorado limited liability company

By: 
Name: Joseph C. O'BRIEN
Title: MANAGER

Date: 1-2-2022

THE CITY OF GREELEY, COLORADO,
a Colorado home rule municipal corporation
acting by and through its Water Enterprise

By: _____
Mayor

Date: _____

ATTEST:

By: _____
City Clerk

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X

NO ENCLOSURE

ITEM NUMBER: 13

TITLE: ACTION: RESOLUTION CONCERNING
APPLICATION FOR CHANGE OF WATER
RIGHTS FOR 23.917 WSSC SHARES, PLAN
FOR AUGMENTATION INCLUDING WATER
EXCHANGE PROJECT, APPROPRIATION OF
RETURN FLOWS, AND CONDITIONAL
DIRECT FLOW WATER RIGHT

RECOMMENDATION: APPROVE RESOLUTION AUTHORIZING
STAFF AND COUNSEL TO FILE WATER
COURT APPLICATION FOR CHANGE OF
WATER RIGHTS FOR 23.917 WSSC SHARES,
PLAN FOR AUGMENTATION INCLUDING
WATER EXCHANGE PROJECT,
APPROPRIATION OF RETURN FLOWS, AND
CONDITIONAL DIRECT FLOW WATER RIGHT

ADDITIONAL INFORMATION:

In a previous case, Greeley obtained a decree changing 22.5 Water Supply and Storage Company (“WSSC”) shares. Since that time, Greeley has acquired 21.917 shares in the Water Supply and Storage Company (“WSSC”), and is in negotiations to acquire another 2 shares. Staff and counsel recommend proceeding with a new water court application to change the use of these WSSC shares, to allow their use for municipal purposes. In addition, the application will seek a plan for augmentation including water exchange project, an appropriation of return flows, and a conditional direct flow water right to replace return flows. The change of water rights will allow Greeley to continue to lease the WSSC shares for agricultural irrigation use, unless the shares are needed by the City to incorporate into its municipal system.

**Legal Report:
Change of WSSC
Shares**

James M. Noble



Background

- Greeley is a major shareholder in the Water Supply and Storage Company, or “WSSC.”
- WSSC is a mutual ditch company, with reliable and sought-after water rights, from both transbasin and native Cache la Poudre sources.
- Transbasin water rights are uniquely valuable because they are “fully consumable” and do not have return flow obligations.
- Greeley owns 44.417 out of 600 outstanding shares in WSSC.

Background (Cont'd)

- In a previous case, 07CW190, Greeley obtained a change of water rights decree for 22.5 WSSC shares in 2015.
- Since then, Greeley has acquired an additional 21.917 WSSC shares and is in negotiations to acquire 2 more shares.
- Several other Northern Colorado municipal water providers have obtained change of water right decrees for WSSC shares. At this time, more than half of all WSSC shares have been changed to municipal use.

Background (Cont'd)

- The Water and Sewer Department is prepared to file a Water Court Application to obtain a decree to change its remaining shares to municipal use along with shares that it is in the process of acquiring.
- Greeley's engineering consultants have prepared a historical use analysis for the remaining shares to determine the appropriate yield of water from the shares. Each share is equivalent to approximately 47 acre feet per year of native basin water and 29 acre feet per year of transbasin water.

Summary of Application

- The Application will seek the following broad terms:
 - Change in point of diversion to Greeley's various river diversion facilities from the Cache la Poudre River.
 - Claim for alternate places of storage, including numerous reservoirs in which Greeley has an interest, and underground storage at the Terry Ranch.

Summary of Application Continued

- Change in place of use from WSSC irrigated lands to Greeley's service area and to serve others who have contracts with Greeley.
- Change in purpose of use from irrigation to all municipal, augmentation, replacement purposes, and right to fully consume the water so long as all required return flow obligations are met.
- Shares continue to be used for irrigation until needed by Greeley. Transmountain component can be switched back and forth between irrigation and municipal use without permanently "drying up" that portion of historically irrigated lands.

Summary of Application Continued

- Plan for Augmentation Including Water Exchange Project to replace required return flows from multiple sources.
- Claim for Appropriation of Return Flows from the native portion of the WSSC shares.
- Claim for Conditional Junior Direct Flow Water Right for purposes of replacing return flows.

Water Court Process

- Application will be filed as soon as it is finalized.
- Publication in the Water Court Resume.
- Proceed before Water Referee for 12-18 months.
- If not resolved before the referee, then case will be set for trial.

**THE CITY OF GREELEY, COLORADO
ACTING BY AND THROUGH ITS WATER AND SEWER BOARD**

RESOLUTION ___, 2022

**A RESOLUTION CONCERNING THE CHANGE OF WATER RIGHTS REPRESENTED BY SHARES IN THE
WATER SUPPLY AND STORAGE COMPANY, AND INTENT TO APPROPRIATE FOR WATER EXCHANGE
PROJECT, HISTORICAL RETURN FLOWS, AND CONDITIONAL DIRECT FLOW WATER RIGHT**

WHEREAS, the City of Greeley ("City") is a Colorado home-rule municipality empowered pursuant to Sections 1 and 6 of Article XX of the Colorado Constitution to, *inter alia*, construct, purchase, acquire, lease, add to, maintain, conduct, and operate water works and everything required therefor, within or without its territorial limits; and

WHEREAS, Section 17-4 of the City of Greeley City Charter empowers and requires the City of Greeley Water and Sewer Board ("Board") to acquire, develop, convey, lease and protect water and sewer assets, supplies, and facilities; and

WHEREAS, the City currently owns the water rights represented by 21.917 shares, and has an agreement in principle to acquire the water rights represented by an additional 2 shares, of capital stock in The Water Supply and Storage Company (collectively "WSSC Shares"), for which it intends pursue a change of use in the Division 1 Water Court; and

WHEREAS, the contemplated change of use application for the WSSC Shares and resulting decree from the Division 1 Water Court will allow for a more efficient use and management of the City's existing and future water supply portfolio; and

WHEREAS, engineering and other studies performed by City staff and consultants in preparation for the contemplated change of use application have identified the need for and benefits of appropriating the historical return flows associated with the native portion of the WSSC Shares, and of claiming the right to retain and use, reuse, successively use, and dispose of such return flows when in priority; and

WHEREAS, engineering and other studies performed by City staff and consultants in preparation for the contemplated change of use application have also identified the need for and benefits of appropriating water in the Cache la Poudre River and its tributaries for a water exchange project and a conditional direct flow water right in conjunction with use of the changed WSSC Shares and associated operations allowed for and required by the change decree; and

WHEREAS, the Board desires to memorialize the intent of the City concerning the contemplated change of use application for the WSSC Shares, and the appropriations of historical return flows, a water exchange project, and a conditional direct flow water right;

NOW, THEREFORE, BE IT RESOLVED BY THE WATER AND SEWER BOARD OF GREELEY, COLORADO:

Section 1. The City of Greeley hereby appropriates all historical return flows associated with the native portion of the WSSC Shares, at the rate and volume such return flows are available

under the priority awarded to this appropriation. The appropriation of such water includes the right to fully consume such water by direct use, exchange, by storage and subsequent release, and to retain and use, reuse, successively use, and dispose of the water to extinction, for the original irrigation use and all municipal uses and related uses identified as necessary by City staff, consultants, and legal counsel, including, but not limited to, domestic, irrigation, watering of lawns, parks and grounds, commercial, industrial, mechanical, manufacturing, fire protection, sewage treatment, power generation, street sprinkling, recreational, fish and wildlife propagation, replacement of lake and reservoir evaporation, maintenance of adequate storage reserves, maintenance of historical return flows as required by judicial or administrative order, replacement, augmentation, and as a source of substitute supply in exchanges.

Section 2. The City of Greeley hereby appropriates water in the Cache la Poudre River and its tributaries for a water exchange project in the amounts and at the locations described on Exhibit A, attached hereto and incorporated by reference, to operate in conjunction with a plan for augmentation for the replacement of return flows associated with the native portion of the WSSC Shares. City staff, consultants, and legal counsel are hereby authorized and directed to identify and include all appropriate sources of substitute supply for the water exchange project.

Section 3. The City of Greeley hereby appropriates water in the Cache la Poudre River and its tributaries for a conditional direct flow right in the amounts and at the locations described on Exhibit A, attached hereto and incorporated by reference, for the replacement of return flows associated with the native portion of the WSSC Shares.

Section 4. City staff, consultants, and legal counsel are hereby authorized and directed to take all steps necessary to complete the appropriations of water described above and to change the WSSC Shares, including, without limitation, to file and prosecute applications in the Division 1 Water Court, and to resolve any opposition to such applications in the best interest of the City. Any such steps taken by City staff, consultants, and legal counsel for such purposes prior to the passage of this resolution are hereby confirmed and ratified.

Section 5. City staff, consultants, and legal counsel are hereby further authorized and directed to meet, consult, and negotiate with water users and other persons and entities as necessary for the use of facilities associated with the appropriations and change application described above, and for the development and use of the water and water rights represented by the WSSC Shares in conjunction with such efforts, including, without limitation, places of storage, alternate places of storage, points of diversion and exchange, and other facilities and structures deemed necessary by City staff, consultants, and legal counsel. Such facilities and operations shall be conceived and planned to be operated as component parts of the City's integrated water supply system.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS ____ DAY OF JANUARY 2022.

ATTEST

**CITY OF GREELEY
WATER AND SEWER BOARD**

Secretary to the Board

Chairman of the Board

EXHIBIT A
(RESOLUTION __, 2022)

Water Exchange Project

Exchange-From Points for Water Exchange Project:

A. The Overland Trail Reservoirs Release Structures. All of the release structures are located in Range 69 West of the 6th P.M., Larimer County, Colorado.

I. Overland Trail Reservoirs Release Structure No. 1, to be constructed in Section 34, Township 8 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 940 feet East and 240 feet North of the Southwest Corner of Section 34, Township 8 North.

II. Overland Trail Reservoirs Release Structure No. 2, to be constructed in Section 3, Township 7 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 700 feet South and 2,420 feet East of the Northwest Corner of Section 3, Township 7 North.

III. Overland Trail Reservoirs Release Structure No. 3, to be constructed in Section 33, Township 8 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 2,401 feet West and 1,401 feet North of the Southeast Corner of Section 33, Township 8 North.

IV. Overland Trail Reservoirs Release Structure No. 4, to be constructed in Section 34, Township 8 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 1,951 feet East and 521 feet North of the Southwest Corner of Section 34, Township 8 North.

V. Overland Trail Reservoirs Release Structure No. 5, to be constructed in Section 3, Township 7 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 2,364 feet South and 929 feet West of the Northeast Corner of Section 3, Township 7 North.

B. New Cache la Poudre Irrigation Company Augmentation Station, located in Section 11, Township 6 North, Range 68 West of the 6th P.M. Larimer County, Colorado.

C. Windsor Wastewater Treatment Plant Outfall, located in Section 34, Township 6 North, Range 67 West of the 6th P.M., Weld County, Colorado.

D. Kodak Wastewater Treatment Plant Outfall, located in Section 35, Township 6 North, Range 67 West of the 6th P.M., Weld County, Colorado.

E. GIC F Street Return Structure, located in Section 34, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado.

F. GIC 35th Avenue Drainage Ditch Release Structure, located in Section 35, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado.

G. Confluence of Graham Seep and the Cache la Poudre River, located in Section 36, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado.

H. Confluence of Eaton Draw and the Cache la Poudre River, located in Section 4, Township 5 North, Range 65 West of the 6th P.M., Weld County, Colorado.

I. GIC 23rd Avenue Spillway to the Cache la Poudre River, located in Section 31, Township 6 North, Range 65 West of the 6th P.M., Weld County, Colorado.

J. Greeley Water Pollution Control Facility Outfall, located in Section 4, Township 5 North, Range 65 West of the 6th P.M., Weld County, Colorado.

K. GIC 16th Street Return Structure to the Cache la Poudre River, located in the NE $\frac{1}{4}$ of Section 10, Township 5 North, Range 65 West of the 6th P.M., Weld County, Colorado.

L. Confluence of the Cache la Poudre River and Sand Creek, located in the Northwest $\frac{1}{4}$ of Section 11, Township 5 North, Range 65 West of the 6th P.M., Weld County, Colorado.

M. Confluence of the South Platte River and the Cache la Poudre River, located in the SW $\frac{1}{4}$ of Section 6, Township 5 North, Range 64 West of the 6th P.M., Weld County, Colorado.

N. Confluence of the South Platte River and Lone Tree Creek, located in the SE $\frac{1}{4}$ of Section 6, Township 5 North, Range 64 West of the 6th P.M., Weld County, Colorado.

O. Confluence of the South Platte River and Crow Creek, located in the NE $\frac{1}{4}$ of Section 24, Township 5 North, Range 64 West of the 6th P.M., Weld County, Colorado.

Exchange-To Points for Water Exchange Project:

A. Upper Poudre Reach beginning at the Larimer County Canal Headgate on the Cache la Poudre River located in Section 13, Township 8 North, Range 70 West of the 6th P.M., Larimer County, Colorado.

B. Middle Poudre Reach beginning at the Fossil Creek Reservoir inlet on the Cache la Poudre River located in Section 21, Township 7 North, Range 68 West of the 6th P.M., Larimer County, Colorado.

C. Lower Poudre Reach beginning at the Boyd and Freeman Ditch headgate located on the Cache la Poudre River in Section 34, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado.

D. Boxelder Creek beginning in Section 14, Township 8 North, Range 68 West of the 6th P.M., Larimer County, Colorado.

E. The Slough beginning in Section 3, Township 7 North, Range 67 West of the 6th P.M., Weld County, Colorado.

F. Graham Seep beginning in Section 26 Township 7 North, Range 66 West of the 6th P.M., Weld County, Colorado.

G. Eaton Draw beginning in Section 31, Township 7 North, Range 65 West of the 6th P.M., Weld County, Colorado.

H. Lone Tree Creek beginning in Section 7, Township 8 North, Range 65 West of the 6th P.M., Weld County, Colorado.

I. Owl Creek beginning in Section 3 of Township 8 North, 65 West of the 6th P.M., Weld County, Colorado.

Exchange Rate for Water Exchange Project: 3.5 c.f.s

Conditional Direct Flow Water Right

Names of Structures for Direct Flow Water Right:

A. The Overland Trail Diversion Structure

B. The Overland Trail Reservoirs Release Structure Nos. 1 – 5

Locations of Structures for Direct Flow Water Right:

A. Overland Trail Diversion Structure, a diversion structure located on the south side of the Cache la Poudre River at a point 2,400 feet west and 1,500 feet north of the SE corner of Section 33, Township 8 North, Range 69 West.

B. Overland Trail Release Structure No. 1, to be constructed in Section 34, Township 8 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 940 feet East and 240 feet North of the Southwest Corner of Section 34, Township 8 North.

C. Overland Trail Reservoirs Release Structure No. 2, to be constructed in Section 3, Township 7 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 700 feet South and 2,420 feet East of the Northwest Corner of Section 3, Township 7 North.

D. Overland Trail Reservoirs Release Structure No. 3, to be constructed in Section 33, Township 8 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 2,401 feet West and 1,401 feet North of the Southeast Corner of Section 33, Township 8 North.

E. Overland Trail Reservoirs Release Structure No. 4, to be constructed in Section 34, Township 8 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 1,951 feet East and 521 feet North of the Southwest Corner of Section 34, Township 8 North.

F. Overland Trail Reservoirs Release Structure No. 5, to be constructed in Section 3, Township 7 North, which will deliver the released water to the Cache la Poudre River at a point located approximately 2,364 feet South and 929 feet West of the Northeast Corner of Section 3, Township 7 North.

Amount Claimed for Conditional Direct Flow Water Right: 3.5 c.f.s

WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 14

TITLE: DIRECTOR'S REPORT

RECOMMENDATION: INFORMATION ONLY

ADDITIONAL INFORMATION:

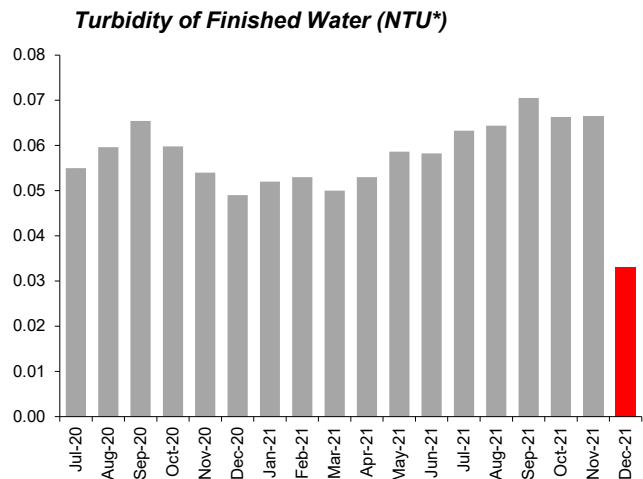
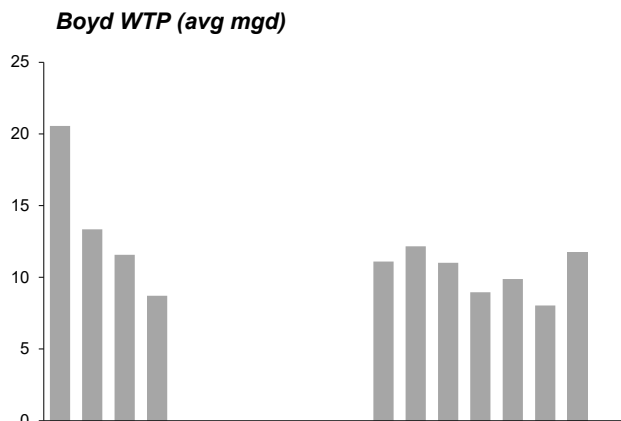
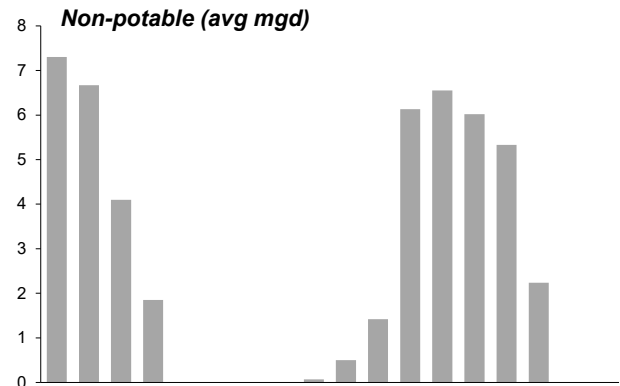
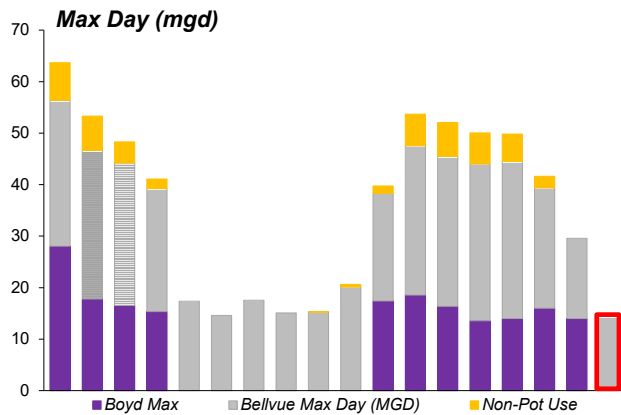
- Staff are Coordinating a February Tour of the Windy Gap Chimney Hollow Reservoir Construction Site.
 - i. Greeley is owner of approximately 10% capacity in the new Chimney Hollow Reservoir, located west of Carter Lake
 - ii. Adding 9,189 AF of water storage to firm the city's portfolio of Jr. Colorado River Rights known as Windy Gap
- Update to Water & Sewer Design Criteria, Standards and Construction Specifications
 - i. Collecting Internal and External Stakeholder Feedback
 - ii. Final Draft will be presented to W&S Board, Planning Commission and City Council for formal approval and adoption
- Electronic Board Packet Option and Hardware Available for Board Use

Water Treatment

Bellvue Water Treatment Plant operates year-round with a transmission capacity of 29.1 million gallons per day (mgd) (plant capacity is 32 to 35 mgd). Water sources include Poudre River direct flows, Colorado-Big Thompson (C-BT), Windy Gap, High Mountain Reservoirs, Laramie-Poudre Tunnel, and Water Supply and Storage. Average volume is 19,000 acre-feet a year (2000-2011). The plant was built in 1907, with its last treatment upgrade in 2009. Solar panels were added in 2014.

Boyd Water Treatment Plant operates normally from April to October with a plant capacity of 38 mgd (transmission capacity is 40 mgd). Water sources include Greeley-Loveland Irrigation Company, C-BT, and Windy Gap. Average Volume is 8,200 acre-feet (2000-2011). The current plant was built in 1974, with its last treatment upgrade in 1999. Solar panels were added at Boyd in 2014. In 2016, tube settlers and platte settlers were replaced in the sedimentation basins. In 2018, all old existing chemical lines were replaced with new lines and the piping was up-sized to carry more chemical. A PLC upgrade was done on the SCADA system. Sludge pumps were replaced and hooked into the Trac Vac system that pulls sludge out of the sedimentation basins.

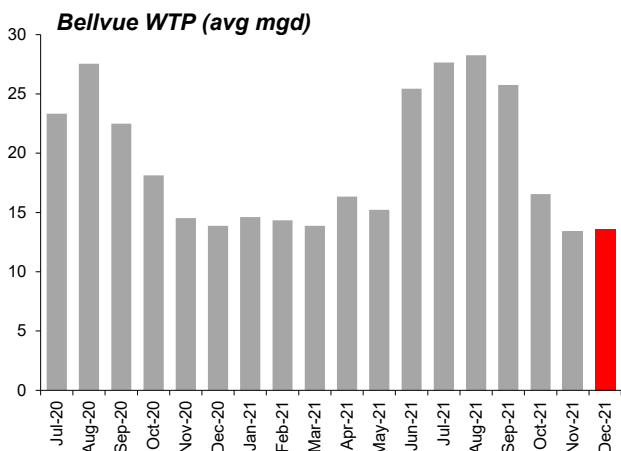
Combined, Bellvue and Boyd can treat a maximum of 70-73 million gallons per day.



Starting May 2016 Bellvue turbidity measurements will use a new method resulting in more accurate readings.

*Turbidity limit: 95% of samples must be below 0.3 NTU.

Turbidity is the measure of relative clarity of a liquid. Clarity is important when producing drinking water for human consumption and in many manufacturing uses. Turbidity is measured in Nephelometric Turbidity Units (NTU).

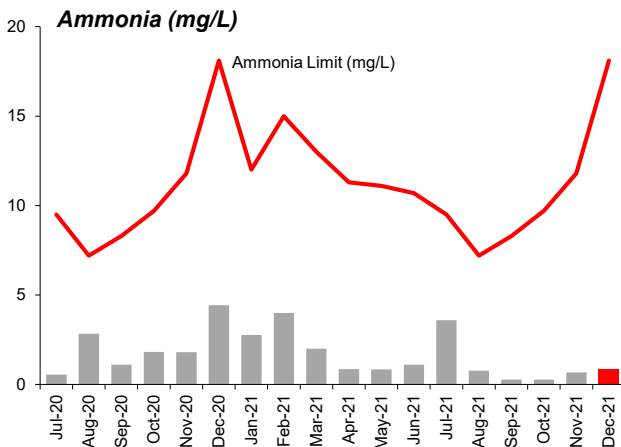
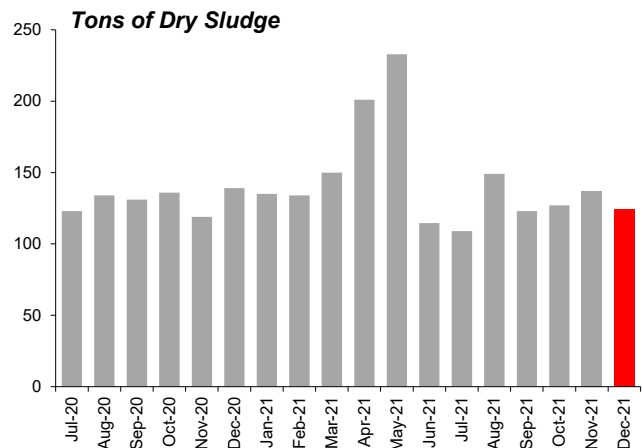
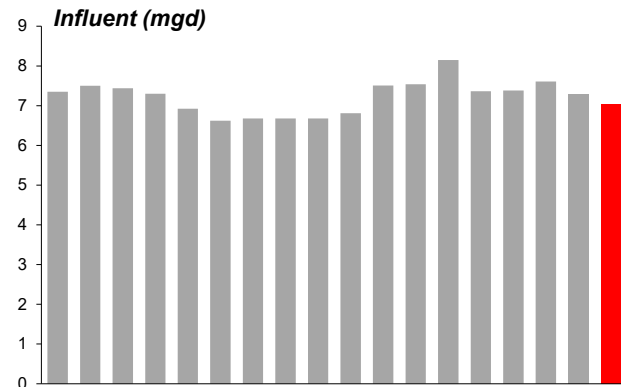
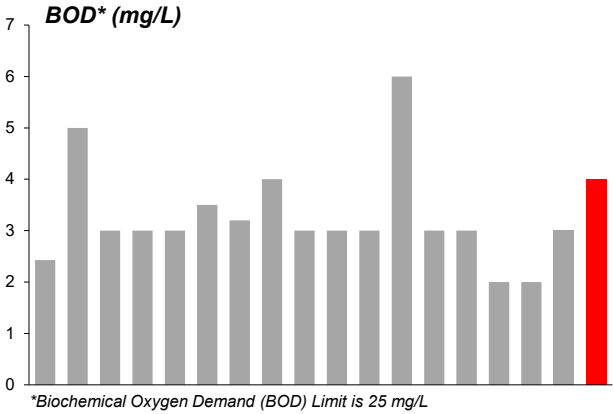
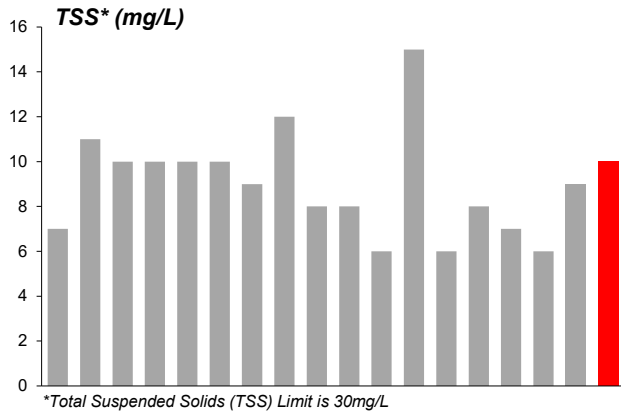


Wastewater Treatment

The Water Pollution Control Facility (WPCF) staff are dedicated environmental professionals who provide quality, safe and cost-effective wastewater treatment services for the citizens of Greeley. The WPCF treats wastewater to meet or exceed Environmental Protection Agency (EPA) and Colorado Department of Public Health & Environment requirements.

In 2011, the WPCF received an Xcel Energy Custom Efficiency Achievement Award for saving 2.78 million kWh and reducing CO2 emissions by 1,584 tons. In 2012, the WPCF received the Rocky Mountain Water Environment Association's (RMWEA) Sustainability Award for Colorado demonstrating excellence in programs that enhanced the principles of sustainability. A Certificate of Achievement from the Colorado Industrial Energy Challenge program managed through the Colorado Energy Office was received in the same year. In 2013, the plant received the City of Greeley's Environmental Stewardship Award for outstanding efforts to reduce energy (watts), conserve energy and water, reduce air and water pollution, and educate and encourage others to be environmental stewards. Also, in 2013, the plant was the recipient of a Bronze Award from the Colorado Environmental Leadership Program. In 2015, after having 5 years without a plant violation, the plant received the 2015 National Association of Clean Water Agencies (NACWA) Platinum Peak Performance award for the City of Greeley Water and Sewer Department.

Note: the red column indicates the current month.



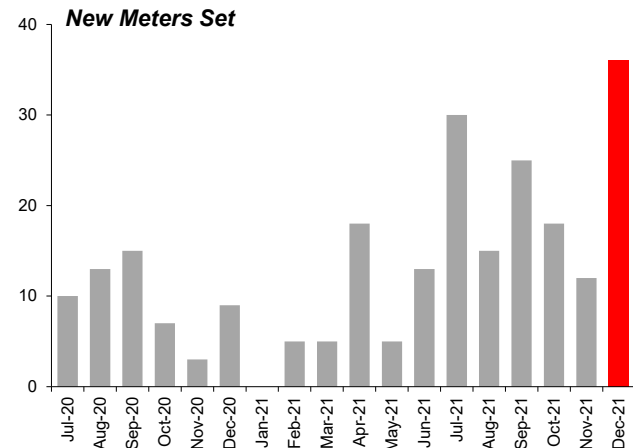
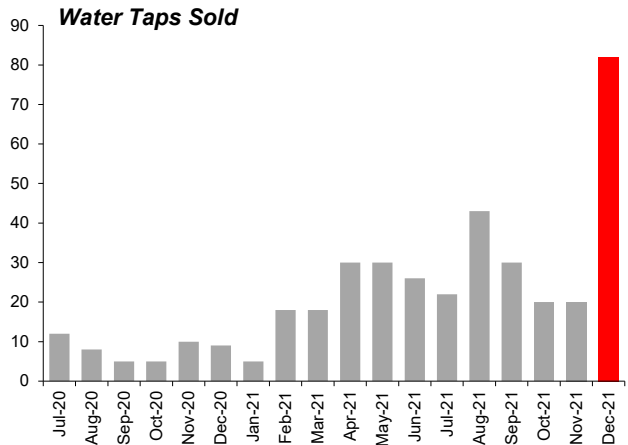
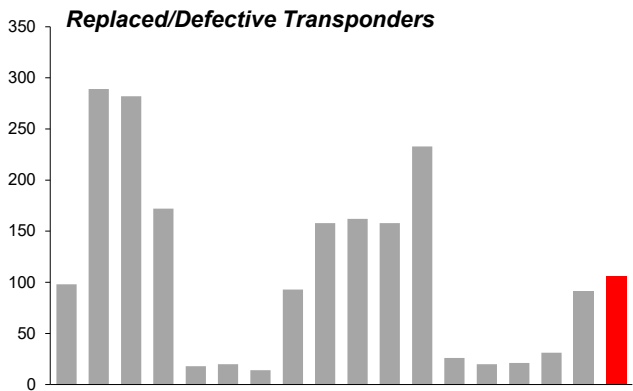
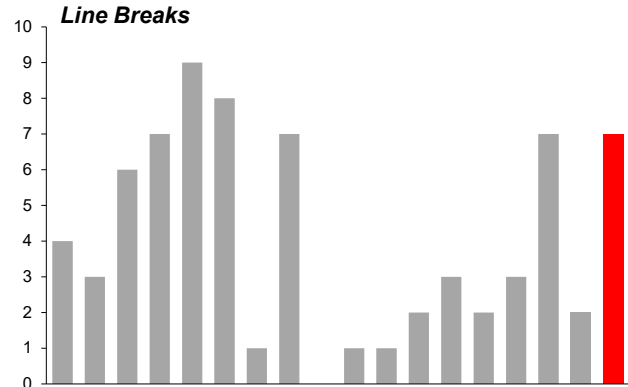
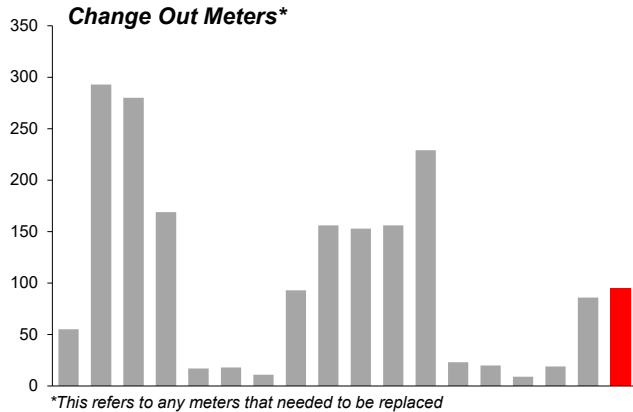
Water Distribution

The Greeley water distribution system consists of various sizes of pipes that generally follow the streets within the City. The distribution system serves residences and businesses in Greeley, Evans and Garden City, and the system is divided into four pressure zones.

There are 69.75 million gallons of potable water storage in Greeley. The water is stored within three covered reservoirs and one elevated tank; 23rd Avenue - 37.5 million gallons, Mosier Hill - 15 million gallons, and Gold Hill - 15 million gallons. The system also has 476 miles of pipeline, 24,233 water meters and 3,378 fire hydrants.

The water pipes in the distribution system vary in size from 4" to 36". Pipe material is steel, ductile iron, cast iron, or polyvinyl chloride. The age of the pipes varies from the 1890's to new installations.

Note: the red column indicates the current month.



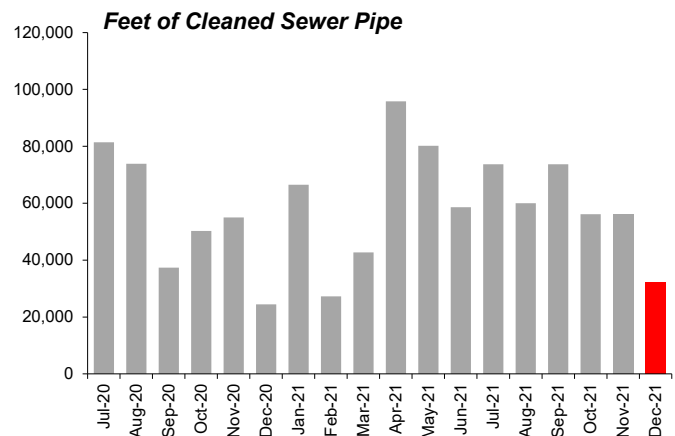
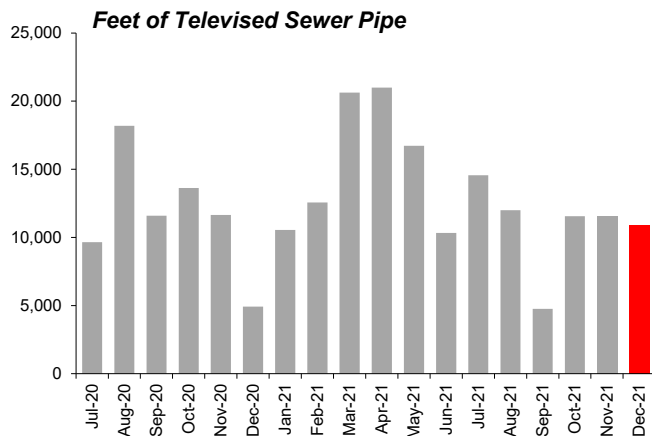
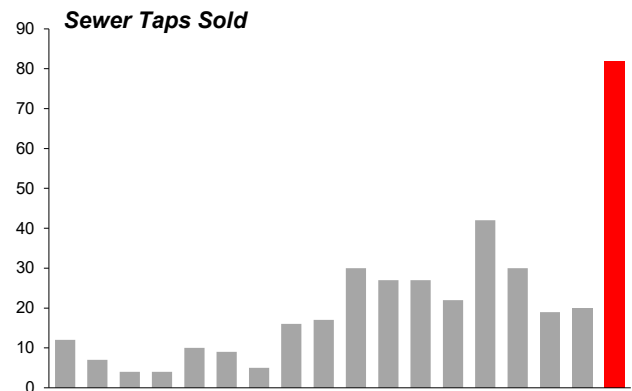
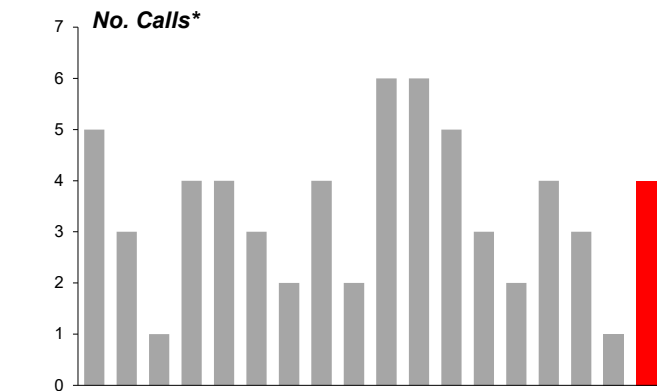
Wastewater Collection

The mission of the Wastewater Collection Division of the Water and Sewer Department is to protect community health by transporting wastewater away from homes and businesses. This includes respecting property values and public safety by reducing the frequency of blockages in the sanitary sewer lines.

A wide variety of work is performed including routine cleaning of sewer lines, inspection of sewer lines, maintenance of the sewage pumping stations, rehabilitation of the system and responding to emergencies.

The wastewater collection system dates back to 1889. At the end of 2017, the system had a total of 364.8 miles of line and 10 sewage pumping stations. The sewer service area is approximately 51 square miles. Over the last 10 years, the system has grown by 17 miles.

Note: the red column indicates the current month.

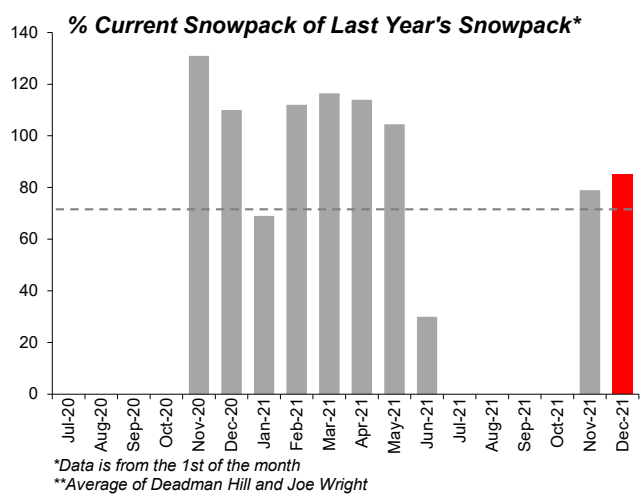
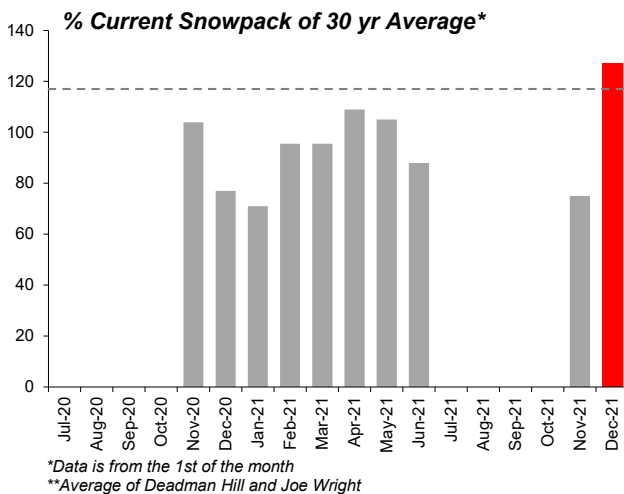
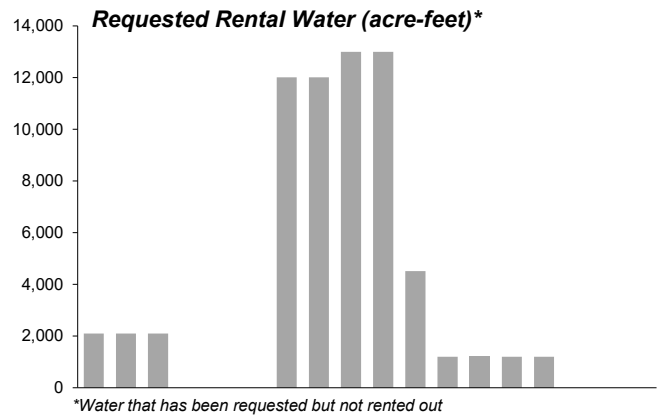
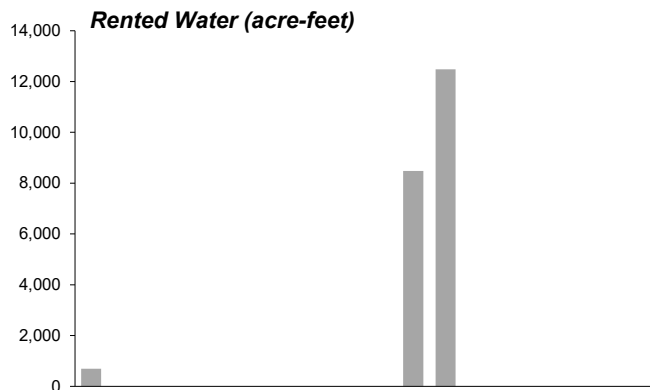
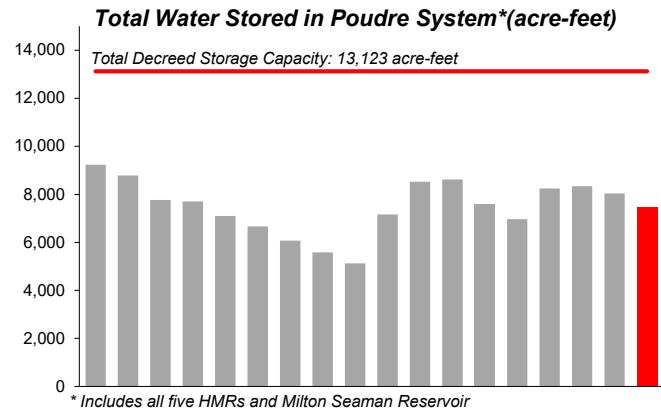
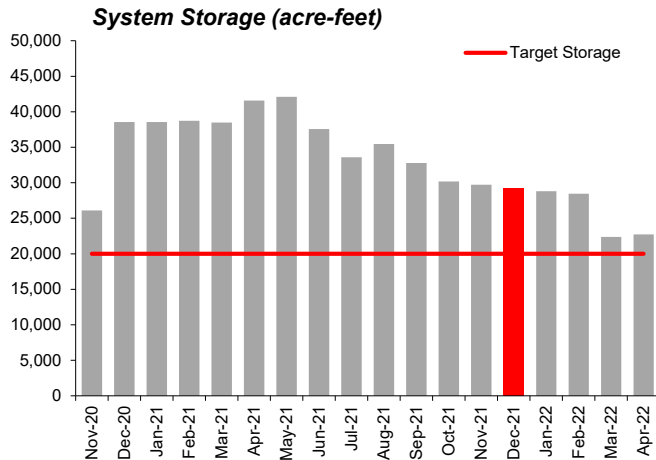


Water Resources

Greeley has numerous water rights in four river basins; the Upper Colorado River, Cache La Poudre, Big Thompson and Laramie River. The Water Resource staff must account for all of this water and comply with the rules of the Colorado Water Court and the State Engineer's Office which is in charge of allocating all of Colorado's water resources. Approximately one-third of the City's water supply comes from agricultural water rights. These water rights must be formally changed to municipal use by a special legal process through the Water Court. In this court, Water Resource staff and attorneys also defend the City's water rights against adverse claims from other parties.

Greeley's goal is to have enough water in carry-over storage to sustain Greeley through a 50-year critical drought. Water in excess of this carry-over drought supply can be leased to agriculture, both for revenue and to support our local agricultural community. Modeling has shown that, given existing population and demand factors, Greeley will have sufficient water for citizens, if at the beginning of the 6-year long, 50-year critical drought, there is 20,000 acre-feet in storage on April 1st of the following year.

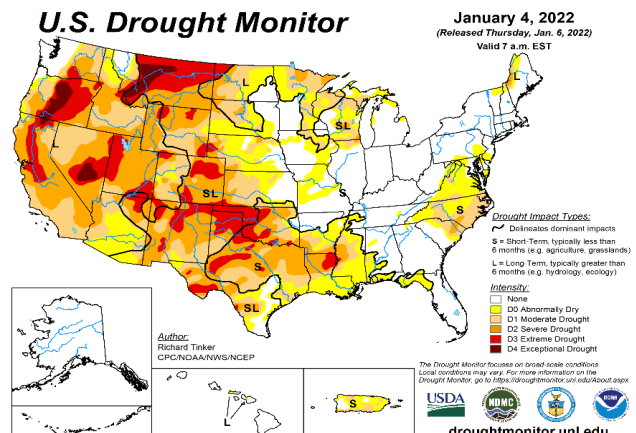
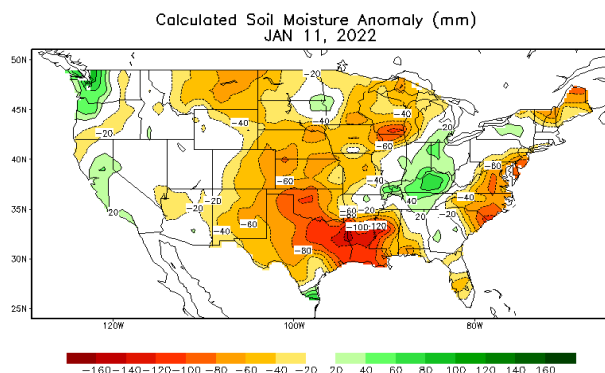
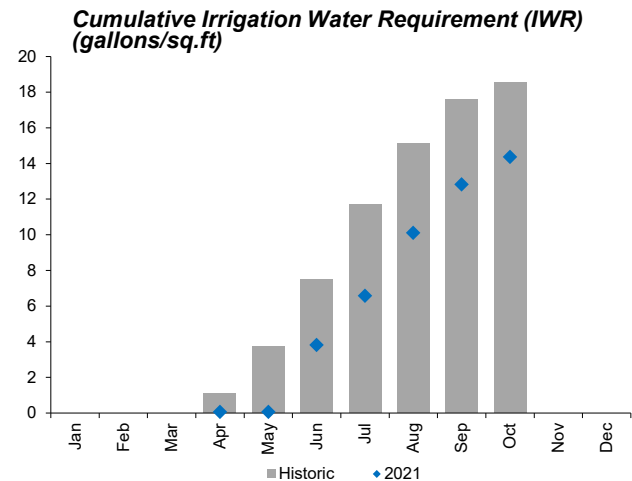
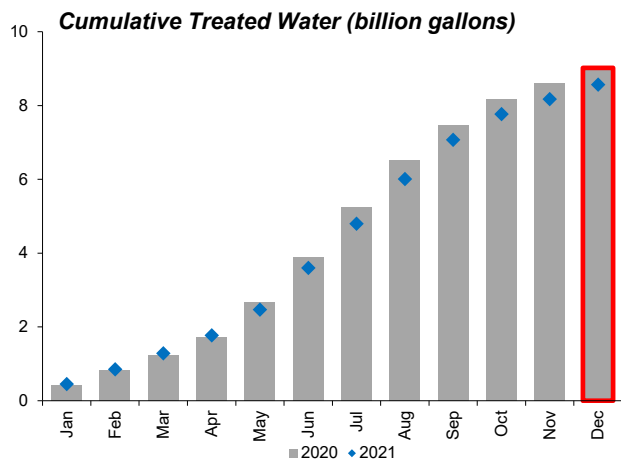
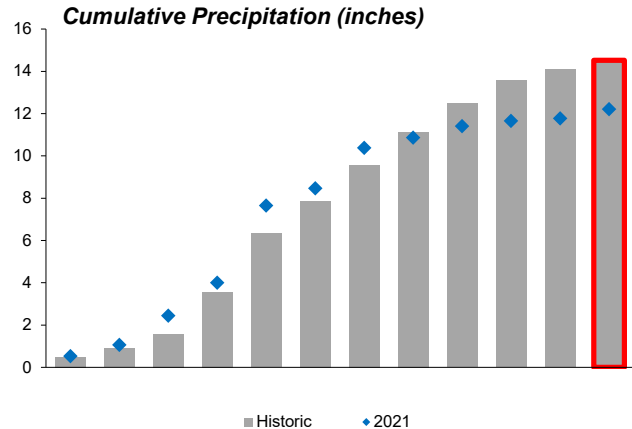
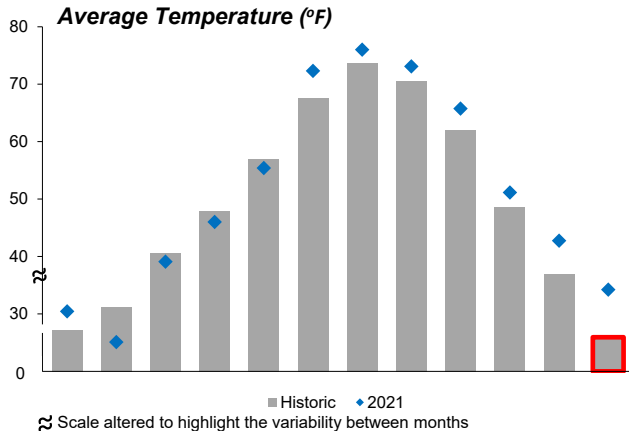
Note: the red column indicates the current month.



Treated Water and Weather Data

January 2021 average temperature was 30.45°F, approximately 3.3°F warmer than average. February average temperature was 25°F which was 6°F colder than average. March and April temperatures were also below average. March 2021 averaged 39.11°F compared to 40.66°F historically and April 2021 averaged 46.03°F compared to 47.86°F. May was also cooler than the historical average, 55.38°F compared to 56.97°F historically. June 2021 temperatures were above average. July temperatures were also above average, 76.01°F compared to 73.67°F. August temperatures were above average. September's average temperature was also above average, 65.22°F compared to 62.08°F. October continued the trend of above average temperatures. November was 5.9°F above average and December was 8.3°F above average.

Greeley precipitation was 0.53 inches in January, which is slightly above average (0.43 inches). February precipitation was also 0.53 inches compared to 0.42 inches, the historical average. March 2021 precipitation was 1.39 inches compared to 0.66 inches historically. April precipitation was 1.56 inches compared to 1.99 inches historically. May precipitation was much above average. Greeley received 3.64 inches of rain in May compared to 2.78 inches historically. June precipitation was 0.82 inches which keeps Greeley above average for the year. July precipitation was above average, 1.91 inches compared to 1.52 inches. This was mostly because of the large rain events that dropped 1 inch in one hour. August precipitation was below average, Greeley only received 0.49 inches which puts us just below average to date. September precipitation was only 0.55 inches, which is below average. October precipitation totaled .24 inches, also below average. November had 0.12 inches of precipitation and December had 0.44 inches of precipitation.



WATER & SEWER BOARD AGENDA JANUARY 19, 2022

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 15

TITLE: SUCH OTHER BUSINESS THAT MAY BE
 BROUGHT BEFORE THE BOARD AND
 ADDED TO THIS AGENDA BY MOTION OF
 THE BOARD

RECOMMENDATION: TO BE DETERMINED

ADDITIONAL INFORMATION: